

# BIRMINGHAM CITY COUNCIL

<b>LICENSING SUB COMMITTEE C 9 MARCH 2016</b>
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**MINUTES OF A MEETING OF  
LICENSING SUB COMMITTEE C  
HELD ON WEDNESDAY 9 MARCH 2016  
AT 1000 HOURS IN COMMITTEE ROOM 1  
COUNCIL HOUSE, BIRMINGHAM**

**PRESENT:** - Councillor Alex Buchanan in the Chair

Councillors Mike Leddy and Neil Eustace - (Nozomi),  
Councillor Barbara Dring - (Beorma)

**ALSO PRESENT**

David Kennedy, Licensing Section  
Sanjeev Bhopal, Committee Lawyer  
Gwin Pountney, Committee Manager

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**NOTICE OF RECORDING**

1/090316

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

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**APOLOGIES AND NOTIFICATION OF NOMINEE MEMBERS**

2/090316

There were no apologies or nominee members.

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3/090316

**MINUTES**

The Minutes of the meeting held on 24 February 2015, having previously been circulated were confirmed and signed by the Chair.

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**LICENSING ACT 2003 PREMISES LICENCE – GRANT NOZOMI, UNIT 1, 5 – 11  
FLEET STREET, BIRMINGHAM, B3 1JP**

The following report of the Acting Director of Regulation and Enforcement was submitted:-

(See document no. 1)

The following persons attended the meeting:-

**On behalf of the Applicant**

Lord A Rashid - Applicant  
Mr Heath Thomas – Solicitor  
Ms Nicola Stansbie –  
Mr Tony Higgins – Acoustics Specialist  
Mr Leonard Coppage – Freedom Security

**Those making representations**

Mr Paul Samms – Birmingham Environmental Health  
Mr Brian Simpson – Islington Gates Management  
Mr Tom Thomson – Local Resident

Following introductions by the Chairman, the main points of the report were outlined by David Kennedy, Licensing Section.

Mr Thomas made the following points with regards to the application and in response to questions from Members:-

- a) Provided a background of the site on which Nozomi was based and which had previously been the location for 2 previous late night restaurants, both of which had ceased to exist but had had no complaints or reviews against them.
- b) The hours requested for licensable activity were much reduced than those originally sought – 10.00am until midnight every Sunday to Thursday and 10.00am until 1.00am on Friday and Saturday.
- c) This would be a high end restaurant serving Sushi, Japanese food, Tapas and cocktails. This would be the first Nozomi restaurant outside of London, an exclusive restaurant serving contemporary food.
- d) There would be no regulated entertainment on the premises, only background music for the diners.
- e) Whilst being aware of the concerns of local residents it was pointed out that these premises were not in a cumulative impact zone.
- f) Outlined the steps that would be taken to promote the licensing objectives, as contained within the report, e.g. alcohol sales being ancillary to a table meal, staff training, the deployment of suitably experienced staff being employed at all times whilst entertainment was provided and uniformed Marshalls directing customers away from residential properties and no smoking at the front of the premises. Furthermore conditions had been agreed with Environmental Health (EH) regarding no drinking in the courtyard after 10.00pm and for EH to approve the number of Street Marshalls controlling the external areas.

- g) That West Midlands Police had made no objections to the licence following agreement with the applicant of conditions regarding door supervisors and the use of the premises for any other purpose than as a restaurant.
- h) Addressed the representations that had been received stressing that: there had no history of public nuisance from the premises since receiving its licence in 2005, that the requested hours had been reduced, that the establishment would be well managed and there would be no noise from taxis waiting for customers as the premises had a local agreement with a taxi company regarding the collection of customers and that of the 144 units at Islington Gates only 6 had made any comments regarding Nozomi to the management.
- i) Asked that the licence be granted in line with the conditions agreed with West Midlands Police and with Mr Samms in Environmental Health.
- j) That the restaurant would have 110 covers with a maximum of 20 people in the private dining area, smoking would only be allowed in the courtyard where there would be no seating and that he had visited the Nozomi restaurant in London to understand the type of premises this would be.

Mr Samms, in presenting his case and in response to questions from Members, made the following points:-

- a) That while he had withdrawn his objection to the application he still had a couple of concerns regarding the noise in the courtyard area and that there been a condition on the licence regarding environmental health approval for any changes to the premises' plan. (This was agreed by Mr Thomas on behalf of the applicant).

Mr Simpson in presenting his case objecting to the application and in response to questions from Members, made the following points:-

- a) That the premises were directly opposite Islington Gates, a commercial and residential development, with some apartments only 50 yards away from the venue.
- b) That when the premises had operated as Vietnam Moon the courtyard had been often used for regulated entertainment, thereby disturbing residents. It was therefore requested that the sale of alcohol and any other activity be prohibited in this area.
- c) There were no objections for the premises to be used solely as a restaurant.

In summing up Mr Heath on behalf of the Applicant stressed the historic use of the premises as a restaurant, which had been based on the same template but with greater hours. There had been no concerns raised regarding both of the previous restaurants other than the outdoor regulated entertainment, which these premises were not seeking. West Midlands Police had been content for the application to be granted with agreed conditions, the applicant was happy to agree to a

condition of no activity in the courtyard after 10.00pm, Environmental Health had agreed conditions and withdrawn their objection and therefore the application should be granted.

At 1130 hours the Chairman requested all present with the exception of Members, the Committee Lawyer and the Committee Manager to withdraw from the meeting.

At 1215 hours, after an adjournment, all parties were recalled to the meeting and the decision of the Sub-Committee was announced as follows:-

4/090316

**RESOLVED:-**

That the application by Kai Restaurants Limited for a premises licence in respect of Nozomi, Unit 1, 5 -11 Fleet Street, Birmingham, B3 1JP **BE GRANTED** subject to the Conditions as agreed with West Midlands Police and the revised Conditions agreed with Birmingham City Council Environmental Health at the hearing, to promote the prevention of crime & disorder and prevention of public nuisance objectives in the Act:

**1. Conditions agreed with West Midlands Police:-**

- i) Door Supervisors will be in operation from 20:00 hours on Friday & Saturday. The number of staff will be determined by the venue's risk assessment.
- ii) The Premises Licence holder will ensure that when Door Supervisors are deployed, they will be in High Visibility coats/jackets when outside, and reflective tabards inside. Door Supervisors are to sign on and off duty every night, the signing in sheet to include their full name and full SIA badge number. Door Supervisors profiles to be retained on the premises for every Door Supervisor that is working at the premises or has done in the last 6 months. Profiles to be proof of identity (copy SIA badge, passport or photo driving licence) and proof of address dated in the last 6 months (utility bill, bank statement or other government letter). Profiles to be made available immediately on request to any Responsible Authority.
- iii) The venue will operate predominantly as a restaurant. Where any event is to take place that is not purely for the use of the restaurant, 28 days' notice is to be given to West Midlands Police licensing team at Steelhouse Lane Police Station in writing. Where less notice is given this event may go ahead if authorised by West Midlands Police, however the police retain the right to veto any such event. Notice to include details of persons booking the event including contact number, what entertainment is taking place and what security arrangements are appropriate.

**2. Conditions agreed with Birmingham City Council Environmental Health at the hearing:-**

- i) Notices shall be displayed within the licensed premises for customers to view giving details of taxi companies to use.
- ii) The premises shall not operate until the applicant has submitted a dispersion/management plan to Birmingham City Council Environmental Health for approval. The plan will outline how the venue will ensure that patrons leaving the venue do not disturb local residents. The plan is to include the number of street marshals needed to implement the plan.
- iii) The Designated Premises Supervisor shall ensure that the approved dispersion/management plan is implemented.
- iv) There shall be no regulated entertainment in the external areas at any time.
- v) Patrons will not be permitted to take drinks into the Courtyard area after 10pm.

**together with** an amendment to the following condition:-

**Section M – steps to promote the four licensing objectives**

**d) The prevention of public nuisance**

Uniformed Marshalls to be engaged to direct customers away from residential properties when leaving the premises and to ensure customers do not congregate in Fleet Street.

The Sub Committee carefully considered the Operating Schedule put forward by the applicant and the likely impact of the application but did not accept that there was evidence of a significant public nuisance, or risk to crime and disorder, arising from the proposed operation of the premises.

However, the concerns of the other persons were taken into account within the Conditions volunteered by the Applicant within their Operating Schedule. Some of these were varied by agreement with Birmingham City Council Environmental Health specifically to address the prevention of public nuisance.

The applicant had consulted with West Midlands Police as a result of which it accepted all the proposed conditions the Police had put forward, and on the basis of the agreed Conditions, West Midlands Police had agreed not to make representations as a Responsible Authority against the Grant of the application.

The Sub Committee felt that the revised Conditions volunteered by the

applicant following suggestions by Birmingham City Council Environmental Health would be sufficient to address the concerns of those making representations. Given that the sale of alcohol is to be ancillary to the sale of food, the Sub Committee felt that the type of operation being proposed was sufficient to prevent public nuisance.

The Sub Committee considers the conditions imposed and volunteered to be appropriate, reasonable and proportionate to address concerns raised.

The Sub Committee sympathised with those making representations, but were not on balance persuaded there was sufficient evidence to refuse the application. They felt that the Operating Schedule and proposed conditions were sufficient to properly promote the licensing objectives. The protection afforded to local residents was provided by the statutory review procedure set out within the Licensing Act 2003, as well as any Responsible Authority, particularly West Midlands Police, in the event of serious crime and/or serious disorder.

Those matters detailed in the Operating Schedule, and the Conditions as agreed with West Midlands Police together with the revised Conditions as agreed with Birmingham City Council Environmental Health at the hearing, and the relevant mandatory conditions under the Licensing Act 2003, will form part of the licence issued.

In reaching this decision, the Sub-Committee has given due consideration to the City Council's Statement of Licensing Policy, the Guidance issued under Section 182 of the Licensing Act 2003 by the Secretary of State, the information in the application, the written representations received and the submissions made at the hearing by the applicant, their legal adviser and those making representations.

All parties are reminded that under the provisions contained within Schedule 5 to the Licensing Act 2003, there is the right of appeal against the decision of the Licensing Authority to the Magistrates' Court, such an appeal to be made within twenty-one days of the date of notification of the decision.

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At this point Councillors Leddy and Eustace left the meeting and Councillor Dring attended the meeting for the second application.

**LICENSING ACT 2003 PREMISES LICENCE – BEORMA, UNIT 2, 5 – 11  
FLEET STREET, BIRMINGHAM, B3 1JP**

The following report of the Acting Director of Regulation and Enforcement was submitted:-

(See document no. 2)

The following persons attended the meeting:-

**On behalf of the Applicant**

Lord A Rashid - Applicant  
Mr Heath Thomas – Solicitor  
Ms Nicola Stansbie –  
Mr Tony Higgins – Acoustics Specialist  
Mr Leonard Coppage – Freedom Security

**Those making representations**

Mr Paul Samms – Birmingham Environmental Health  
Mr Brian Simpson – Islington Gates Management  
Mr Tom Thomson – Local Resident  
Mrs Yvonne Thomson – Local Resident  
Mr Robert May – Local Resident

Following introductions by the Chairman, the main points of the report were outlined by David Kennedy, Licensing Section.

Mr Thomas and Mr Higgins made the following points with regards to the application and in response to questions from Members:-

- a) The application for Beorma had been changed significantly to what had been originally sought in respect of licensable activity for every day of the week. The comments regarding the representations had been taken into consideration and the application subsequently amended.
- b) The hours of operation now sought were every Saturday, every Bank Holiday Sunday, Christmas Eve, Boxing Day, New Year's Eve and New Year's Day 10.00am – 4.00am.
- c) The application would still comply with the four licensing objectives with the prevention of public nuisance being the main point of discussion as the main concern of the representations against the application.
- d) Beorma would be an exclusive club with a late night bar delivering a Miami style night life experience. This would be a venue that, artistes and performers would attend without the throng of the public – an exclusive clientele by invitation list or a table booked in advance – with no entrance simply by turning up at the door.
- e) All places would need to be reserved with all personal details including name, address and e-mail provided and checked and scanned upon arrival. Failure to produce valid ID would result in no entry to the premises.
- f) The premises would be waiter/ess hosting of tables with average spend per table envisaged to be around £1,000 per night - therefore requiring excellent security staff on the premises.

- g) The venue had a capacity of 220, but it was envisaged that this would generally be around 180.
- h) The applicant had volunteered conditions for the premises regarding CCTV, an incidents register, staff training, signage regarding dispersal, door staff, policies for the prevention of crime and disorder, risk assessments and agreed amended conditions with Environmental Health regarding the specification/installation of a noise limiter, notices regarding taxis, a dispersion management plan (without which the premises could not open), DPS management of the dispersal policy, no regulated entertainment in dispersal areas, no access to the courtyard, a noise assessment to be completed within 28 days of opening in agreement with environmental health and no entry to patrons of the premises after midnight.
- i) West Midlands Police had made no objections to the licence following agreement with the applicant of conditions regarding prior notification of events and comprehensive risk assessments for events.
- j) Addressed the representations that had been received pointing out that: this was not a cumulative impact area so an application could not be denied on the basis of number of premises within the area, that with regard to planning controls this was a separate regime from licensing therefore did not apply, however the premises would work to the most rigorous of the regulations. Additionally, noise problems at the venue at a temporary event notice (TENS) event on 30/31 January had been addressed following which an acoustics expert carried out noise assessment when the venue was open and reported no outside noise from the venue and that with regard to Islington Gates only 6 residents from 144 units had made any comments regarding Beorma to the management. Furthermore, customers leaving the premises would be escorted to their taxis by the Street Marshalls to avoid excessive noise, having waited for their taxis in the lobby area.
- k) That the final acoustics measurements had been carried out the previous weekend and therefore the report had been unavailable until recently.
- l) Mr Higgins then went through the acoustics report in detail regarding times and days of noise measurements, how noise problems would be alleviated through closed doors and windows and the use of a noise limiter, the reduction of customer service through an agreement with a taxi service who would contact the premise via phone on arrival and his conclusion that the noise from the premises added nothing extra to the existing noise levels within the area.
- m) That the level for the noise limiter would be set and monitored by environmental health.
- n) That the premises was already part insulated to avoid noise breakout and with the noise limiter there should be no noise problems outside the premises.
- o) That with the conditions agreed and the measures to be put in place there was no justification for reducing the hours from 4.00am closure.



- p) That the number of security staff for the premises had been increased from 6 to 12 and would all be SIA registered.
- q) That patrons would be by invitation or pre-booking only.

Mr Samms, in presenting his case and in response to questions from Members, made the following points:-

- a) That while he had withdrawn his objection to the application he still had some concerns: that the noise report had been received so late not giving him much time to study it in detail, that noise breakout from the lobby area would be difficult to control, that there should be no music at all in the lower area of the premises, that the location of the noise measurements may have missed noise at higher levels from fans and air handling units, no details had been provide regarding the location of the residents spoken to for the acoustic report and that the applicant may not be happy with the level set for the bass level of the music set by environmental health. He also hoped that the premises would be able to deliver the proposed dispersal policy of around 200 customers by security staff out of the building without disturbing local residents.
- b) That he would request that a condition be put on the licence that the premises would not be able to operate without approval of the dispersion plan by Environmental Health.

Mr Thomson in presenting his case objecting to the application and in response to questions from Members, made the following points:-

- a) That the premises were directly opposite Islington Gates, a commercial and residential development comprising of 144 units, with some apartments only 50 yards away from the venue.
- b) That the acoustics report had been received very late, only 2 days prior to the hearing.
- c) That no dispersal policy had been applied by Beorma at their TENs events with no security staff being present when the premises closed and patrons dispersed outside the venue with additional noise from cars, taxis and car horns, most of whom did not leave until 4.00am.
- d) That traffic flow would increase even further once the road works had ceased.
- e) That whilst this was not a cumulative impact area the impact of 4 licensed premises within a small area should be considered and the days of operation may be increased in future by a variation of the licence.
- f) That any noise assessments and noise limitation would need to be addressed prior to the opening of the premises.

Mr Simpson in presenting his case objecting to the application and in response to questions from Members, made the following points:-

- a) That the premises were directly opposite Islington Gates, a commercial and residential development, with some apartments only 50 yards away from the venue.
- b) That the objection to the licence was based on concerns regarding public nuisance, crime and disorder and public safety as this premises was much closer in location than the other licensed premises.
- c) The construction design of the premises was inadequate to counter noise breakouts, anti-social behaviour by patrons had been observed by residents at Islington Gates and there was constant noise from the premises until 5.00am in the morning.
- d) Residents had witnessed drunken and disorderly behaviour; there had been congregation of large numbers of patrons outside the premises and noise from traffic and customers leaving the premises.
- e) That the application should be refused based on the observations of the management of the premises at its last 5 events.

Mr May in presenting his case objecting to the application and in response to questions from Members, made the following points:-

- a) That the noise levels recorded in the acoustics report were sufficient to cause serious disturbance to sleep and were almost level to the serious noise guidelines.
- b) That the establishment was more suited to the city centre, not a residential area.
- c) That even with an average capacity of 180 people this would require 45 taxis at the venue for pick up – with no available parking area and increasing the noise nuisance.
- d) Deliveries to the premises would cause traffic problems during the day with no provision for loading/unloading bays at the premises.
- e) That opening a celebrity venue would cause further problems from crowds wanting to see them.
- f) There was no irrevocable guarantee that the premises would increase the number of nights of operation.

In summing up Mr May pointed out that even if the noise within the premises could be managed he had grave concerns regarding the management of dispersing 200 people at 4.00am in the morning with residents 50 metres from the premises

In summing up Mr Simpson stressed that the track record of the premises in ignoring planning permission and lack of dispersal management at the previous 5 events, together with concerns regarding the proposed marshalling system for

dispersal did not inspire confidence in the premises to maintain the agreed conditions. He concluded that the premises was in the wrong location for this type of entertainment and should be located in Broad Street.

In summing up Mr Heath on behalf of the Applicant stressed the historic use of the premises as a restaurant, which had been based on the same template but with greater hours. There had been no concerns raised regarding both of the previous restaurants other than the outdoor regulated entertainment, which these premises were not seeking. West Midlands Police had been content for the application to

In summing up Mr Thomson felt that the licencing oath should envisage the policy of 'do no harm'. The Sub-Committee should therefore bear in mind that if this licence was granted it would set a precedent for other premises. The 53 flats in close proximity had had their sleep disturbed at the last 5 events at the premises with big problems regarding the noise outside and no effective marshalling.

In summing up Mr Samms stressed that while he had withdrawn his objections and agreed conditions with the applicant this had been undertaken with some concerns about the effective operation of the premises with regard to noise pollution.

In summing up Mr Heath on behalf of the Applicant emphasised that the premises would only operate access via an invitation only or pre-booked basis. With regard to crime and disorder the West Midlands Police had agreed to the application with conditions and this had been prior to the amendment of hours of operation, i.e. grant as initially sought by the applicant.

He stressed that Mr Samms, who had been brutally honest regarding his concerns about the licence, had felt however he could not reuse the licence if the conditions proposed were proportionate, reasonable and could be complied with and had therefore agreed that the licence should be granted. Further conditions had been agreed with Mr Samms regarding further work to assess the premises within a tight timescale to the satisfaction of Environmental Health.

Mr Thomas pointed out that the breach of any conditions would lead to a review of the licence and with regard to noise nuisance to prosecution and fines and that those making representations were being overly sensitive about the grant of a licence for these premises due to the other licensed premises within the area. Furthermore of the 144 residents of Islington gates only 6 had raised concerns, demonstrating the level of feeling against this application and this was a city centre location, not a suburb, so the premises were not out of place.

Whilst mistakes had been made by the premises when operating these had been acted on: an acoustic consultant had been employed to undertake noise measurements internally and externally; further conditions had been agreed with Environmental health regarding a noise limiter, a taxi Marshall system had been proposed, a dispersal plan would be agreed with Environmental Health prior to opening the venue, there would be no off sales from the premises; parking was a matter for planning and highways; and finally if there was a need for the licence to be varied there would be an opportunity for residents to raise objections.

Mr Thomas concluded that the degrees of concerns by representations had been balanced by numerous stringent conditions and the application should therefore be granted.

At 1552 hours the Chairman requested all present with the exception of Members, the Committee Lawyer and the Committee Manager to withdraw from the meeting.

At 1622 hours, after an adjournment, all parties were recalled to the meeting and the decision of the Sub-Committee was announced as follows:-

5/090316

**RESOLVED:-**

That the application by Biorme Trading Company Limited for a premises licence in respect of Beorma, Unit 2, 5 -11 Fleet Street, Birmingham, B3 1JP **BE GRANTED**

Those matters detailed in the operating schedule (subject to the revisions agreed with Environmental Health) and the relevant mandatory conditions under the Licensing Act 2003 will form part of the licence issued together with those conditions as agreed with:

- 1) West Midlands Police as set out in the email from PC Vicki Demuth BWC Licensing Central to Licensing Services, Birmingham City Council dated the 9 February 2016, timed at 13.04pm.
- i) Premises must supply a full month's list of events in writing to the Licensing Department of West Midlands Police (this will comprise of internally and externally promoted events including PA's). The monthly notification is to arrive 2 weeks prior to the start of the month. The monthly planner will include name of event, artists/DJ's performing (real name & stage name), hours of opening, expected numbers, and number and working hours of door supervisors. If there are changes or additions to the monthly planner, this should be resubmitted no less than 7 days prior to the amended event.
- ii) Where an event is proposed to take place at the premises: the Premises Licence Holder/DPS must provide to West Midlands Police (Birmingham West and Central Licensing Department) a documented risk assessment at least 28 days before the date of the proposed event. The Premises Licence Holder or DPS may provide to West Midlands Police (Birmingham West and Central Licensing Department) a documented risk assessment less than 28 days before the date of the proposed event, but no less than 7 days before which, once provided to West Midlands Police (Birmingham West and Central Licensing Department), West Midlands Police will have a right of veto over such events should they decide that by holding the event the Premises Licence Holder or DPS will not be promoting the licensing objectives. The premises must implement all recommendations of the Police made in response to this risk assessment that are designed to reduce the risks to the licensing objectives; Any Police recommendation must be communicated to the Premises Licence Holder or DPS prior to the event. If the Police recommendation is that the event must not take place because of a serious risk to the Crime and Disorder or the Public Safety licensing objectives, then an officer of the rank of Inspector or above from the Birmingham West and

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Central Police Station must provide a written explanation of the reasons for the veto, at the same time as the recommendation or as soon as reasonably practicable after it.

- iii) If the premises has any external promoter the premises must give 28 days' notice of any such event to West Midlands Police (Licensing Department Birmingham West and Central Police Station). Notice must include full risk and security assessment. If additional control measures are needed they will become conditions for the duration of that event and any other events of the same name. Any additional measures to be communicated to the premises by West Midlands Police and retained on the premises and be produced when requested by any responsible authorities.
  - iv) All staff on the Premises shall be trained in recognising intoxicated customers and their responsibilities under the Act. Such training to be documented in a training register that is kept on the premises and available for inspection upon request by any responsible authority.
  - v) Door Supervisors will be in operation from 21:00 hours daily. The number of staff will be determined by the venue's risk assessment.
  - vi) The Premises Licence holder will ensure that when Door Supervisors are deployed, they will be in High Visibility coats/jackets when outside, and reflective tabards inside. Door Supervisors are to sign on and off duty every night, the signing in sheet to include their full name and full SIA badge number. Door Supervisors profiles to be retained on the premises for every Door Supervisor that is working at the premises or has done in the last 6 months. Profiles to be proof of identity (copy SIA badge, passport or photo driving licence) and proof of address dated in the last 6 months (utility bill, bank statement or other government letter). Profiles to be made available immediately on request to any Responsible Authority.
  - vii) Bottles of spirits can only be purchased and consumed within the clearly defined VIP area, which will be table service only. This area will be supervised by a member of security.
- 2) Paul Samms - Environmental Health - Birmingham City Council.  
For the avoidance of doubt, the agreement with Environmental Health resulted in revisions to the Conditions within the Operating Schedule:

### **Section M – steps to promote the four licensing objectives**

#### **d) The prevention of public nuisance**

A noise limiting device to be installed, in the premises, *to the specification and installation requirements of Birmingham City Council Environmental Health* and set at a level agreed with Birmingham City Council Environmental Health. All regulated entertainment, live or recorded, shall be controlled by the limiter.

Prior to the use of the premises for regulated entertainment, noise attenuation works to the premises shall be approved and implemented to the satisfaction of Birmingham City Council Environmental Health.

Save for *access/egress*, all doors and windows shall remain closed during regulated entertainment in the premises.

Uniformed Marshalls to be engaged to direct customers away from residential properties when leaving the premises and to ensure customers do not congregate in Fleet Street.

**together with** proposed new conditions as set out below:

- i) Notices shall be displayed within the licensed premises for customers to view giving details of taxi companies to use.
- ii) The premises shall not operate until the applicant has submitted a dispersion/management plan to Birmingham City Council Environmental Health for approval. The plan will outline how the venue will ensure that patrons leaving the venue do not disturb local residents. The plan is to include the number of street marshals needed to implement the plan.
- iii) The Designated Premises Supervisor shall ensure that the approved dispersion/management plan is implemented.
- iv) There shall be no regulated entertainment in the external areas at any time.
- v) The Patrons will have no access to the courtyard area.
- vi) A Noise Assessment shall be undertaken within 28 days (or such other date as agreed in writing with Birmingham City Council Environmental Health). The assessment shall be submitted and approved in writing by Birmingham City Council Environmental Health and all noise mitigation detailed in the report will be undertaken. The noise mitigation measures shall be completed within the timescale approved by Birmingham City Council Environmental Health.
- vii) No patrons will be allowed to enter the premises after 12.00midnight.
- viii) There will be no access to the premises from the rear of the building.

In addition to the above, the applicant had chosen to modify the days / hours for ALL licensable activities sought within the Application to **2200 hours to 0400 hours on Saturdays AND every Sunday preceding a Statutory Bank Holiday Monday, Christmas Eve, Boxing Day, New Year's Eve and New Year's Day.**

The Sub Committee carefully considered the operating schedule put forward by the applicant and the likely impact of the application but did not accept that there was evidence of a significant public nuisance, risk to crime and disorder and risk to public safety arising from the proposed and current operation of the premises to such an extent that the applicant could not demonstrate the proper promotion of the licensing objectives.

However, the concerns of the other persons were taken into account within the Conditions volunteered by the Applicant within their Operating Schedule. Some of these were varied by agreement with Birmingham City Council Environmental Health, specifically to address the prevention of public nuisance.

Members of the Sub Committee noted that the applicant had accepted all the Conditions proposed by West Midlands Police, as a result of which the Police had chosen not to make a representation against the grant of the premises licence.

The Sub Committee felt that the operating schedule, including the opening and closing times, restrictions on when licensable activities would take place, and conditions volunteered by the applicant would be sufficient to address the concerns of those making representations.

The Sub Committee considers the conditions imposed and volunteered to be appropriate, reasonable and proportionate to address concerns raised.

The Sub Committee noted that the premises had submitted Temporary Event Notices (TENs) during this year up to the prescribed maximum permitted under the Licensing Act 2003. Both West Midlands Police and Environment Health have to be served with a copy of any proposed TEN and have the opportunity to object. They chose not to do so as a result of which those TEN's took effect.

The applicant accepted that this had given them an opportunity to engage fully with the responsible authorities to demonstrate how the licensing objectives would be promoted in the current application, and the conditions reasonably required in order to evidence this. They had obtained and submitted in evidence an Acoustic Report by Enviroconsult to specifically address the issues of noise nuisance from the premises. The Sub Committee determined that the implementation of the recommendations, as agreed with Environmental Health would negate noise nuisance from the premises to nearby residents.

The Sub Committee sympathised with those making representations, but were not on balance persuaded there was sufficient evidence to refuse the application. They felt that the operating schedule and proposed and varied conditions were sufficient to properly promote the licensing objectives. The protection afforded to local residents was provided by the statutory review procedure set out within the Licensing Act 2003, as well as any Responsible Authority, particularly Environmental Health in the event of public nuisance. As it was, Environmental Health had chosen to withdraw their representation at the Hearing subject to compliance with the Conditions they had agreed with the applicant.

Those matters detailed in the operating schedule, revised Conditions and the relevant mandatory conditions under the Licensing Act 2003 will form part of the licence issued.

In reaching this decision, the Sub-Committee has given due consideration to the City Council's Statement of Licensing Policy, the Guidance issued under Section 182 of the Licensing Act 2003 by the Secretary of State, the information in the application, the written representations received and the submissions made at the hearing by the applicant, their legal adviser and those making representations.

All parties are reminded that under the provisions contained within Schedule 5 to the Licensing Act 2003, there is the right of appeal against the decision of the Licensing Authority to the Magistrates' Court, such an appeal to be made within twenty-one days of the date of notification of the decision.

6/090316     **OTHER URGENT BUSINESS**

There were no matters of urgent business.

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The meeting ended at 1630 hours.

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CHAIRMAN