

Members are reminded that they must declare all relevant pecuniary and non-pecuniary interests relating to any items of business to be discussed at this meeting

BIRMINGHAM CITY COUNCIL

LICENSING SUB-COMMITTEE B

TUESDAY, 13 OCTOBER 2015 AT 10:00 HOURS
IN COMMITTEE ROOM 1, COUNCIL HOUSE, VICTORIA SQUARE,
BIRMINGHAM, B1 1BB

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 APOLOGIES AND NOTIFICATION OF NOMINEE MEMBERS

3 - 34

3 LICENSING ACT 2003 PREMISES LICENCE – REVIEW SMACZEK, 306 SLADE ROAD, ERDINGTON, BIRMINGHAM, B23 7LU

Report of the Acting Director of Regulation & Enforcement
N.B. Application scheduled to be heard at 10:00am on Tuesday 13 October 2015

35 - 82

4 LICENSING ACT 2003 PREMISES LICENCE – VARIATION HOTEL INDIGO BIRMINGHAM, THE CUBE, 180 WHARFSIDE, BIRMINGHAM, B1 1PR

Report of the Acting Director of Regulation and Enforcement
N.B. Application scheduled to be heard at 11:30am on Tuesday 13 October 2015

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.

BIRMINGHAM CITY COUNCIL

PUBLIC REPORT

Report to:	Licensing Sub Committee B
Report of:	Acting Director of Regulation & Enforcement
Date of Meeting:	Tuesday 13th October 2015
Subject:	Licensing Act 2003 Premises Licence – Review
Premises:	Smaczek, 306 Slade Road, Erdington, Birmingham, B23 7LU
Ward affected:	Stockland Green
Contact Officer:	David Kennedy, Principal 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 25 th August 2015 from the Chief Inspector of Weights and Measures in respect of Smaczek, 306 Slade Road, Erdington, Birmingham, B23 7LU. No additional representations have been received from representatives of other responsible authorities or other persons.

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.

<p>5. Relevant background/chronology of key events:</p> <p>The Chief Officer of Weights and Measures applied on 25th August 2015 for a review of the Premises Licence under Section 51 of the Licensing Act 2003 for Smaczek, 306 Slade Road, Erdington, Birmingham, B23 7LU.</p> <p>No additional representations have been received from representatives of other responsible authorities or other persons.</p> <p>Review application is attached, see Appendix 1.</p> <p>The Chief Officer of Weights Measures has submitted additional documents in support of their review application. These are attached at Appendix 2.</p> <p>The Premises Licence is attached at Appendix 3.</p> <p>A site plan is attached at Appendix 4.</p> <p>When carrying out its licensing functions, a licensing authority must have regard to Birmingham City Council's Statement of Licensing Policy and the Guidance issued by the Secretary of State under s182 of the Licensing Act 2003.</p> <p>The Licensing Authority is also required to take such steps as it considers appropriate for the promotion of the licensing objectives, which are: -</p> <ul style="list-style-type: none"> a. The prevention of crime and disorder; b. Public safety; c. The prevention of public nuisance; and d. The protection of children from harm.
<p>6. List of background documents:</p> <p>Review Application Form, Appendix 1 Supporting documents from the Chief Officer of Weights and Measures, Appendix 2 Copy of Premises Licence, Appendix 3 Site Plan, Appendix 4</p>
<p>7. Options available</p> <p>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</p> <p>Where the authority takes a step to modify conditions or exclude a licensable activity, it may provide that the modification or exclusion is to have effect for only such period (not exceeding three months) as it may specify.</p>

Appendix 1

Head of Licensing, Licensing Service, Crystal Court, Aston Cr Business Village,
50 Rocky Lane, Aston, Birmingham B6 9RQ

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 **Julie Osama (on behalf of Donna Bensley Chief Inspector of Weights & Measures)**

(Insert name of applicant)

apply for the review of a premises licence under section 51 of the Licensing Act 2003 for the
premises described in Part 1 below

Part 1 – Premises or club premises details

Postal address of premises or, if none, ordnance survey map reference or description

SMACZAK
306 Slade Road

Post town **BIRMINGHAM**

Post code (if known) **B23 7LU**

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

Mr Kamil Sobocinski

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

3973

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)

☐

gg/ss/8057/jo/gs

(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)

gg/ss/8057/jo/gs

(C) DETAILS OF RESPONSIBLE AUTHORITY APPLICANT

Name and address; Julie Osama, Enforcement Officer for and on behalf of Donna Bensley Chief Inspector of Weights & Measures Birmingham Trading Standards Birmingham City Council PO Box 16586 Birmingham B33 3EH
Telephone number (if any)
E-mail address (optional)

This application to review relates to the following licensing objective(s)

Please select one or more of the following (x)

- 1) the prevention of crime and disorder (x)
- 2) public safety (x)
- 3) the prevention of public nuisance
- 4) the protection of children from harm

gg/ss/8057/jo/gs

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

On 6th July 2015 inspections using a specially trained tobacco sniffer dog were carried out at a number of premises throughout the Birmingham area.

The inspections were intelligence led from information received via a number of sources that the premises were selling illicit tobacco products.

The inspection was carried out over the entire ground floor area of the shop premises which consisted of the main shop and a small stock room. Also included in the inspection were two separate storage areas outside, one of which was refrigerated.

During the inspection the sniffer dog detected a quantity of illicit tobacco concealed in a drawer under the floor behind the counter in the shop. A further quantity was detected in a plastic carrier bag located in the refrigerated outdoor store room.

The owner of the shop, Mr Kamil Sobocinski was present throughout and was evasive bordering on being obstructive throughout the course of the inspection.

The rear door to the shop which led out to the external storage areas was open upon arrival. This door became "locked" at some point during the inspection. It was believed to have been locked by a female on the premises who claimed to be a customer. It later transpired that this female was indeed the partner of Mr Sobocinski. It took over an hour to locate this woman in order that the door could be unlocked and a complete inspection undertaken. Mr Sobocinski claimed not to have keys to this door. On at least three separate occasions Mr Sobocinski was asked directly if there were any illicit tobacco products on the premises. On each occasion Mr Sobocinski denied having tobacco of any sort in the shop. He was, however, unsurprised when the sniffer dog indicated the presence of tobacco behind the counter and was aware of how the concealed unit holding the tobacco could be opened in order to access the products.

It is fairly clear that the concealed unit was designed to hold roughly one day's supply of tobacco for the shops customers. It was positioned under the floor by the cash register so was easily accessible for the shop assistant to obtain the tobacco when asked for it.

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

Background checks have shown that Mr Sobocinski has another shop, Smaczek Polskie Sklepy 2 Old Walsall Road Hamstead Birmingham.

This shop was visited by Trading Standards officers on 9th May 2014 as a result of a complaint alleging the sale of illicit tobacco from the premises.

During the course of this inspection a larger cardboard box containing various brands of illicit tobacco was discovered underneath the counter. Additionally a bag in the rear storeroom was found which also contained illicit tobacco products.

An inspection of the alcohol on the premises during this visit also resulted in the seizure of a quantity of vodka suspected of being non duty paid.

In total on 9th May 2014 – 210 packs/pouches of tobacco products and 11 bottles of vodka were seized. This seizure was passed to Sandwell Trading Standards as the premises fell within their boundary. The above was in addition to the 66 packs of cigarettes that were seized from the shop at 306 Slade Road on 6th July 2015.

The quantities indicate that Mr Sobocinski holds small amounts of tobacco in his shops, probably enough for one day. The small quantity is probably for two reasons:

- (i) So as not to draw attention to himself and his activities and
- (ii) To reduce his liability and losses in the event that his illicit stock is detected by the authorities.

Mr Sobocinski had clearly gone to some trouble to conceal tobacco products found on his premises. It would have proven almost impossible to have found the concealment within the shop in a normal inspection situation. The use of the sniffer dog was essential to the success of the operation.

Having considered all the matters related to this case it is thought that Mr Sobocinski, the premises licence holder at Smaczak has breached two of the licensing objectives, in that he has put his customers health and safety at risk and gained an unfair advantage over other local businesses by evading the payment of tax on these products.

I request that the licensing sub-committee consider the revocation of the premises licence in this case.

gg/ss/8057/jc/gs

Please tick ✓ yes

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

If yes please state the date of that application

Day			Month			Year		
1	1	1	1	1	1	1	1	1

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

N/A

gg/ss/8057/jo/gs

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, LIABLE ON CONVICTION TO A FINE UP TO LEVEL 5 ON THE STANDARD SCALE, UNDER SECTION 158 OF THE LICENSING ACT 2003 TO MAKE A FALSE STATEMENT IN OR IN CONNECTION WITH THIS APPLICATION

Part 3 – Signatures (please read guidance note 4)

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

Signature

.....

Date

..... 24/8/15

Capacity

..... Chief Inspector of Magistrates Measure.

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

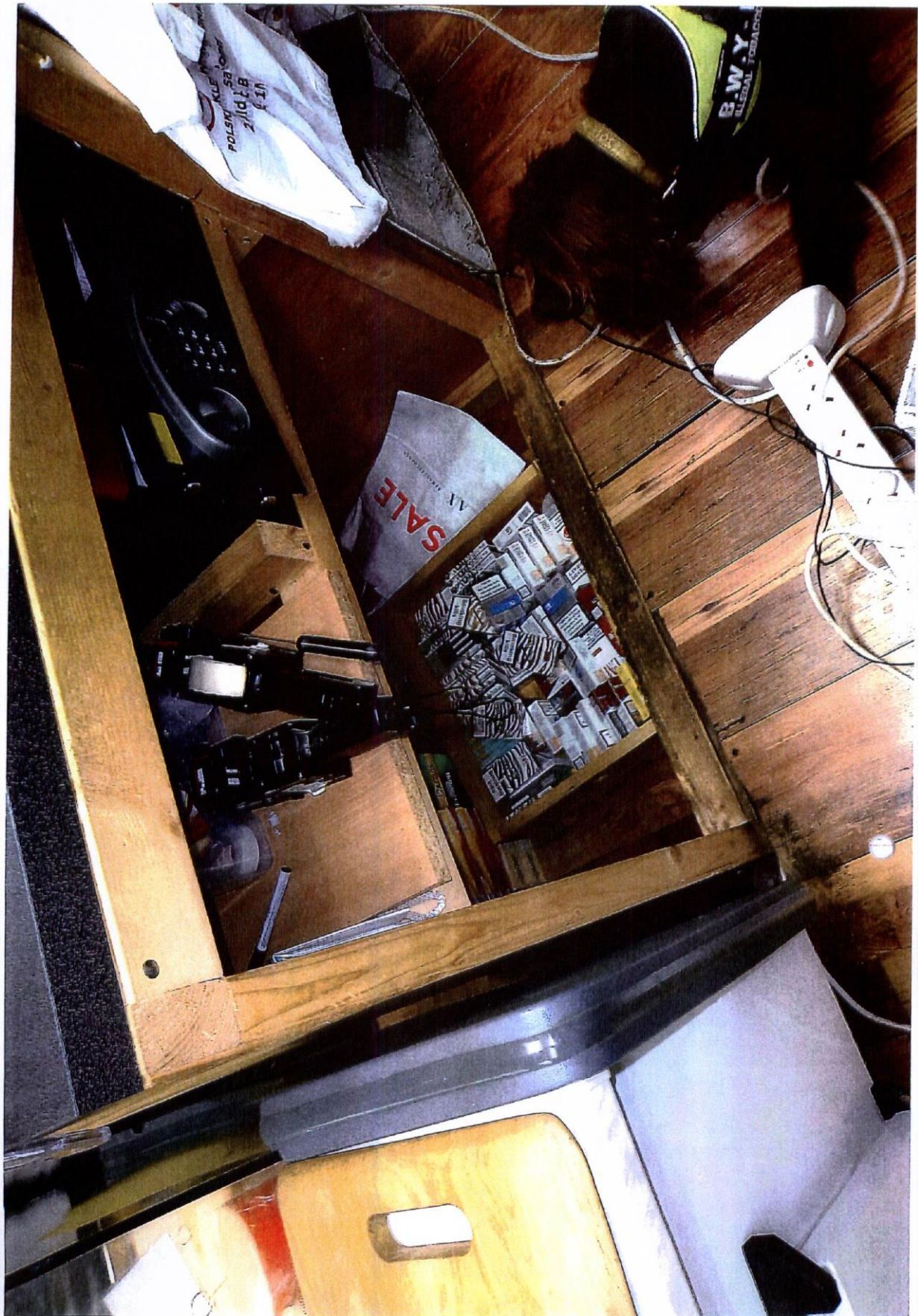
1. A responsible authority includes the local police, fire and rescue authority and other statutory bodies which exercise specific functions in the local area.
2. The ground(s) for review must be based on one of the licensing objectives.
3. Please list any additional information or details for example 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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Public Register: Licence Report

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6. Designated Premises Supervisor History
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1. Licence

Summary of the licence certificate.

Application Reference	81623
Licence Holder Name	Mr Kamil Sobocinski
Registered Company Number	
Licence Number	3973
Time Limited Start Date	N/A
Time Limited End Date	N/A
Issue Number	1
Issue Date	29/06/2013
Grant Date	22/04/2013
Granted By	Nicola Stansbie
Status	Current
Representation Start Date	06/03/2013
Representation End Date	03/04/2013

<http://publicregister.birmingham.gov.uk/Gen/viewReport.aspx?ReportType=Premises...> 05/08/2015

2. Current Designated Premises Supervisor

A DPS is required wherever there is a licenced activity for the sale of alcohol for consumption on or off the premises.

Status	Assigned
Name	Mr Kamil Sobocinski
Licence Number	
Issuing Authority	-
Start Date	

3. Premises Details

Details of the premises, the licensed activities and hours of operation.

Premises Name	Smaczek
Premises Type	CONVENIENCE STORE/OFF LICENCE
Premises Address	306 Slade Road, Erdington, Birmingham, B23 7LU
Ward Name	STOCKLAND GREEN

3.1 Licensable Activities

A list of activities for which this premises is licensed.

Code	Description
M2	Sale of alcohol by retail (off the premises)

3.2 Activity Times

The times of day during which the activities listed in 3.1 are permitted. Where the start time is later than the end time, the period of activity spans mid-night. Where the start time is equal to the end time, the period licensed is 24 hours.

Days	Start Time	End Time	Licensed Activity Codes
Monday - Sunday	09:00	22:00	<u>M2</u>

3.3 Operating Hours

The hours of operation of the premises during the day. Where the start time is later than the end time, the period of operation spans mid-night. Where the start time is equal to the end time, the period of allowed operation is 24 hours.

Days	Start Time	End Time
Monday - Sunday	09:00	22:00

4. Conditions

4.1 Mandatory Conditions

Mandatory conditions attached to the licence.

Objective	Condition
N/A	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.
N/A	Every retail sale or supply of alcohol made under this licence must be made or authorised by a person who holds a personal licence.
N/A	Where any of the following alcoholic drinks is sold or supplied for sale or 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) the responsible person shall ensure that it is available to customers in the following measures:- 1. Beer or cider - ½ pint; 2. Gin, rum, vodka or whisky - 25ml or 35ml; and 3. Still wine in a glass - 125ml; and The responsible person must also ensure that customers are made aware of the availability of the aforementioned measures.

4.2 Operating Conditions

Operating conditions attached to the licence and classified by objective:

General

General conditions consistent with the operating schedule.

Crime

Conditions consistent with, and to promote the prevention of crime and disorder.

Safety

Conditions consistent with, and to promote public safety.

Nuisance

Conditions consistent with, and to promote the prevention of public nuisance.

Child

Conditions consistent with, and to promote the protection of children from harm.

Objective	Condition
GENERAL	The Premises Licence holder will ensure that all staff are trained with regard to the Licensing Act 2003 specifically relating to the sale of alcohol, and on compliance with the conditions attached to the premises licence. A log of this training will be maintained and can be inspected by any Responsible Authority on request.

Objective	Condition
CRIME	The Premises Licence holder shall ensure that notices stating "No sales of alcohol to persons under 18 years of age" will be displayed on the premises.
CRIME	The Premises Licence holder shall ensure that notices stating "It is illegal for persons to buy alcohol on behalf of persons under 18 years of age" will be displayed on the premises.
CRIME	The Premises Licence holder shall ensure that notices stating "Persons attempting to purchase alcohol on behalf of persons under 18 years of age will be barred from the premises" will be displayed on the premises.
CRIME	The Premises Licence holder will ensure that digital CCTV system with an image download facility is installed on the premises to the reasonable satisfaction of the West Midlands Police. CCTV to be operational at all times the premises is open for licensable activity, images to be held for a minimum of 28 days. Full access to recordings will be given to the Responsible Authorities immediately upon request.
SAFETY	No enforceable conditions identified from operating schedule.
NUISANCE	No enforceable conditions identified from operating schedule.
CHILD	A 'Challenge 21' policy will be operated on the premises with notices being displayed on the entrance to the premises and the behind the counter.
CHILD	The Premises Licence holder shall ensure all staff are trained and regularly refreshed to enforce the 'Challenge 21' policy.
CHILD	The Premises Licence holder shall ensure that all alcohol sale refusals are noted in a refusal register which can be inspected by any Responsible Authority upon request.
CHILD	The premises will only accept valid forms of identification such as a passport, photo driving licence or a recognised proof of age card.

4.3 Committee Conditions

Conditions attached to the licence after a hearing by the licensing authority and classified by objective:

General

General conditions consistent with the operating schedule.

Crime

Conditions consistent with, and to promote the prevention of crime and disorder.

Safety

Conditions consistent with, and to promote public safety.

Nuisance

Conditions consistent with, and to promote the prevention of public nuisance.

Child

Conditions consistent with, and to promote the protection of children from harm.

Objective	Condition
GENERAL	N/A
CRIME	N/A
SAFETY	N/A
NUISANCE	N/A
CHILD	N/A

5. Licence History

The history of variation and transfer applications since the initial application for grant or conversion.

No Information available

6. Designated Premises Supervisor History

A list of all Designated Premises Supervisors that have been responsible for sale of alcohol from the premises.

No Information available

7. Events

Other significant events recorded for this licence.

Date	Reference	Event Name
07/05/2014	81623	Notice of change of licence holder name, address etc
29/06/2013	81623	Issue
22/04/2013	81623	Licence Approval
05/04/2013	81623	Licensable Activities Added/Changed
05/04/2013	81623	Licensable Activities Added/Changed
06/03/2013	81623	Licensable Activities Added/Changed
06/03/2013	81623	Licensable Activities Added/Changed
06/03/2013	81623	Application Received (New Application)

[Help](#) [Accessibility](#) [External links](#)

© Birmingham City Council [Licensing Section](#), Crystal Court,
Aston Cross Business Village, 50 Rocky Lane, Aston Birmingham,
England B6 5RQ
Tel: 0121 303 9896. Fax: 0121 303 9982. Textphone: 0121 303
1119.
licensing@birmingham.gov.uk

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No. 8372



Jacqui Kennedy
Director of Regulation and Enforcement

MR. K. Soboninski
Soboninski

Enquiries to: G. Warming

Smaczak

Telephone: 0121 303 9544

306 SLADE ROAD

Date: 6th July 2015

Legislation: Consumer Protection From Unfair Trading Regs 2008

Consumer Protection Act 1987

Trade Marks Act 1994

The following have been identified in a hidden drawer unit under the counter in the shop premises. It is suspected that they breach the provisions of the above legislation and have been seized as evidence.

3 x packs Hunk 8 Packs Pest
6 x packs Queens Menthol
18 x NZ NZ Sealed as a whole
16 x packs L+M in drawer
3 x packs Marlboro Gold 04871169
1 x pack Sun Ling

Received by: [Signature]
Soboninski

Authorised Officer: G. Warming

SEE IMPORTANT NOTICE OVERLEAF

TRADING STANDARDS
Regulation & Enforcement
Garrets Green Industrial Estate
Valepts Road
Garrets Green
Birmingham B33 0TD



FS 26188



INVESTOR IN PEOPLE



081103



No. 8373

continued from 8372

Jacqui Kennedy
Director of Regulation and Enforcement

M. E. K. Sobocinski

Enquiries to:

Telephone: 0121

Date:

Legislation:

Identified in cupboard out of rear of shop in

bag labelled 'Luptons Lead Tea'

14 x packs L+M

4 x packs NZ

1 x pack Harbora Gold

048 711 70

Received by: Authorised Officer: 

SEE IMPORTANT NOTICE OVERLEAF

TRADING STANDARDS
Regulation & Enforcement
Garretts Green Industrial Estate
Valopits Road
Garretts Green
Birmingham B33 0TD

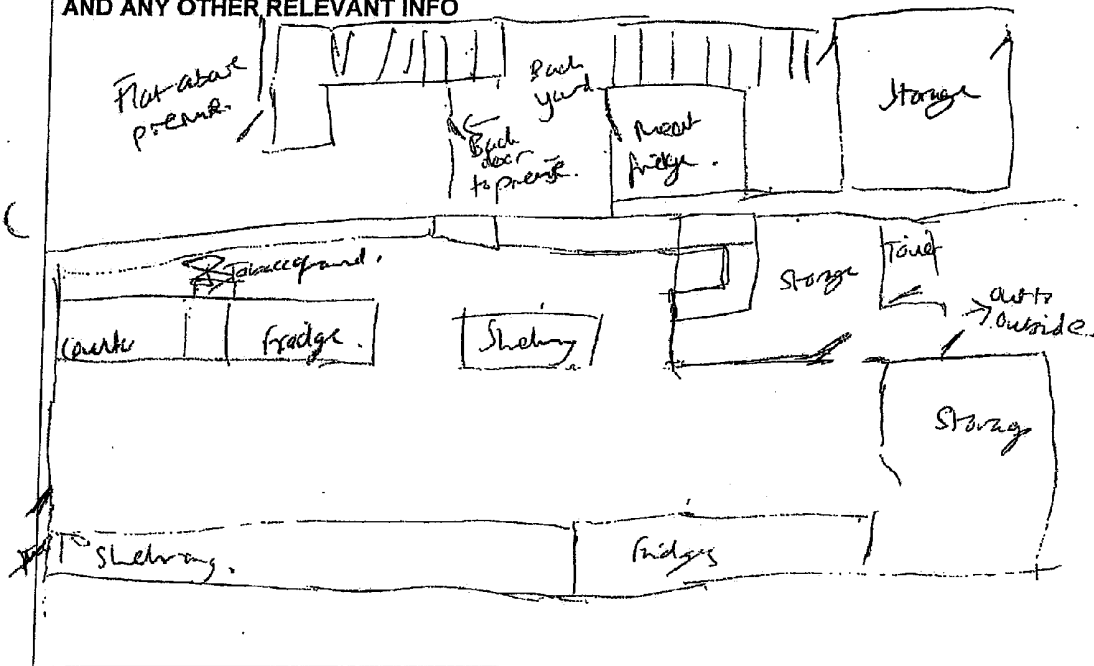


061103

**ILLICIT ALCOHOL/TOBACCO
INVESTIGATING OFFICER – Pro-forma**

NAME (owner details Important) [REDACTED]		M / F	
ADDRESS [REDACTED]		DOB.	4/5/1991.
		EMPLOYEE	YES/NO <i>manage</i>
		DESCRIPTION:	
PRODUCT TYPE		PERSONAL LICENCE NUMBER (where applicable)	7724/1.
	Tobacco Polish shop.		
OFFICER IN CHARGE	G. Warrington	NUMBER OF ITEMS SEIZED	66 parcels of tobacco
TIME OF ENTRY	13.10 hours.	SEAL NUMBER/s	0487 1170 0487 1169.
TIME OF EXIT	14.27 hours.		

SKETCH LAYOUT: INCLUDE ENTRANCE, WHERE PRODUCT FOUND, STOCK ROOM/STORAGE, POINT OF SALE/CONCEALMENT, (IMPORTANT TO NOTE DETAILS OF GENUINE PRODUCTS OF SAME BRAND ETC; ANY PACKAGING OR PAPERWORK, STAFF AND ANY OTHER RELEVANT INFO



ILLCIT ALCOHOL/TOBACCO
INVESTIGATING OFFICER – Pro-forma

CONVERSATIONS/SIGNIFICANT STATEMENTS (IF ANY)	Said he didn't have tobacco or cocaine.
OTHER PERSONS PRESENT	[REDACTED]
PRICES DISPLAYED/CHARGED	No tobacco displayed
CCTV: Not working.	
TIME BACK INTO SHOP:	

Licence details (Where applicable)	Note: the licence should still be considered where the last purchase is not alcohol.
Licence number	3 Personal licence.
DPS	
Premises Licence Holder	
Is summary displayed	Yes.
Details of any personal licence holder on the premises at time of sale	Date of expiry - 8/5/23.
TN Details	Note: A statement will be required from any accompanying police officer should the matter go to court for review.
TN number	8372 + 8373.
Police officer details	PCSO 30292 Florence PCSO 30583 Long.
Police officer contact number	
Other persons/officers present	[REDACTED] (Woman there at time of purchase).
General observations	
Confirm that the CCTV is working and note on Traders Notice to keep the recording if likely to be of evidential value.	Said not really working. Harddrive getting fixed.

**ILLICIT ALCOHOL/TOBACCO
INVESTIGATING OFFICER – Pro-forma**

<p>Photographs to be taken of stock in situ prior to removal and any other supportive photographs; consider body cams and similar. Record her who has taken photos.</p>	<p><i>Geary took photographs.</i></p>
<p>Any other relevant observations: Note: in licenced premises important to verify if DPS is in proper control. OIC may consider it appropriate to caution those found in control of the business to ascertain ownership details and similar; all note books should be completed appropriately.</p>	<p><i>The flat above premise can only be accessed through shop or through unit at the back.</i></p>

Appendix 3

BIRMINGHAM CITY COUNCIL

LICENSING ACT 2003

PREMISES LICENCE

Premises Licence Number:

3973 / 1

Part 1 - Premises details:

Postal address of premises, or if none, ordnance survey map reference or description

Smaczek
306 Slade Road
Erdington

Post town:

Birmingham

Post Code:

B23 7LU

Telephone Number:

Not Specified

Where the licence is time limited the dates

N/A

Licensable activities authorised by the licence

M2 Sale of alcohol by retail (off the premises)

The times the licence authorises the carrying out of licensable activities

Monday - Sunday 09:00 - 22:00 M2

The opening hours of the premises

Monday - Sunday 09:00 - 22:00

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 Kamil Sobocinski	
Post town:	Post Code:
Telephone Number:	
Email	

Registered number of holder for example company number or charity number (where applicable)
--

Name, address, telephone number of designated premises supervisor where the premises licence authorises for the supply of alcohol Mr Kamil Sobocinski	
Post town:	Post Code:
Telephone Number:	

Personal licence number and issuing authority of personal licence held by designated premises supervisor where the premises licence authorises for the supply of alcohol	
Licence Number	Issuing Authority

Dated 29/06/2013

Nicola Stansbie
Senior Licensing Officer
For Director of Regulation and Enforcement

BIRMINGHAM CITY COUNCIL

Annex 1 – Mandatory Conditions

No supply of alcohol may be made under the premises licence (a) at a time when there is no designated premises supervisor in respect of the premises licence, or (b) at a time when the designated premises supervisor does not hold a personal licence or his personal licence is suspended.

Every retail sale or supply of alcohol made under this licence must be made or authorised by a person who holds a personal licence.

Where any of the following alcoholic drinks is sold or supplied for sale or 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) the responsible person shall ensure that it is available to customers in the following measures:-

1. Beer or cider - ½ pint;
2. Gin, rum, vodka or whisky - 25ml or 35ml; and
3. Still wine in a glass - 125ml; and

The responsible person must also ensure that customers are made aware of the availability of the aforementioned measures.

BIRMINGHAM CITY COUNCIL

Annex 2 – Conditions consistent with operating schedule

2a) General conditions consistent with the operating schedule

The Premises Licence holder will ensure that all staff are trained with regard to the Licensing Act 2003 specifically relating to the sale of alcohol, and on compliance with the conditions attached to the premises licence. A log of this training will be maintained and can be inspected by any Responsible Authority on request.

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

The Premises Licence holder will ensure that digital CCTV system with an image download facility is installed on the premises to the reasonable satisfaction of the West Midlands Police. CCTV to be operational at all times the premises is open for licensable activity, images to be held for a minimum of 28 days. Full access to recordings will be given to the Responsible Authorities immediately upon request.

The Premises Licence holder shall ensure that notices stating "No sales of alcohol to persons under 18 years of age" will be displayed on the premises.

The Premises Licence holder shall ensure that notices stating "It is illegal for persons to buy alcohol on behalf of persons under 18 years of age" will be displayed on the premises.

The Premises Licence holder shall ensure that notices stating "Persons attempting to purchase alcohol on behalf of persons under 18 years of age will be barred from the premises" will be displayed on the premises.

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

A 'Challenge 21' policy will be operated on the premises with notices being displayed on the entrance to the premises and the behind the counter.

The Premises Licence holder shall ensure all staff are trained and regularly refreshed to enforce the 'Challenge 21' policy.

The Premises Licence holder shall ensure that all alcohol sale refusals are noted in a refusal register which can be inspected by any Responsible Authority upon request.

The premises will only accept valid forms of identification such as a passport, photo driving licence or a recognised proof of age card.

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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

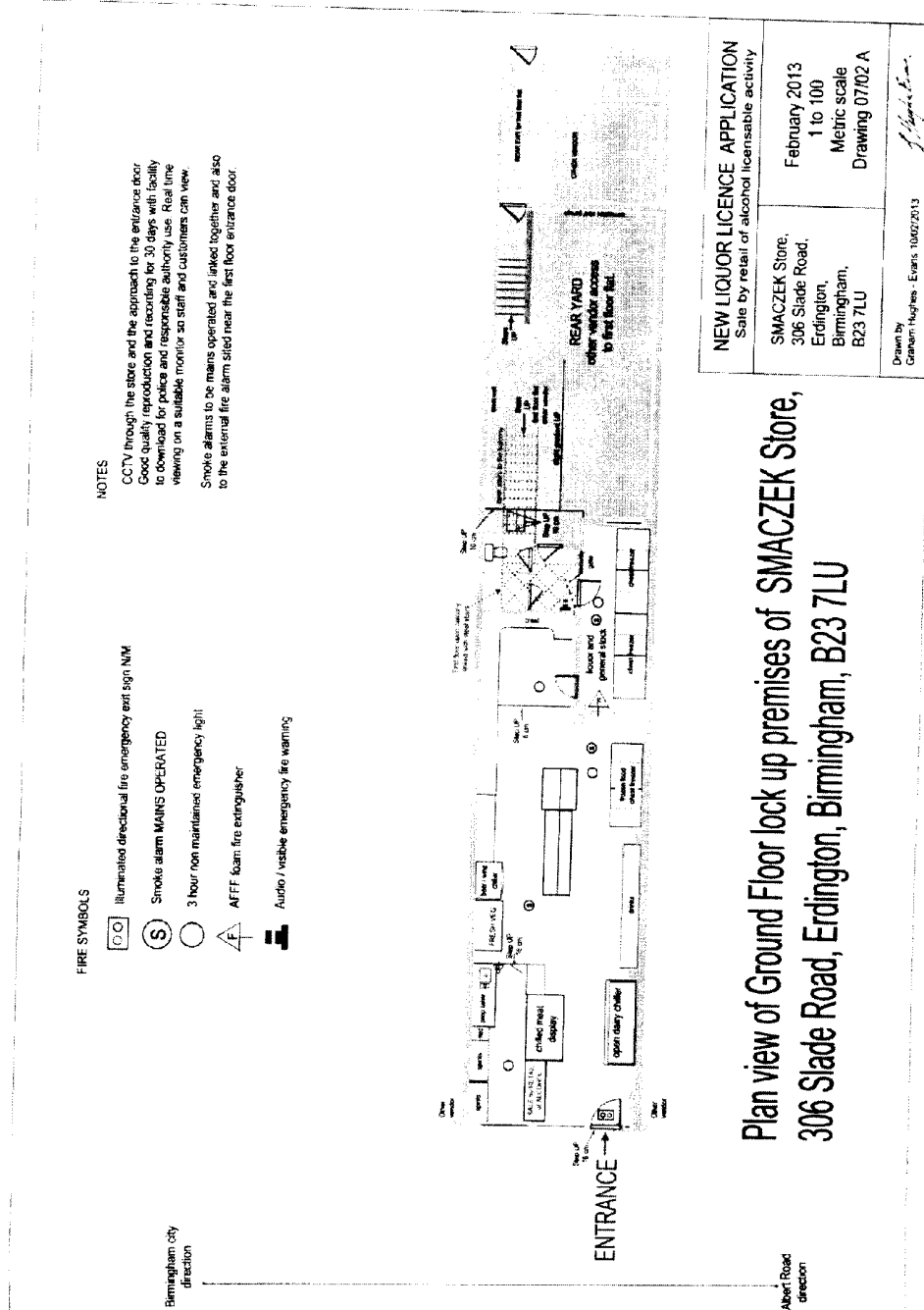
3d) Committee conditions to promote the prevention of public nuisance

N/A

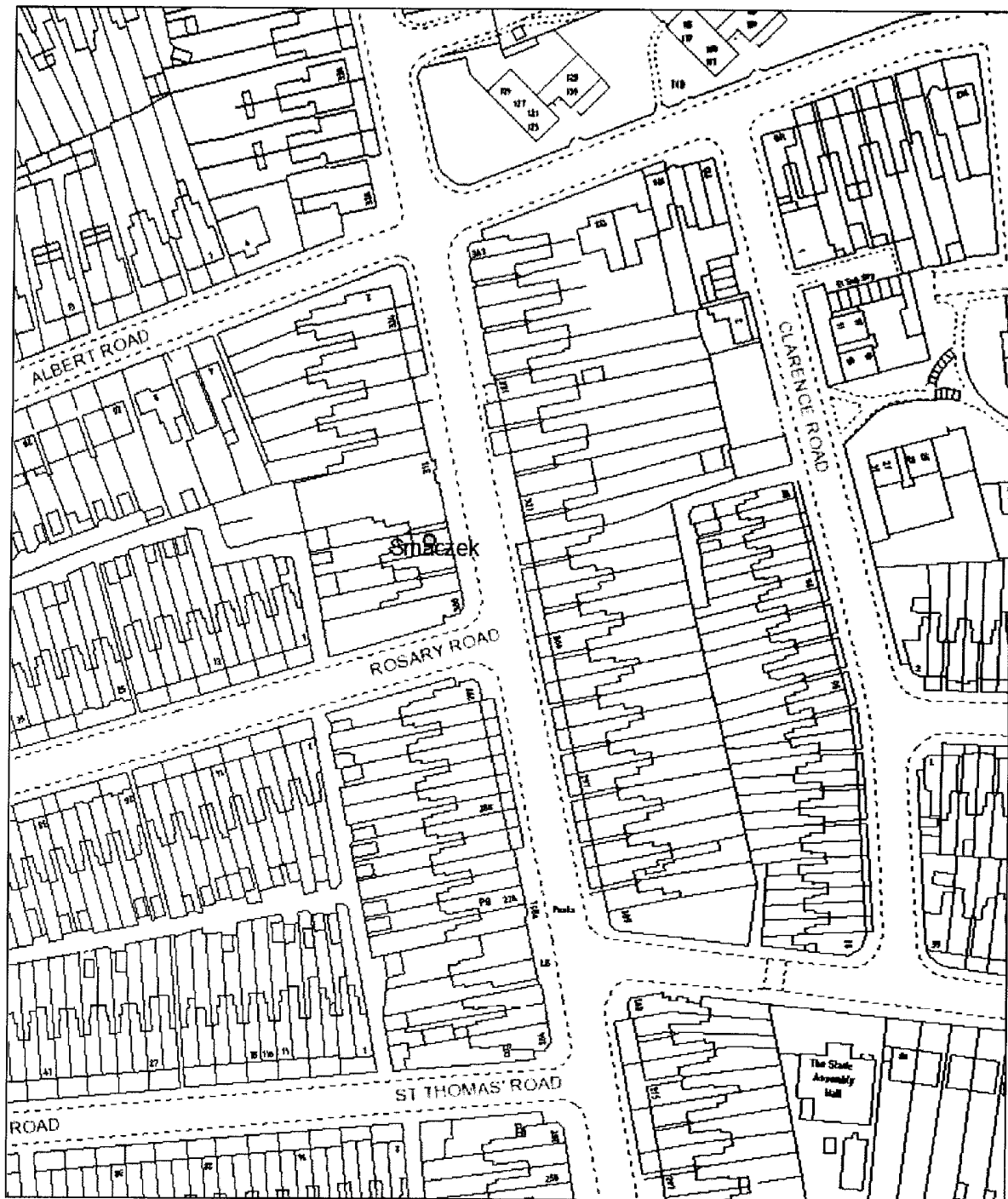
3e) Committee conditions to promote the protection of children from harm

N/A

Annex 4 – Plans



Appendix 4



Birmingham City Council Map Created By:

Notes

Date of Map Creation: 25/09/2015



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Scale:
1:1,250

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Report to:	Licensing Sub Committee B
Report of:	Acting Director of Regulation & Enforcement
Date of Meeting:	Tuesday 13th October 2015
Subject:	Licensing Act 2003 Premises Licence – Variation
Premises:	Hotel Indigo Birmingham, The Cube, 180 Wharfside, Birmingham, B1 1PR
Ward affected:	Ladywood
Contact Officer:	David Kennedy, Principal Licensing Officer, 0121 303 9896 licensing@birmingham.gov.uk

1. Purpose of report:

To consider relevant representations that have been made in respect of an application to vary the Premises Licence which initially sought to permit the provision of Regulated Entertainment consisting of live music and anything of a similar description to operate from 08:00am until 02:00am (Monday to Sunday), and recorded music to operate 24 hours (Monday to Sunday). The variation proposed is in order to permit live music and recorded music to be operated both inside and outside for Level 25 only (currently licensed to operate indoors only)

Premises to be open to non-hotel residents (or their bona-fide guests) from 08:00am until 03:00am (Monday to Sunday) and 24 hours (Monday to Sunday) for hotel residents (and their bona-fide guests).

Following discussions with Environmental Health the applicant has modified their application which now seeks to reduce the provision of Regulated Entertainment in the outdoor area with live music to operate from 08:00am until 11:00pm (for both hotel residents and non-hotel residents) and recorded music to operate from 08:00am until 02:00am (for both hotel residents and non-hotel residents).

2. Recommendation:

To consider the representations that have been made and to determine the application.

3. Brief Summary of Report:

Variation application received on 25th August 2015 in respect of Hotel Indigo Birmingham, The Cube, 180 Wharfside, Birmingham, B1 1PR.

Representations have been received from other persons.

4. Compliance Issues:
4.1 Consistency with relevant Council Policies, Plans or Strategies:
<p>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>Commercial Street Hotel Ltd applied on 25th August 2015 to vary the Premises Licence for Hotel Indigo Birmingham, The Cube, 180 Wharfside, Birmingham, B1 1PR.</p> <p>Representations have been received from other persons. See Appendices 1 – 8.</p> <p>The application is attached at Appendix 9.</p> <p>Conditions have been agreed with Environmental Health and the applicant, which are attached at Appendix 10.</p> <p>The current Premises Licence is attached at Appendix 11.</p> <p>Site Location Plans at Appendix 12.</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. The Licensing Authority is also required to take such steps as it considers appropriate for the promotion of the licensing objectives, which are:-</p> <ul style="list-style-type: none"> a. The prevention of crime and disorder; b. Public safety; c. The prevention of public nuisance; and d. The protection of children from harm.
6. List of background documents:
<p>A copy of the representations as detailed in Appendices 1 – 8</p> <p>Application Form, Appendix 9</p> <p>Conditions agreed with Environmental Health, Appendix 10</p> <p>Current Premises Licence, Appendix 11</p> <p>Site Location Plans, Appendix 12</p>
7. Options available
<p>To grant the variation application</p> <p>To refuse the whole or part of the application</p> <p>To modify the conditions of the Licence</p>

Appendix 1

ENTERED AI

From:
Sent: 21 September 2015 16:59
To: Licensing
Subject: Variation of Licensing for Hotel Indigo/Marco Pierre White's, level 25 the Cube Birmingham

Importance: High

Dear Sirs,

I understand that Hotel Indigo/Marco Pierre White's restaurant has applied to vary their licence to allow live or recorded music inside and outside on level 25 of the Cube.

I live at Apartment The Cube East and unfortunately live or recorded music from level 25 would make life quite intolerable for me in my apartment for the following reasons:

- Noise generated inside the atrium resonates around it and seems to be amplified; any noise can therefore seem louder and more intrusive than it would in a normal building
- The Cube is very well insulated, so well that it is impossible to sleep without a window open. Shutting a window to keep the noise out is simply not an option.
- The noise wouldn't only interfere with sleep but all activities of daily life inside my apartment; like many others my apartment is a studio so I can't simply retire to a different room with a different aspect. I wouldn't be able to watch the TV or relax in my own home.
- Clearly if I can't sleep or live in my apartment this will affect the resale value and I will lose out financially if I have to move because of the noise.

I would be grateful if you could take my objections into account and let me know of any hearings so that I might attend and object in person.

Kind regards,

Appendix 2

2

ENTERED
RJ

From:
Sent: 22 September 2015 10:43
To: Licensing
Subject: Commercial street hotel - hotel indigo - application to vary licence

Dear sir

I refer to the above variation application and wish to object to the application being made.

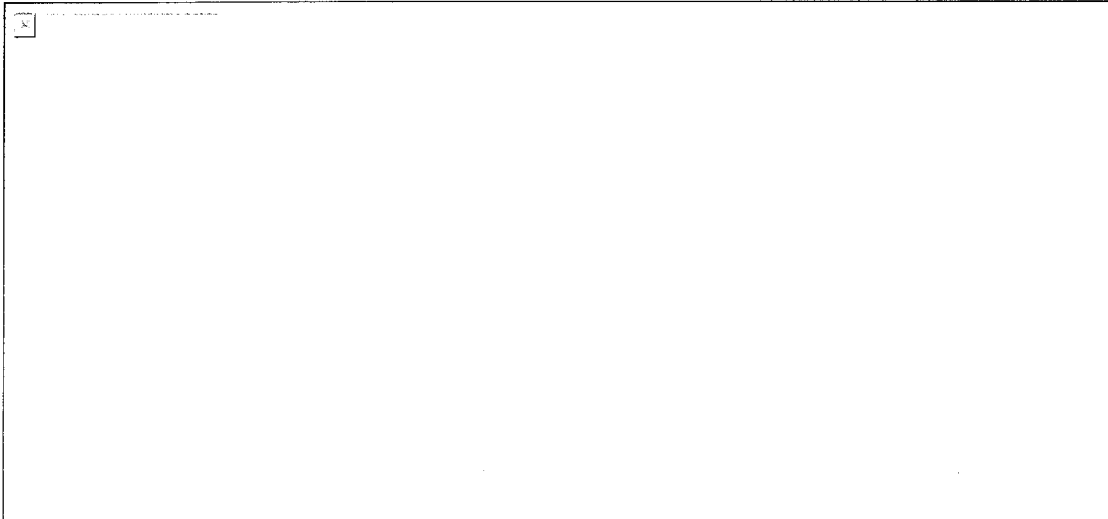
I am a resident of the cube (apartment) and the noise from MPW via hotel indigo is disturbing and is not conducive to a residential development. There have been numerous previous complaints about both the noise from the 25th floor, the throwing of rubbish over the balcony from the 25th floor which represents a health and safety hazard and should be addressed.

It is not appropriate for an organisation to abuse an existing licence and simply be able to apply for a respective variation of such a licence when indeed such a variation has been applied for because of complaints made by residents of the cube

The approval of such a license will only serve to make matters worse, will result in further late night drinking on the 25th floor, unruly behaviour and potentially dangerous issues associated with such a venue overlooking the cube.

We would therefore urge the licensing authority to reject the application

Resident . the cube



Appendix 3

ENCLOSURE R/

1

From:
Sent: 21 September 2015 19:31
To: Licensing
Subject: license application

To whom it may concern:

The following license application has appeared in the window outside Hotel Indigo.
"Licensing Act 2003... Notice of application for variation of a premises license...to permit the existing licensable activities relating to live and recorded music to be operable both inside and outside for Level 25 only".

As residents and homeowners in The Cube we wish to strongly object to live music being played on the outside terrace at Marco Pierre White's restaurant.

This is a residential area as well commercial building.
The acoustics of The Cube are such that noise resonates around the atrium.

The noise generated from live music played within the restaurant is already a significant intrusive problem that we have discussed in the past with the management of Hotel Indigo and were told they would address.

We hope the license will be declined.

The Cube East

From:
Sent: 22 September 2015 22:36
To: Licensing
Subject: Objection to variation of existing premises licence at Hotel Indigo Birmingham

Dear Sir or Madam

I wish to object to the recent Notice of Application for the Variation of a Premises Licence for Hotel Indigo Birmingham, The Cube, 180 Wharfside Street, Birmingham, B1 1PR.

Although the licence does not seek to propose any further activities to those already in place, as a resident within The Cube I have found previous outdoor music performances broadcast on the level 25 balcony to be very loud and disruptive, even before 11pm. My flat faces into the atrium within the Cube, and, due to its design, this naturally amplifies sound. Although my flat is on level , I can clearly hear voices from those walking though the building on level 7, and consequently also any outdoor music events held on level 25. Although the speakers are small, the noise, particularly from live singers, is very piercing, and not something which I wish to live with. Background noise from those passing through the building is one thing, but sustained, high volume music performances are quite another.

To be clear, I have no problem with indoor performances at level 25, but I think outdoor ones are just too disruptive in a building with so many residents.

Please let me know if you require any further information relating to this objection.

Best wishes

Resident of Apartment The Cube West, Birmingham, B1

Appendix 5

Entered
RJ

From:
Sent: 23 September 2015 10:47
To: Licensing
Subject: Marco Pierre White Licence Application

Dear Sir/Madam,

I wish to note my concern with regard to the recent application for external licencing for Hotel Indigo/Marco Pierre Whites terrace at the Cube. Apologies, there is no reference number on the notice.

I am a resident in the Atrium of the building and the noise from performances on Marco's balcony has been a nuisance as it reflects down due to the design of the building. In light of this I suggest that music/performances should be restricted to the internal areas and not to the balcony areas.

Regards

ENTERED RJ

6

From:

Sent:

23 September 2015 15:49

To:

Licensing

Subject:

Hotel Indigo / Marco Pierre White / Commercial Street Hotel Limited

The Cube East,
Wharfside Street,
Birmingham,
B1

Dear Sir/Madam,

I write to express my strong opposition to the variation of the premises license of "Commerical Street Hotel Limited", trading as Hotel Indigo with Marco Pierre White Restaurant in "The Cube" building.

I am a home owner/tenant in the building, which as you will be aware is mixed use with residential and commercial elements. Whilst I appreciate that City centre living does require tolerance of some ambient noise, I feel it wholly inappropriate that excessive noise should be generated from within the building so close to our apartments. My apartment faces inwards so looks out into the atrium. The acoustics are such that when the hotel hosts an event with music or announcements the noise resonates within the inner core of the building and is heard very loudly. This is the case even with windows closed. I feel that if a license were to be granted for music to be played on the terrace on Level 25 of the building the quality of life of residential occupiers would be adversely affected. I work shifts as a doctor and good quality sleep is important so that I am well rested and can care for patients safely. I would not be able to sleep if music were to be played at such close proximity and the impact would be intolerable. I think Level 25 should be preserved as a restaurant and socialising venue without hosting loud entertainment with the problems that would bring.

Thank you for your consideration.

Yours faithfully,

From:
Sent: 24 September 2015 00:41
To: Licensing
Subject: Objection to Marco Pierre White at The Cube licence application

To whom it may concern:

I would like to put my objection towards the restaurant Marco Pierre White at The Cube from being allowed to play music until 02:00 under their current licence application.

Under the current Noise Act 1996, music should be turned off at 23:00 and this must be adhered to - not least because the restaurant is in a residential building. I do not see why the restaurant feels they are exempt from this.

I feel, therefore, any breach of this would be unlawful but also severely detrimental to my mental wellbeing.

I am an occasional resident at The Cube and any noise whether from the foyer, atrium or the outdoor area of the bar of the restaurant resonates around the enclosed portion of the building and causes immense disturbance.

Any music, whether live or through a speaker, past 23:00 is therefore unreasonable and would severely disrupt my ability to sleep. This is despite the windows being closed. Additionally, due to the heat levels within the building, windows often have to be left open for comfort.

I hope that you will take these comments into consideration when deciding whether to grant them the licence.

Thank you and yours faithfully,

Appendix 8

ENTERED
RJ

From:
Sent: 24 September 2015 14:33
To: Licensing
Cc:
Subject: Objection to Hotel Indigo application to vary license

Dear Sir/Madam,

We are emailing to register our objection to the application by Hotel Indigo to vary their license. We are residents living on floor in The Cube East.

Any variation to the current schedule which results in an extension to the hours during which alcohol is consumed and or music - or other forms of entertainment - provided, will not be consistent with the prevention of public nuisance. Sound travels through the atrium and at the weekends the amount of noise frequently disturbs our sleep, even with the bedroom windows closed. While this is tolerable at weekends, and we accepted this would be part and parcel of living in a multi-use building, it would not be tolerable or reasonable to have to live with the same level of nuisance during the working week.

It is not only the noise coming from floor 25 that results in disturbance but also the noise caused by non hotel residents leaving the building on floor 6. Every weekend we hear people talking loudly, shouting and even screaming when leaving the building, presumably due to the influence of alcohol. The sound travels up the atrium. We are in no way objecting to people having a good time but to modify the license and permit this behaviour to impact us during the working week would be an unreasonable interference with our right to peaceful enjoyment of our property. We therefore ask that you take into full consideration the fact that this is also a residential building and that licensing arrangements on floor 25 have an impact on all other areas of the building and its residents.

Regards,

The Cube East
B1

92626
29/8-24/9

Application to vary a premises licence 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/We Commercial Street Hotel Limited

(Insert name(s) of applicant)

being the premises licence holder, apply to vary a premises licence under section 34 of the Licensing Act 2003 for the premises described in Part 1 below

Premises licence number 3669 / 4		REC REGISTRATION & ENFORCEMENT LICENSING SECTION HAS RECEIVED REF NO INITIALS	
Part 1 – Premises Details			
Postal address of premises or, if none, ordnance survey map reference or description Hotel Indigo Birmingham, The Cube, 180 Wharfside Street			
Post town	Birmingham	Post code	B1 1PR
Telephone number at premises (if any)			
Non-domestic rateable value of premises		£795000	

Part 2 – Applicant details

Daytime contact telephone number	
E-mail address (optional)	
Current postal address if different from premises address	As above.
Post Town	Postcode

Part 3 - Variation

Please tick yes

Do you want the proposed variation to have effect as soon as possible?

☒

If not do you want the variation to take effect from

Day		Month		Year	
1	2	1	2	1	2

Please describe briefly the nature of the proposed variation (Please see guidance note 1)
The Variation proposed is in order to permit those Licensable Activities relating to both live and recorded music to be operated both inside and outside for Level 25 ONLY (instead of the current inside only permission).

The above shall not affect any other Levels.

There are no layout alterations, or proposals to vary existing hours.

If your proposed variation would mean that 5,000 or more people are expected to attend the premises at any one time, please state the number expected to attend

Part 4 Operating Schedule

Please complete those parts of the Operating Schedule below which would be subject to change if this application to vary is successful.

Provision of regulated entertainment

Please tick yes

- | | |
|--|-------------------------------------|
| a) plays (if ticking yes, fill in box A) | <input type="checkbox"/> |
| b) films (if ticking yes, fill in box B) | <input type="checkbox"/> |
| c) indoor sporting events (if ticking yes, fill in box C) | <input type="checkbox"/> |
| d) boxing or wrestling entertainment (if ticking yes, fill in box D) | <input type="checkbox"/> |
| e) live music (if ticking yes, fill in box E) | <input checked="" type="checkbox"/> |
| f) recorded music (if ticking yes, fill in box F) | <input checked="" type="checkbox"/> |
| g) performances of dance (if ticking yes, fill in box G) | <input type="checkbox"/> |
| h) anything of a similar description to that falling within (e), (f) or (g)
(if ticking yes, fill in box H) | <input checked="" type="checkbox"/> |

Provision of entertainment facilities:

- | | |
|--|--------------------------|
| i) making music (if ticking yes, fill in box I) | <input type="checkbox"/> |
| j) dancing (if ticking yes, fill in box J) | <input type="checkbox"/> |
| k) entertainment of a similar description to that falling within (i) or (j)
(if ticking yes, fill in box K) | <input type="checkbox"/> |

Provision of late night refreshment (if ticking yes, fill in box L)

☐

Sale by retail of alcohol (if ticking yes, fill in box M)

☐

In all cases complete boxes N, O and P

A

Plays Standard days and timings (please read guidance note 6)			<u>Will the performance of a play take place indoors or outdoors or both – please tick</u> (please read guidance note 2)	Indoors	<input type="checkbox"/>
				Outdoors	<input type="checkbox"/>
				Both	<input type="checkbox"/>
Day	Start	Finish	<u>Please give further details here</u> (please read guidance note 3)		
Mon					
Tue			<u>State any seasonal variations for performing plays</u> (please read guidance note 4)		
Wed					
Thur			<u>Non standard timings. Where you intend to use the premises for the performance of plays at different times to those listed in the column on the left, please list</u> (please read guidance note 5)		
Fri					
Sat					
Sun					

B

Films Standard days and timings (please read guidance note 6)			<u>Will the exhibition of films take place indoors or outdoors or both – please tick</u> (please read guidance note 2)	Indoors	<input type="checkbox"/>
				Outdoors	<input type="checkbox"/>
				Both	<input type="checkbox"/>
Day	Start	Finish	<u>Please give further details here</u> (please read guidance note 3) As existing.		
Mon					
Tue					
Wed			<u>State any seasonal variations for the exhibition of films</u> (please read guidance note 4)		
Thur					
Fri					
Sat			<u>Non standard timings. Where you intend to use the premises for the exhibition of films at different times to those listed in the column on the left, please list</u> (please read guidance note 5)		
Sun					

C

Indoor sporting events Standard days and timings (please read guidance note 6)			<u>Please give further details</u> (please read guidance note 3)
Day	Start	Finish	
Mon			
Tue			<u>State any seasonal variations for indoor sporting events</u> (please read guidance note 4)
Wed			
Thur			<u>Non standard timings. Where you intend to use the premises for indoor sporting events at different times to those listed in the column on the left, please list</u> (please read guidance note 5)
Fri			
Sat			
Sun			

D

Boxing or wrestling entertainments Standard days and timings (please read guidance note 6)			<u>Will the boxing or wrestling entertainment take place indoors or outdoors or both – please tick</u> (please read guidance note 2)	Indoors	<input type="checkbox"/>
				Outdoors	<input type="checkbox"/>
				Both	<input type="checkbox"/>
Day	Start	Finish	<u>Please give further details here</u> (please read guidance note 3)		
Mon					
Tue					
Wed			<u>State any seasonal variations for boxing or wrestling entertainment</u> (please read guidance note 4)		
Thur					
Fri					
Sat			<u>Non standard timings. Where you intend to use the premises for boxing or wrestling entertainment at different times to those listed in the column on the left, please list</u> (please read guidance note 5)		
Sun					

E

Live music Standard days and timings (please read guidance note 6)			<u>Will the performance of live music take place indoors or outdoors or both – please tick</u> (please read guidance note 2)		Indoors <input type="checkbox"/>
					Outdoors <input type="checkbox"/>
					Both <input checked="" type="checkbox"/>
Day	Start	Finish			
Mon	08.00	02.00	<u>Please give further details here</u> (please read guidance note 3) A facility for the provision of live music for hotel residents, their bona-fide guests, and patrons of the hotel.		
Tue	08.00	02.00	Hours as left are the EXISTING hours for non-hotel residents, with the only Variation sought being the ability to operate this Licensable Activity both inside AND outside on Level 25. PLEASE NOTE that this Variation shall apply ONLY to Level 25, with any other Levels subject to the existing provisions and Conditions.		
Wed	08.00	02.00	<u>State any seasonal variations for the performance of live music</u> (please read guidance note 4)		
Thur	08.00	02.00			
Fri	08.00	02.00	<u>Non standard timings. Where you intend to use the premises for the performance of live music at different times to those listed in the column on the left, please list</u> (please read guidance note 5)		
Sat	08.00	02.00	As existing (being that hotel residents and their bona-fide guests will be entitled to these facilities on a 24 hour basis.		
Sun	08.00	02.00	New Year's Eve into New Year's Day, the terminal hour shall be 04.00).		

F

Recorded music Standard days and timings (please read guidance note 6)			<u>Will the playing of recorded music take place indoors or outdoors or both – please tick</u> (please read guidance note 2)		Indoors	<input type="checkbox"/>
					Outdoors	<input type="checkbox"/>
					Both	<input checked="" type="checkbox"/>
Day	Start	Finish				
Mon	00.00	00.00	<u>Please give further details here</u> (please read guidance note 3) A facility for the provision of recorded music for hotel residents, their bona-fide guests, and patrons of the hotel. Hours as left, being 24 hours daily, are as EXISTING, with the only Variation sought being the ability to operate this Licensable Activity both inside AND outside on Level 25. PLEASE NOTE that this Variation shall ONLY apply to Level 25, with any other Levels subject to the existing provisions and Conditions.			
Tue	00.00	00.00				
Wed	00.00	00.00	<u>State any seasonal variations for the playing of recorded music</u> (please read guidance note 4)			
Thur	00.00	00.00				
Fri	00.00	00.00	<u>Non standard timings. Where you intend to use the premises for the playing of recorded music at different times to those listed in the column on the left, please list</u> (please read guidance note 5)			
Sat	00.00	00.00				
Sun	00.00	00.00				

G

Performances of dance Standard days and timings (please read guidance note 6)			<u>Will the performance of dance take place indoors or outdoors or both – please tick</u> (please read guidance note 2)	Indoors	<input type="checkbox"/>
				Outdoors	<input type="checkbox"/>
Day	Start	Finish		Both	<input type="checkbox"/>
Mon			<u>Please give further details here</u> (please read guidance note 3) As existing.		
Tue					
Wed			<u>State any seasonal variations for the performance of dance</u> (please read guidance note 4)		
Thur					
Fri			<u>Non standard timings. Where you intend to use the premises for the performance of dance at different times to those listed in the column on the left, please list</u> (please read guidance note 5)		
Sat					
Sun					

H

Anything of a similar description to that falling within (e), (f) or (g) Standard days and timings (please read guidance note 6)			<u>Please give a description of the type of entertainment you will be providing</u> Both live and recorded music.	
Day	Start	Finish	<u>Will this entertainment take place indoors or outdoors or both – please tick</u> (please read guidance note 2)	Indoors <input type="checkbox"/>
Mon	08.00	02.00		Outdoors <input type="checkbox"/>
				Both <input checked="" type="checkbox"/>
Tue	08.00	02.00	<u>Please give further details here</u> (please read guidance note 3) A facility for the provision of both live and recorded music for hotel residents, their bona-fide guests and patrons of the hotel.	
Wed	08.00	02.00	Hours on the left are the EXISTING hours for non-hotel residents, with the only Variation sought being the ability to operate this Licensable Activity both inside AND outside on Level 25. PLEASE NOTE that this Variation shall apply ONLY to Level 25, with any other Levels subject to the existing provisions and Conditions.	
Thur	08.00	02.00	<u>State any seasonal variations for entertainment of a similar description to that falling within (e), (f) or (g)</u> (please read guidance note 4)	
Fri	08.00	02.00		
Sat	08.00	02.00	<u>Non standard timings. Where you intend to use the premises for the entertainment of a similar description to that falling within (e), (f) or (g) at different times to those listed in the column on the left, please list</u> (please read guidance note 5) As existing (being that residents and their bona-fide guests will be entitled to these facilities on a 24 hour basis.	
Sun	08.00	02.00	New Year's Eve into New Year's Day, the terminal hour shall be 04.00).	

I

Provision of facilities for making music Standard days and timings (please read guidance note 6)			<u>Please give a description of the facilities for making music you will be providing</u>			
			<u>Will the facilities for making music be indoors or outdoors or both – please tick</u> (please read guidance note 2)			
					Indoors	<input type="checkbox"/>
					Outdoors	<input type="checkbox"/>
Day	Start	Finish	Both	<input type="checkbox"/>		
Mon			<u>Please give further details here</u> (please read guidance note 3)			
Tue						
Wed			<u>State any seasonal variations for the provision of facilities for making music</u> (please read guidance note 4)			
Thur						
Fri			<u>Non standard timings. Where you intend to use the premises for provision of facilities for making music at different times to those listed in the column on the left, please list</u> (please read guidance note 5)			
Sat						
Sun						

J

Provision of facilities for dancing Standard days and timings (please read guidance note 6)			<u>Will the facilities for dancing be indoors or outdoors or both – please tick</u> (see guidance note 2)		Indoors	<input type="checkbox"/>
					Outdoors	<input type="checkbox"/>
					Both	<input type="checkbox"/>
			<u>Please give a description of the facilities for dancing you will be providing</u>			
Day	Start	Finish				
Mon			<u>Please give further details here</u> (please read guidance note 3)			
Tue						
Wed			<u>State any seasonal variations for providing dancing facilities</u> (please read guidance note 4)			
Thur						
Fri			<u>Non standard timings. Where you intend to use the premises for the provision of facilities for dancing at different times to those listed in the column on the left, please list</u> (please read guidance note 5)			
Sat						
Sun						

K

Provision of facilities for entertainment of a similar description to that falling within i or j Standard days and timings (please read guidance note 6)			<u>Please give a description of the type of entertainment facility you will be providing</u>	
Day	Start	Finish	<u>Will the entertainment facility be indoors or outdoors or both – please tick</u> (please read guidance note 2)	Indoors <input type="checkbox"/>
Mon				Outdoors <input type="checkbox"/>
				Both <input type="checkbox"/>
Tue			<u>Please give further details here</u> (please read guidance note 3)	
Wed				
Thur			<u>State any seasonal variations for the provision of facilities for entertainment of a similar description to that falling within i or j</u> (please read guidance note 4)	
Fri				
Sat			<u>Non standard timings. Where you intend to use the premises for the provision of facilities for entertainment of a similar description to that falling within i or j at different times to those listed in the column on the left, please list</u> (please read guidance note 5)	
Sun				

L

Late night refreshment Standard days and timings (please read guidance note 6)			<u>Will the provision of late night refreshment take place indoors or outdoors or both – please tick</u> (please read guidance note 2)	Indoors	<input type="checkbox"/>
				Outdoors	<input type="checkbox"/>
				Both	<input type="checkbox"/>
Day	Start	Finish	<u>Please give further details here</u> (please read guidance note 3) As existing		
Mon					
Tue					
Wed			<u>State any seasonal variations for the provision of late night refreshment</u> (please read guidance note 4)		
Thur					
Fri			<u>Non standard timings. Where you intend to use the premises for the provision of late night refreshment at different times, to those listed in the column on the left, please list</u> (please read guidance note 5)		
Sat					
Sun					

M

Supply of alcohol Standard days and timings (please read guidance note 6)			Will the supply of alcohol be for consumption (Please tick box) (please read guidance note 7)	On the premises	<input type="checkbox"/>
				Off the premises	<input type="checkbox"/>
				Both	<input type="checkbox"/>
Day	Start	Finish	<u>State any seasonal variations for the supply of alcohol</u> (please read guidance note 4) As existing.		
Mon					
Tue					
Wed					
Thur			<u>Non-standard timings. Where you intend to use the premises for the supply of alcohol at different times to those listed in the column on the left, please list</u> (please read guidance note 5)		
Fri					
Sat					
Sun					

N

<p>Please highlight any adult entertainment or services, activities, other entertainment or matters ancillary to the use of the premises that may give rise to concern in respect of children (please read guidance note 8)</p> <p>Alcohol is a product that may give concern.</p> <p>The current standards of due-diligence, staff training, and CCTV, will continue to apply to cover this aspect.</p> <p>All existing Licence Conditions shall remain, and there are no alterations to any existing layout.</p>

O

Hours premises are open to the public Standard days and timings (please read guidance note 6)			<u>State any seasonal variations</u> (please read guidance note 4)
Day	Start	Finish	
Mon	08.00	03.00	
Tue	08.00	03.00	<u>Non standard timings. Where you intend the premises to be open to the public at different times from those listed in the column on the left, please list</u> (please read guidance note 5) Hours shown here are as existing, and are for non-hotel residents (or their bona-fide guests). They remain unchanged. As per the existing permissions, hotel residents and their bona-fide guests are entitled to all facilities and Licensable activities on a 24 hour daily basis.
Wed	08.00	03.00	
Thur	08.00	03.00	
Fri	08.00	03.00	
Sat	08.00	03.00	
Sun	08.00	03.00	

Please identify those conditions currently imposed on the licence which you believe could be removed as a consequence of the proposed variation you are seeking

Please see page 2 of the Application above for full details.

NO Licence Conditions are being removed. The Application seeks Variation of the existing Licence such that Licensable Activities relating to live and recorded music are permissible both inside and outside for Level 25 only.

Please tick yes

- I have enclosed the premises licence ☐
- I have enclosed the relevant part of the premises licence ☐

If you have not ticked one of these boxes please fill in reasons for not including the licence, or part of it, below

Reasons why I have failed to enclose the premises licence or relevant part of premises licence
The original Premises Licence has been lost, misplaced or destroyed in transit, and a Certified Copy is enclosed for your records.

P Describe any additional steps you intend to take to promote the four licensing objectives as a result of the proposed variation:

a) General – all four licensing objectives (b,c,d,e) (please read guidance note 9)

Please see page 2 of this Application Form which details all proposals.

b) The prevention of crime and disorder

As above in a.

c) Public safety

As above in a.

d) The prevention of public nuisance

As above in a.

e) The protection of children from harm

As above in a.

Please tick yes

- I have made or enclosed payment of the fee ☒
- I have sent copies of this application and the plan to responsible authorities and others where applicable ☒
- I understand that I must now advertise my application ☒
- I have enclosed the premises licence or relevant part of it or explanation ☒
- I understand that if I do not comply with the above requirements my application will be rejected ☒

IT IS AN OFFENCE, LIABLE ON CONVICTION TO A FINE UP TO LEVEL 5 ON THE STANDARD SCALE, UNDER SECTION 158 OF THE LICENSING ACT 2003 TO MAKE A FALSE STATEMENT IN OR IN CONNECTION WITH THIS APPLICATION

Part 5 – Signatures (please read guidance note 10)

Signature of applicant (the current premises licence holder) or applicant's solicitor or other duly authorised agent (please read guidance note 11). If signing on behalf of the applicant please state in what capacity.

Signature	
Date	25 th August 2015
Capacity	Solicitors for and on behalf of the Applicant.

Where the premises licence is jointly held signature of 2nd applicant (the current premises licence holder) or 2nd applicant's solicitor or other authorised agent (please read guidance note 12). If signing on behalf of the applicant please state in what capacity.

Signature	
Date	
Capacity	

Contact name (where not previously given) and address for correspondence associated with this application (please read guidance note 13)

(Ref: Carl Bruder)
EAD Solicitors LLP,
Prospect House,
Columbus Quay,

Post town	Liverpool	Post code	L3 4DB
Telephone number (if any)			
If you would prefer us to correspond with you by e-mail your e-mail address (optional)			

Appendix 10

From: Carl Bruder
Sent: 21 September 2015 15:13
To: Jane Dunsford
Cc:
Subject: RE: indigo cube

Hello Jane,

Many thanks and noted, and that you have notified Licensing at the Council.

Regards, Carl.

Carl Bruder
Solicitor

EAD Solicitors LLP | Prospect House | Columbus Quay | Liverpool | L3 4DB

From: Jane Dunsford
Sent: 21 September 2015 10:40
To: Carl Bruder
Cc: Licensing
Subject: RE: indigo cube

Dear Carl,

After my visit with Mr Hook I am happy to agree the altered times below of 2am for recorded music and 11pm for live music. I feel further conditions are not required with regard to my input in this license.

Regards

Jane Dunsford
Environmental Protection Officer
Environmental Protection Unit

From: Carl Bruder
Sent: Thursday, September 10, 2015 4:55 PM
To: Jane Dunsford
Cc: Shezan Aslam
Subject: indigo cube

Hello Jane,

This is further to our earlier telephone conversation, and to confirm your attendance on site at 1pm on Monday 14th September 2015.

You will be met within the Level 25 Restaurant itself by Mr Julian Hook, who is the General Manager.

To confirm, you wish to inspect the outside terraced area in your role as Environmental Health Officer.

I have advised that there are presently 3 small sized speakers in situ that service that area (presently disconnected pending the outcome of this Application), which you will be able to see, along with the locations proposed for 2 additional equally sized speakers.

The intention is:

1. Utilise the outside area at Level 25 to accommodate the same incidental recorded background music as will play within the adjacent internal restaurant area.
As the adjacent restaurant has permitted hours for non-Hotel residents of 08:00 to 02:00, the Applicants would be content to match those in (rather than seek the original 24 hour proposal that was made, being the hours that apply to Hotel Residents). So a hours of 08:00 to 02:00 are now sought.
2. Utilise the outside area for those occasions when live music may be required (which is not anticipated to be that frequent). The hours applied for are 08:00 to 02:00 for such Live Music, but the Applicants would be content to reduce the terminal hour aspect to 23:00 for any Live Music (so hours applied for would now be 08:00 to 23:00).

I trust the above assists, and accords with our earlier telephone discussion. I look forward to hearing from you further post the above site visit with your confirmed position, which can then be conveyed to the Council Licensing Section.

Regards, Carl.

Carl Bruder
Solicitor


EAD Solicitors LLP | Prospect House | Columbus Quay | Liverpool | L3 4DB

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From: Carl Bruder
Sent: 23 September 2015 16:43
To: Licensing
Subject: RE: Hotel Indigo Variation - New Times

Hi Joshua,

I confirm that Box H should also be as per those hours and terms agreed yesterday, insofar as they relate to the specific outside area to Level 25.

Regards, Carl.

From: Joshua Randhawa
[licensing@birmingham.gov.uk]
Sent: 23 September 2015 11:34
To: Carl Bruder
Subject: RE: Hotel Indigo Variation - New Times

Hi Carl

Could you please clarify for me if you also wish to change the times for licensable activity H – 'Anything of a similar description to that falling within (e), (f) or (g)'.

If so, please specify the new times.

Many Thanks

Joshua Randhawa
Licensing Officer

Licensing Section
Crystal Court
Aston Cross Business Village
50 Rocky Lane
Aston
Birmingham B6 5RQ
Telephone: 0121 303 9896
Fax: 0121 303 9982

Our Mission Statement: Locally accountable and responsive fair regulation for all - achieving a safe, clean, green and fair trading city for residents, business and visitors

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LICENSING ACT 2003PREMISES LICENCE

Premises Licence Number:

3669 / 4

Part 1 - Premises details:

Postal address of premises, or if none, ordnance survey map reference or description	
Hotel Indigo Birmingham The Cube 180 Wharfside Street	
Post town:	Post Code:
Birmingham	B1 1PR
Telephone Number:	
N/A	

Where the licence is time limited the dates

N/A

Licensable activities authorised by the licence

B	Films
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	F
	08:00 - 02:00	B ,E ,G ,H ,M3
	23:00 - 02:00	L
All activities are sought for the benefit of the residents, their bona fide guests and patrons of the hotel on a 24hour basis.		B ,E ,G ,H ,L ,M3
New Year's Eve into New Year's Day, the terminal hour shall be 04:00		B ,E ,G ,H ,L ,M3

The opening hours of the premises

Monday - Sunday	08:00 - 03:00
All activities are sought for the benefit of the residents, their bona fide guests and patrons of the hotel on a 24hour basis.	
New Year's Eve into New Year's Day, the terminal hour shall be 04:00	

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<p>Where the licence authorises supplies of alcohol whether these are on and/or off supplies</p> <p>On and Off Supplies</p>
--

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Part 2

Name, (registered) address, telephone number and email (where relevant) of holder of premises licence Commercial Street Hotel Limited 5th Floor Ergon House Horseferry Road	
Post town: London	Post Code: SW19 2AL
Telephone Number: N/A	
Email N/A	

Registered number of holder for example company number or charity number (where applicable) 07078144
--

Name, address, telephone number of designated premises supervisor where the premises licence authorises for the supply of alcohol Ms Angela Margaret Robinson	
Post town:	Post Code:
Telephone Number:	

Personal licence number and issuing authority of personal licence held by designated premises supervisor where the premises licence authorises for the supply of alcohol	
Licence Number	Issuing Authority

Dated 05/06/2015

David Kennedy
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 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.

The admission of children under the age of 18 to film exhibitions permitted under the terms of this licence shall be restricted in accordance with any recommendation made: (a) By the British Board of Film Classification (BBFC), where the film has been classified by that Board, or (b) By the Licensing Authority where no classification certificate has been granted by the BBFC, or, where the licensing authority has notified the licence holder that section 20(3)(b) (s74(3)(b) for clubs) of the Licensing Act 2003 applies to the film.

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

No adult entertainment or services, activities, other entertainment or matters ancillary to the use of the premises that may give rise to concern in respect of children are permitted on the premises.

All regulated entertainment and late night refreshment will take place indoors only

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

CCTV - To be fitted to the specification and recommendations of West Midlands Police (Birmingham Central Police Licensing Dept)

CCTV - to be recording at all times the premises is open for any licensable activity

CCTV - images to be held for 31 days

CCTV - images to be made immediately available and downloaded on request of any responsible authority

Promoters - if the premises has any external promoter, or hires out any space within the above areas to another individual/promoter, then the DPS must notify West Midlands Police (licensing dept at Birmingham central) at least 28 days before the event and notification to include a full risk assessment including security measures. West Midlands Police retain the power to veto any such usage if any of the 4 licensing objectives have been or likely to be breached.

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

1. At the canalside level, being level 6 on the plans, there shall be a physical demarcation of the outside area to be utilised, which area shall be no more than 2 metres from the point of the building.

2. Should amplified or live music be utilised other than for background purposes at the canalside level, all external doors and windows shall be closed.

3. All external areas at the canalside level shall be closed after 23:00 hours daily.

4. The Premises Licence Holder shall ensure that steps are taken to create a suitable safety barrier adjacent to the balcony wall on level 25.

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

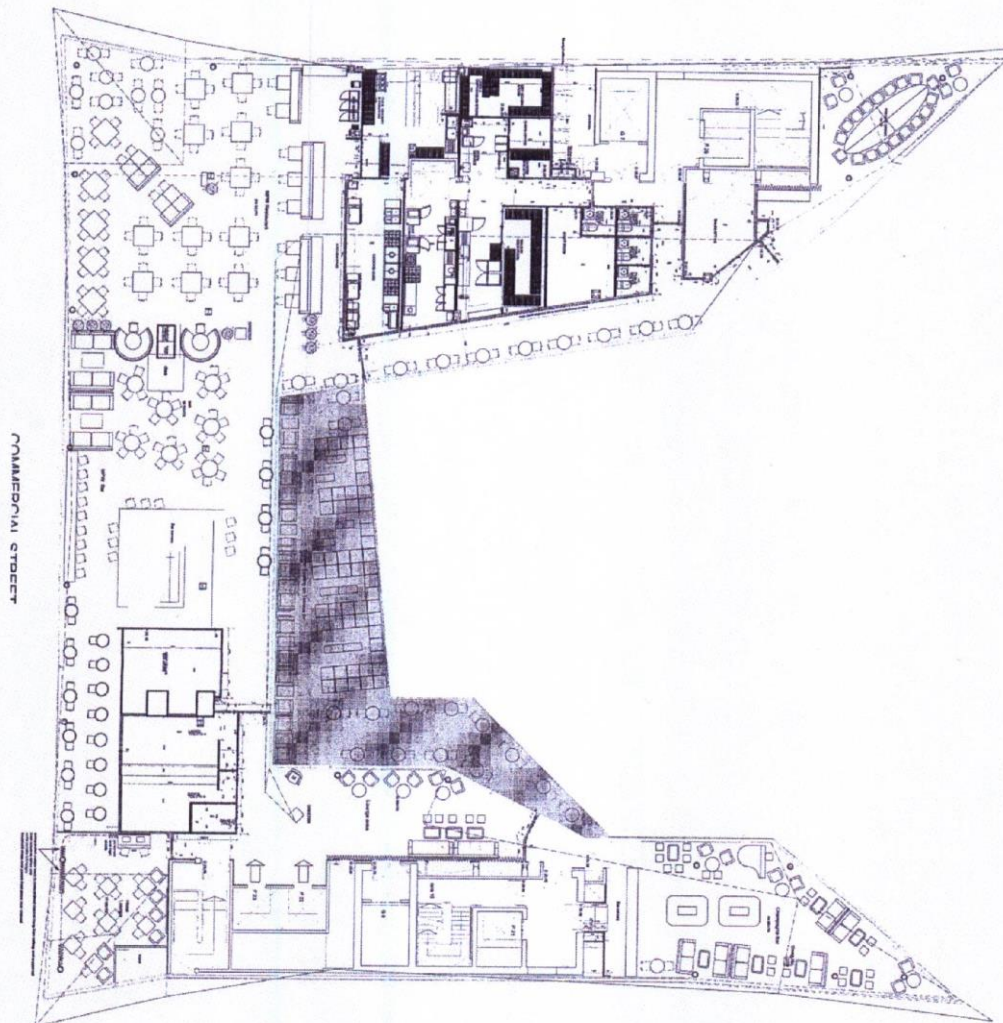
3d) Committee conditions to promote the prevention of public nuisance

N/A

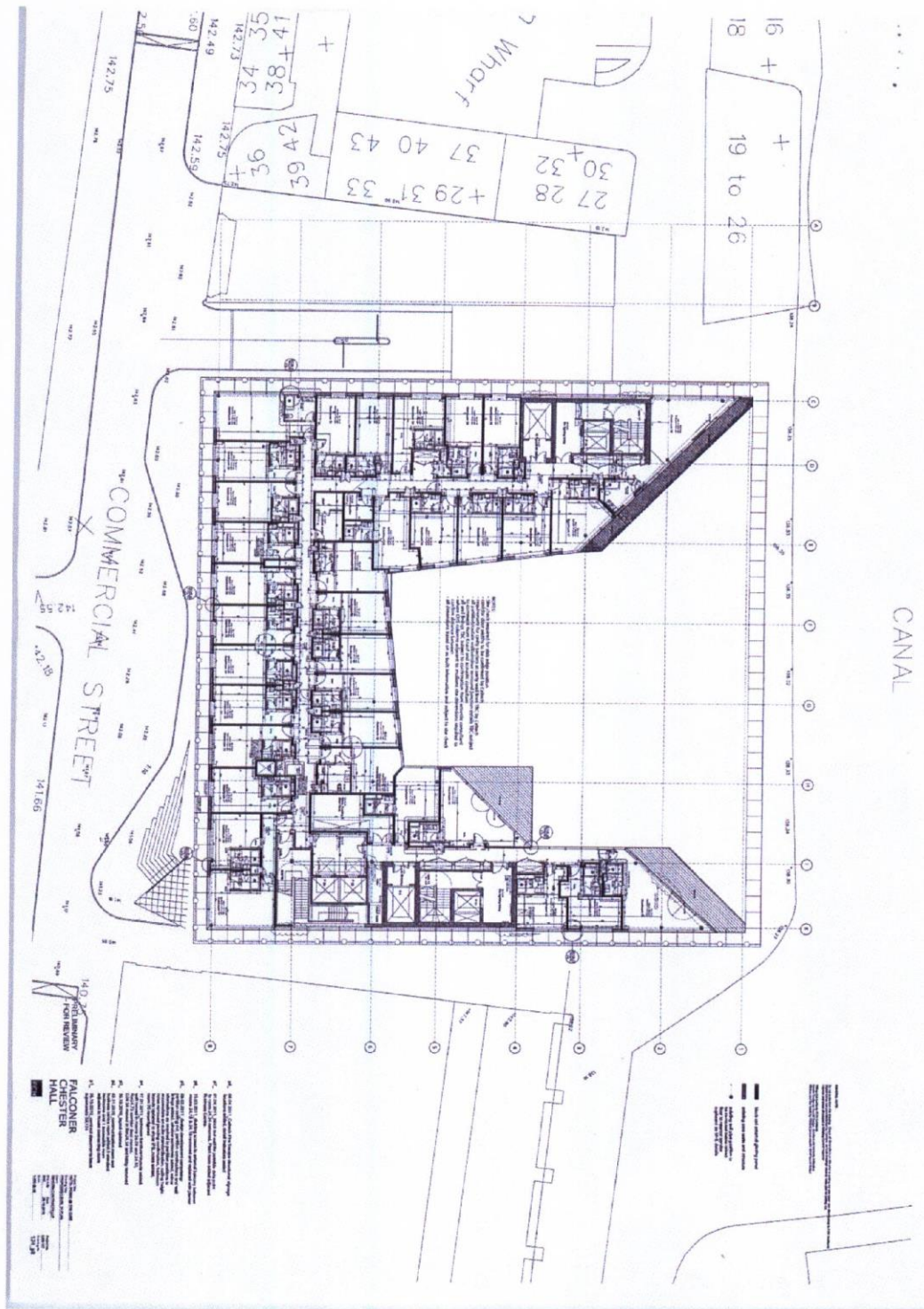
3e) Committee conditions to promote the protection of children from harm

N/A

Annex 4 – Plans



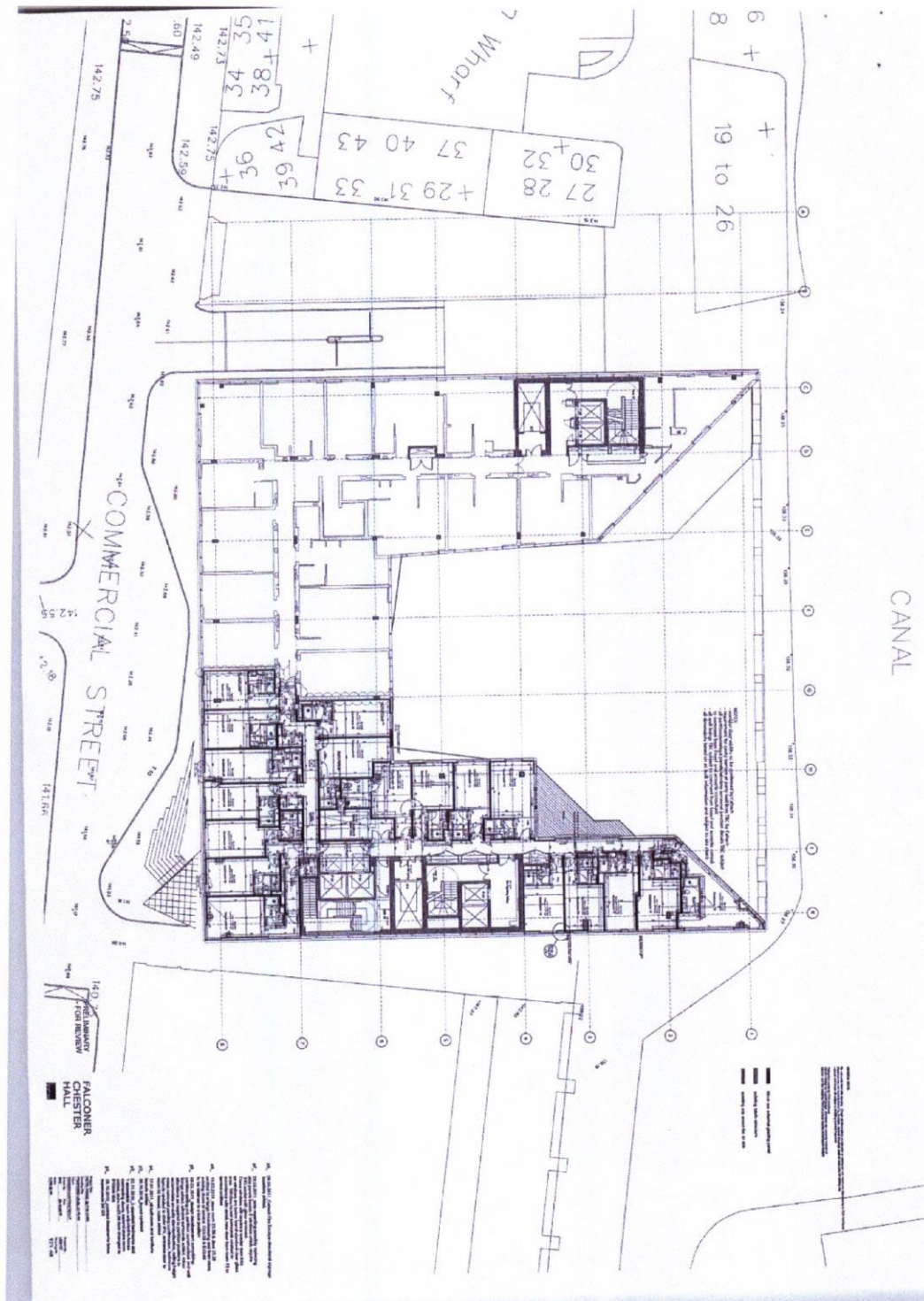
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Licensing Section, Crystal Court, Aston Cross Business Village, 50 Rocky Lane, Aston, Birmingham, B6 5RQ

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Licensing Section, Crystal Court, Aston Cross Business Village, 50 Rocky Lane, Aston, Birmingham, B6 5RQ

Architectural floor plan of the Falconer Hall in Chester. The plan shows the layout of the hall, including the main hall, staircase, and various rooms. The plan is dated 1975 and is the work of the Chester City Council.

Legend:

- Walls and structural walls
- Doors
- Windows
- Stairs
- Structural columns
- Structural beams
- Structural walls
- Structural floors
- Structural roof
- Structural foundations
- Structural details
- Structural notes

Room Schedule:

Room No.	Room Name	Area (sq. ft.)
101	Main Hall	1,200
102	Staircase	150
103	Reception	100
104	Office	100
105	Storage	100
106	Restroom	50
107	Kitchen	100
108	Breakfast Room	100
109	Living Room	100
110	Dining Room	100
111	Bedroom	100
112	Bathroom	50
113	Garage	100
114	Driveway	100
115	Front Garden	100
116	Rear Garden	100
117	Patio	100
118	Deck	100
119	Pergola	100
120	Screened Area	100
121	Swimming Pool	100
122	Spa	100
123	Sauna	100
124	Steam Room	100
125	Hot Tub	100
126	BBQ Area	100
127	Fire Pit	100
128	Firewood Store	100
129	Tool Shed	100
130	Workshop	100
131	Storage Shed	100
132	Garage	100
133	Driveway	100
134	Front Garden	100
135	Rear Garden	100
136	Patio	100
137	Deck	100
138	Pergola	100
139	Screened Area	100
140	Swimming Pool	100
141	Spa	100
142	Sauna	100
143	Steam Room	100
144	Hot Tub	100
145	BBQ Area	100
146	Fire Pit	100
147	Firewood Store	100
148	Tool Shed	100
149	Workshop	100
150	Storage Shed	100

Notes:

1. All dimensions are in feet and inches.
2. All areas are approximate.
3. All walls are 12 inches thick.
4. All doors are 36 inches wide.
5. All windows are 48 inches wide.
6. All stairs are 12 inches wide.
7. All structural columns are 12 inches in diameter.
8. All structural beams are 12 inches deep.
9. All structural walls are 12 inches thick.
10. All structural floors are 12 inches thick.
11. All structural roof is 12 inches thick.
12. All structural foundations are 12 inches deep.
13. All structural details are as shown.
14. All structural notes are as shown.

Scale: 1/4" = 1'-0"

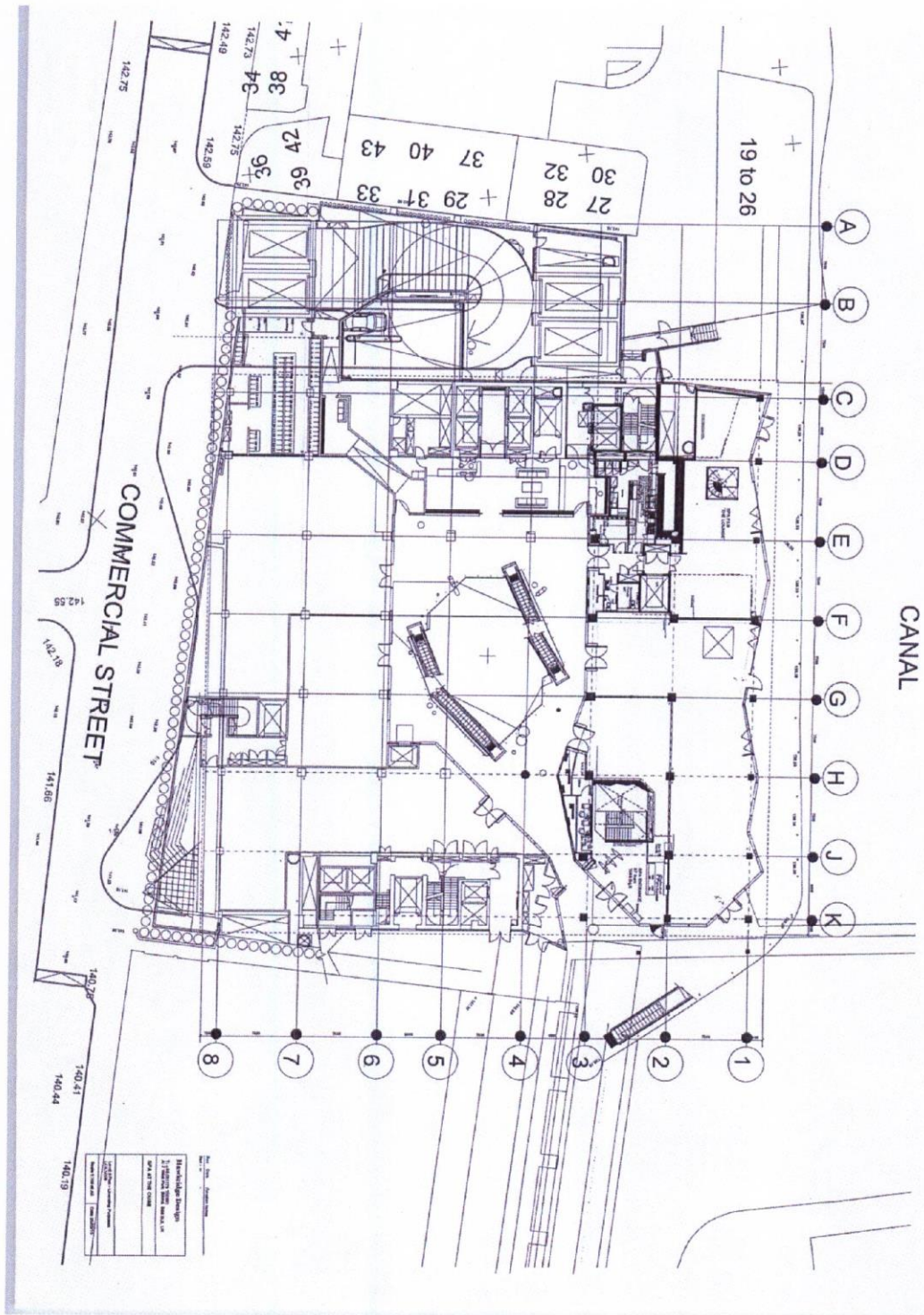
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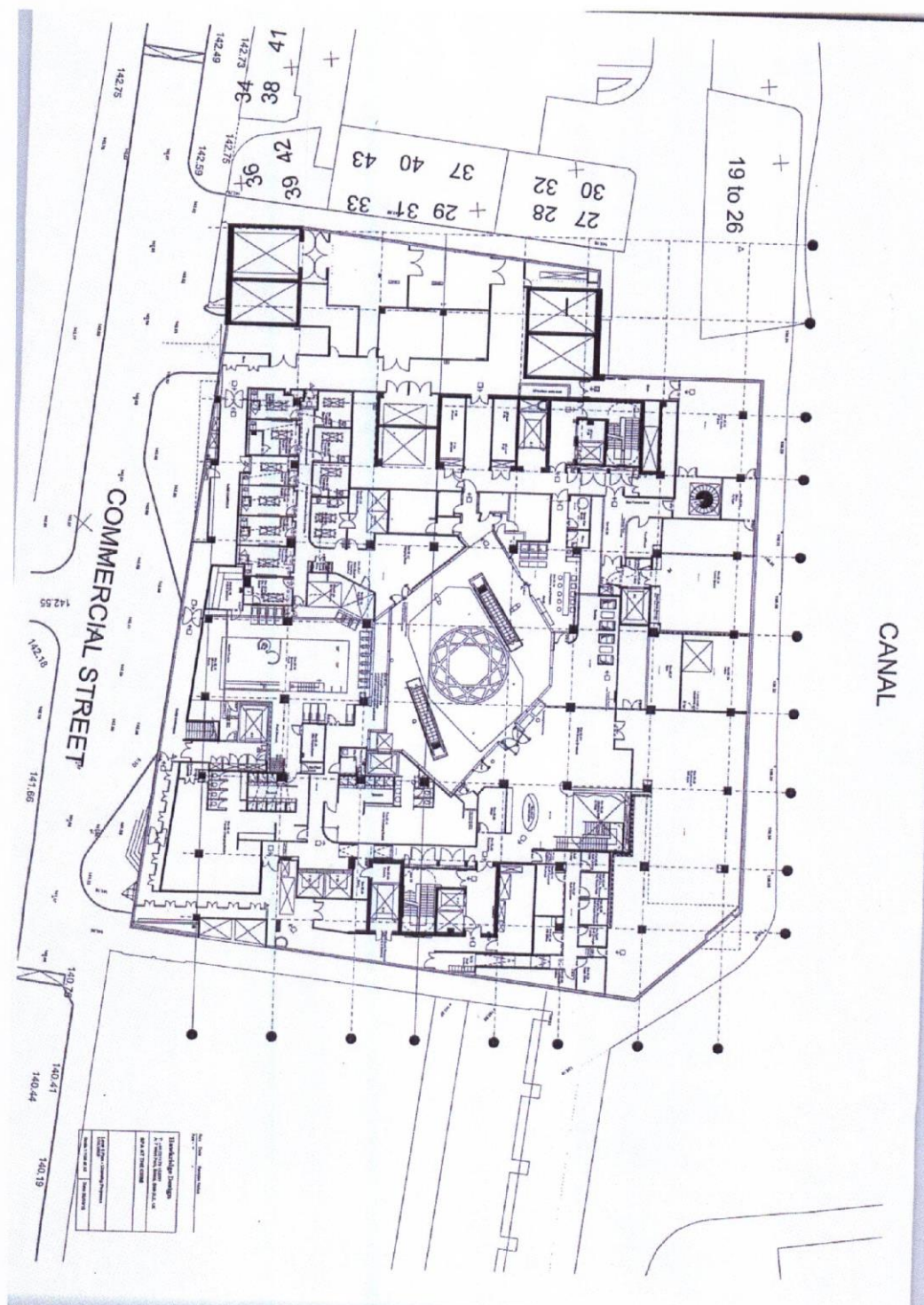
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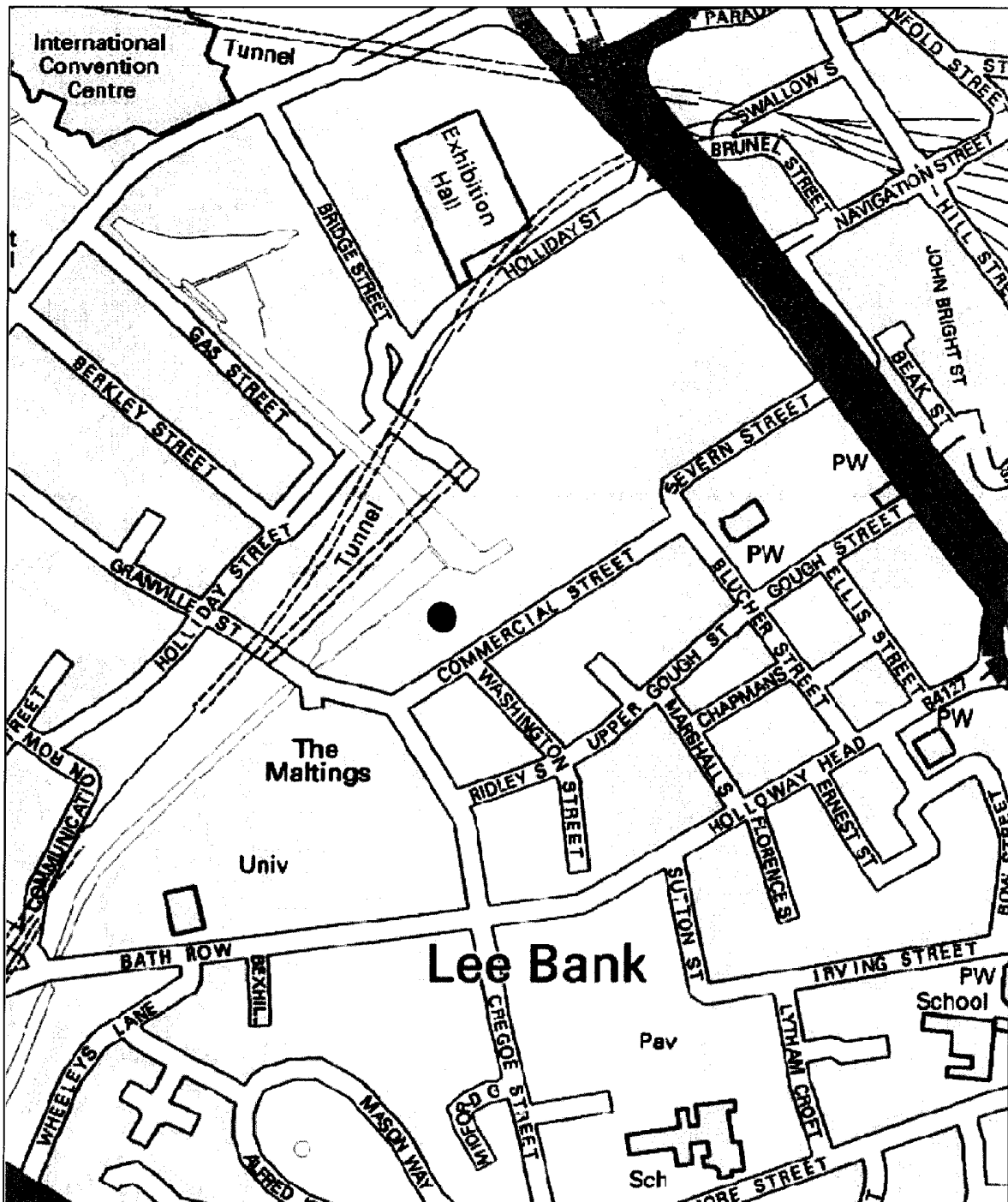
Architect: [Firm Name]

Date: 1975

Licensing Section, Crystal Court, Aston Cross Business Village, 50 Rocky Lane, Aston, Birmingham, B6 5RQ







Map Created By:

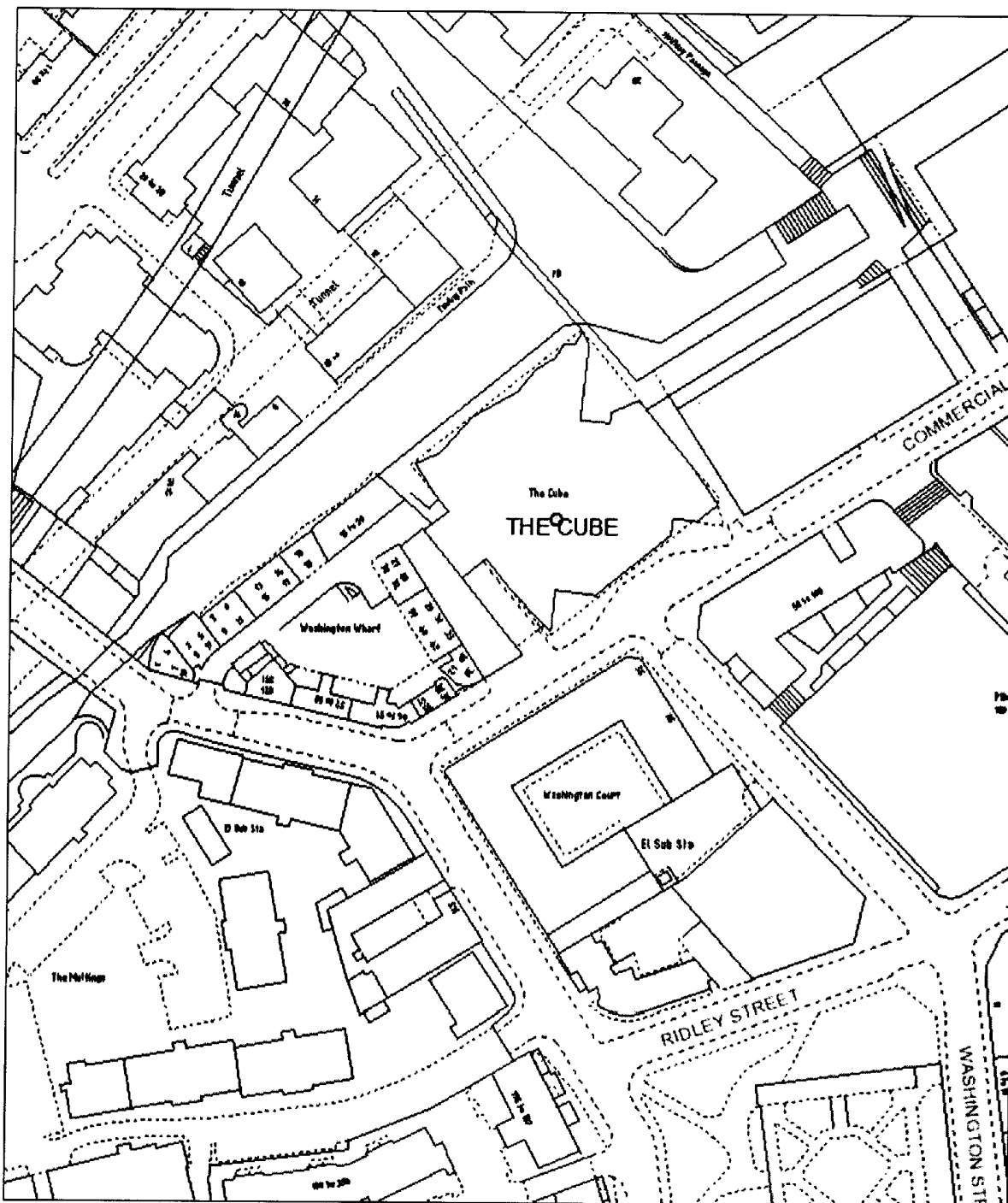
Date of Map Creation: 28/09/2015

Notes



Scale:
1:4,000

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Birmingham City Council Map Created By:

Notes

Date of Map Creation: 29/09/2015



Scale:
1:1,250

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