

BIRMINGHAM CITY COUNCIL

PUBLIC REPORT

Report to:	Licensing Sub Committee C
Report of:	Acting Director of Regulation & Enforcement
Date of Meeting:	Wednesday 4th July 2018
Subject:	Licensing Act 2003 Premises Licence – Review
Premises:	PB's (De Oriole), 54-57 Key Hill, Hockley, Birmingham, B18 5NX
Ward affected:	Soho & Jewellery Quarter
Contact Officer:	Shaid Yasser, Senior Licensing Officer, 0121 303 9896, licensing@birmingham.gov.uk

1. Purpose of report:
To consider an application to review a Premises Licence.

2. Recommendation:
To consider and determine the review application.

3. Brief Summary of Report:
Review application received on 21 st May 2018 from Environmental Health in respect of PB's (De Oriole), 54-57 Key Hill, Hockley, Birmingham, B18 5NX. Representations have been received from West Midlands Police, as a responsible authority and 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.

5. Relevant background/chronology of key events:

Environmental Health applied on 21th May 2018 for a review of the Premises Licence under Section 51 of the Licensing Act 2003 for PB's (De Oriole), 54-57 Key Hill, Hockley, Birmingham, B18 5NX.

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

A representation has been received from other persons. See Appendix 2.

The Review application is attached, see Appendix 3.

Environmental Health has submitted supporting documents. See Appendix 4

The Premises Licence is attached at Appendix 5.

Site location plans at Appendix 6.

When carrying out its licensing functions, a licensing authority must have regard to Birmingham City Council's Statement of Licensing Policy and the Guidance issued by the Secretary of State under s182 of the Licensing Act 2003.

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

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

6. List of background documents:

Copy of the representations as detailed in Appendices 1-2

Review Application Form, Appendix 3

Supporting documents, Appendix 4

Copy of Premises Licence, Appendix 5

Site location plans, Appendix 6

7. Options available

Modify the conditions of Licence

Exclude a Licensable activity from the scope of the Licence

Remove the Designated Premises Supervisor

Suspend the Licence for a period not exceeding 3 months

Revoke the Licence

No Action

Where the authority takes a step to modify conditions or exclude a licensable activity, it may provide that the modification or exclusion is to have effect for only such period (not exceeding three months) as it may specify.

Appendix 1

From: bw licensing
Sent: 21 May 2018 15:35
To: Licensing; Jane Dunsford
Cc:
Subject: Licence review application De Oriole

Dear Licensing

West Midlands Police have received the review application from Jane Dunsford in respect of premises called De Oriole, 54-57 key Hill, Hockley , Birmingham.

West Midlands Police seek to support this review application on the grounds of the prevention of crime and disorder and also the prevention of public nuisance. It is clear from the application that local residents have had to suffer unacceptable levels of noise nuisance and Asb to the effect it is having an effect of the lives of local residents.

West Midlands Police are also gravely concerned around the response from the premise licence holder. The licensing act encourages co-operation between all parties so that the licensing objectives are fully promoted, the officer from BCC Eho has followed this mantra through by offering measures that are deemed necessary and proportionate to remedy the problems and ensure that the premises is promoting the licensing objectives at all times.

It is worrying that when offered this the premise, they have failed to act or in the very least engage in a course of dialogue to remedy the problems.

West Midlands Police endorse the course of action requested by the review as a means to remedying the situation, and would also advocate that the following conditions are added –

- The premises to have a written dispersal policy, to be provided in advance to both Birmingham Central licensing department and BCC Environmental Health officers (address for each responsible authority as determined in the statement of licensing policy for Birmingham City Council), the dispersal policy to be agreed in writing with both Birmingham Central licensing department and BCC Environmental Health officers. The dispersal policy to be implemented at all times the premises is open for licensable activity
- Door supervisors – the number of door supervisors is to be determined through a written and documented risk assessment. The risk assessment to be provided to any officer of any authority upon request.
- The risk assessment must take into account the dispersal policy and deployment of security staff outside the premises.
- Door supervisors deployed outside the venue will wear hi visibility coats and have body worn CCTV cameras. Body worn cameras must be operational and recording at all times the premises is open for licensable activity
- Images from any bodycam footage, to be made immediately available and downloadable to any officer from a responsible authority

Please accept this as written representations supporting the original application by the environmental health department

Kind regards

Abs Rohomon

**PC 4075 Rohomon
BW Licensing
Police headquarters
Lloyd House**

Appendix 2

Sundridge Road
Birmingham B44 9NY

June 12th 2018

Dear Sir's

Ref. De Oriole 54-57 Key Hill Hockley

Being the owner of Key Hill Drive and a Friend of Key Hill & Warstone Cemeteries.. I am strongly opposed to this night club De.Oriole . It is in a conservation area and nest to a grade 2* listed Cemetery.
Below are a few of the reasons I am so against it. .

1. Unable to get up the Key Hill Drive at 5am to get to work due to all the cars and groups of people blocking the drive..
2. Bottles, Cans and food containers left lying around the Drive and the cemetery
3. Chicken bones thrown on the ground has encouraged rats.
4. Whilst they urinate up the doors in the drive they have also defecated in the cemetery.
5. Stabbing knives have been found amongst the bottles in the Cemetery.
6. Barbecues are held in the car park at the bottom of Key Hill Drive despite their web site saying no food served.

The above does not satisfy the four licencing conditions and breaches them on a regular basis much to the annoyance of local residents and work force

Yours faithfully

BCC REGULATION & ENFORCEMENT LICENSING SECTION DATE RECEIVED 10 JUN 2018 REF NO. INITIALS

Appendix 3

Birmingham City Council, PO Box 17013, Birmingham, B6 9ES

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 Jane Dunsford on behalf of Environmental Protection Unit

(Insert name of applicant)

apply for the review of a premises licence under section 51 / apply for the review of a club premises certificate under section 87 of the Licensing Act 2003 for the premises described in Part 1 below (delete as applicable)

Part 1 – Premises or club premises details

Postal address of premises or, if none, ordnance survey map reference or description PB's Trading as De Oriole 54- 57 Key Hill Hockley	
Post town Birmingham	Post code (if known) B18 5NX
Name of premises licence holder or club holding club premises certificate (if known) Mr Carlson Cabey	
Number of premises licence or club premises certificate (if known) 2866	

BCC REGULATION & ENFORCEMENT LICENSING SECTION DATE RECEIVED 21 MAY 2008
REF NO
INITIALS

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)

☒

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

☐

Please tick ✓ yes

Surname	First names

Please tick ✓ yes
☐

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Name and address
Telephone number (if any)
E-mail address (optional)

(C) DETAILS OF RESPONSIBLE AUTHORITY APPLICANT

Name and address Jane Dunsford Environmental Protection Officer Environmental Protection Unit Environmental Health- Regulation and Enforcement Division The Place Directorate Manor House PO BOX 16977 Birmingham B2 2AE
Telephone number (if any)
E-mail address (optional)

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

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

Please tick one or more boxes ✓

<input type="checkbox"/>
<input type="checkbox"/>
<input checked="" type="checkbox"/>
<input type="checkbox"/>

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

Since December 2017 the Environmental Protection Unit part of Birmingham City Councils Regulatory Services has been receiving complaints from residents in nearby Key Hill Drive about loud heavy bass music and customer anti- social behaviour into the early hours of the morning, often between 10pm and 6am coming from De Oriole, 54 to 57 Key Hill. Examples of the intrusive noise complained of is a MC shouting into a microphone, noise from customer vehicles and noise from groups of customers gathering on key Hill Drive shouting and screaming and cars blocking Key hill Drive. Diary sheets were returned from a resident showing this. Since the complaints I have been in contact with the licensee Mr Carlson Cabey though email and several visits to the premises. We have tried to resolve this matter informally looking at lowering the bass and the type of music system he has. We also discussed his dispersal policy ensuring customers do not hang around outside the premises and up Key Hill Drive when they have left the premises. Also the entrance to the premises was on the rear car park facing the residents, so customers would hang around smoking on the car park and sit in their cars. Doors from the premises would also open and shut letting out the loud music. We discussed using the front door to the premises and keeping this rear door closed. After resident diary sheets were received the resident was put on our noise call out service in mid February 2018. Complaints continued into March so my visit and emails had not resolved the matter, a formal letter was sent warning we would be gathering evidence to take action under nuisance legislation or by reviewing the License. A public nuisance was witnessed at 2 resident's properties on the 13/4/18 between 12.30am and 1am in the form of loud music and amplified voices. The licensee Mr Cabey was contacted about this and he advised he had not received my letter. Over this period events had become more regular and usually on a Thursday, Friday, Saturday and Sunday. Over the Easter period more anti- social behaviour was reported including a customer defecating by a resident's car and wiping it up with her hair piece. I organised a visit to the premises on the 19/4/18 with the police, fire service and licensing. We confirmed the front door and not the back door (fire officer happy with this) should be used and discussed CCTV and customer control and the speaker system. That weekend Sunday 23/4/18 noise from the premises was reported as worse than ever from the resident, the resident was not feeling safe in his property, as his apartment is in a dead end and he has to walk past the club to get to his property. Groups of men hanging around Key Hill Drive urinating and talking loudly and loud music continued (callout service was not available as the noise was 2.30am to 6.30am). I contacted the licensee about this Sunday and he advised he was not there he was having a night off. The following Thursday 26/4/18 into Friday 27/4/18 officers were called out, they were at the residents property from 1.05am to 1.55am they witnessed a public nuisance from groups of customers hanging about in the Street and cars in the street (Key Hill Drive). During this officer's visit and a visit by officers on the following night it was confirmed there was no other premises likely to be the cause of any intrusive noise, as the licensee indicated that it could be coming from other premises in the area. I have advised the licensee that I would be reviewing the license as no improvement has been made to resident's quality of life from the intrusive noise from the club and we have evidence to show this. I did however suggest that he may apply to vary the license to include the following conditions:

Suggested conditions de Oriole

1. **Hours of operation:**

3pm to 2am Thursday to Saturday for all regulated activities, and 3pm to midnight Sunday for all regulated activities. There shall be no regulated activities at any other time.

2. To avoid nuisance being caused to neighbours an appropriate number of Door supervisors/ the DPS, or other nominated persons shall monitor and control people entering and queuing and exiting the venue after 11pm, and Customers shall be told to be quiet. Customers shall be kept away from Key Hill Drive, including being discouraged from trying to park vehicles in this Road.
3. No new customers shall enter the premises after 1 am Friday to Sunday.
4. There shall be a maximum of 4 persons using the outside smoking area on Key Hill Road at any one time.
5. The DPS shall, within 3 months of the date of issue of this licence, submit in writing a noise management plan to Environmental Protection Unit of Birmingham City Council. The noise management plan shall outline the measures to be adopted to reduce the noise impact of activities associated with the premises including music, smoking areas, customer access and egress and dispersal of customers from the surrounding area at the end of the night. The noise management plan shall be updated regularly and all staff shall be adequately trained in their role in implementing the plan.
6. All external doors and windows shall be kept closed during regulated entertainment except as necessary for safe and effective access and egress.
7. Prior to any regulated entertainment involving amplified music taking place, a Noise Limiting Device (NLD) of a type approved by the Environmental Protection Unit of Birmingham City Council shall be fitted to the serve any area of the premises used for amplified music or sound. The NLD shall be set at a level agreed with the Environmental Protection Section to ensure that the volume of music is controlled to avoid noise nuisance to the occupiers of nearby buildings. The installation of the NLD shall be notified to the Environmental Protection Section prior to use and shall meet the following criteria:
 - a) The device shall be fitted in an approved position by a competent person and once fitted shall not be moved from the approved position or tampered with in any manner unless prior approval is given,
 - b) The device shall be capable of either:-
 - i) cutting off the mains power to the amplification equipment if the volume exceeds the pre-set level determined by the Environmental Protection Unit and shall not restore power to the amplification equipment until the NLD is reset by the DPS or their nominated person, or
 - ii) otherwise maintaining the volume of the music at the pre-set level determined by the Environmental Protection Unit,

- c) where the NLD operates by cutting off the mains power to the amplification equipment, amplification equipment shall be operated through the sockets/power points linked to and controlled by the NLD at all times,
 - d) The NLD shall be maintained in full working order and at the approved pre-set volume whilst the amplification equipment is operational,
 - e) Any damage or malfunction to the NLD shall be reported to the Environmental Protection Unit as soon as possible and within 24 working hours of the damage occurring or malfunction being noted. The NLD shall not be used in this damaged or malfunctioning state until approval has been given by the Environmental Protection Unit.
8. No drinks shall be removed from the premises.

I gave the license 10 days to respond to this but he has been unable to come to a decision. I feel I have no choice given the evidence from officers and residents to call the license in for review on the grounds that De Oriole is breaching the licensing objective of Public Nuisance. Further evidence including witness statements will follow shortly.

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

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

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

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 ☒
- I understand that if I do not comply with the above requirements my application will be rejected ☒

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

Part 3 – Signatures (please read guidance note 4)

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

Signature

.....

Date

21/5/18

Capacity

Environmental Protection Officer

Contact name (where not previously given) and postal address for correspondence associated with this application (please read guidance note 6)	
Jane Dunsford Environmental Protection Officer Environmental Protection Unit Environmental Health- Regulation and Enforcement Division The Place Directorate Manor House PO Box 16977	
Post town Birmingham	Post Code B2 2AE
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

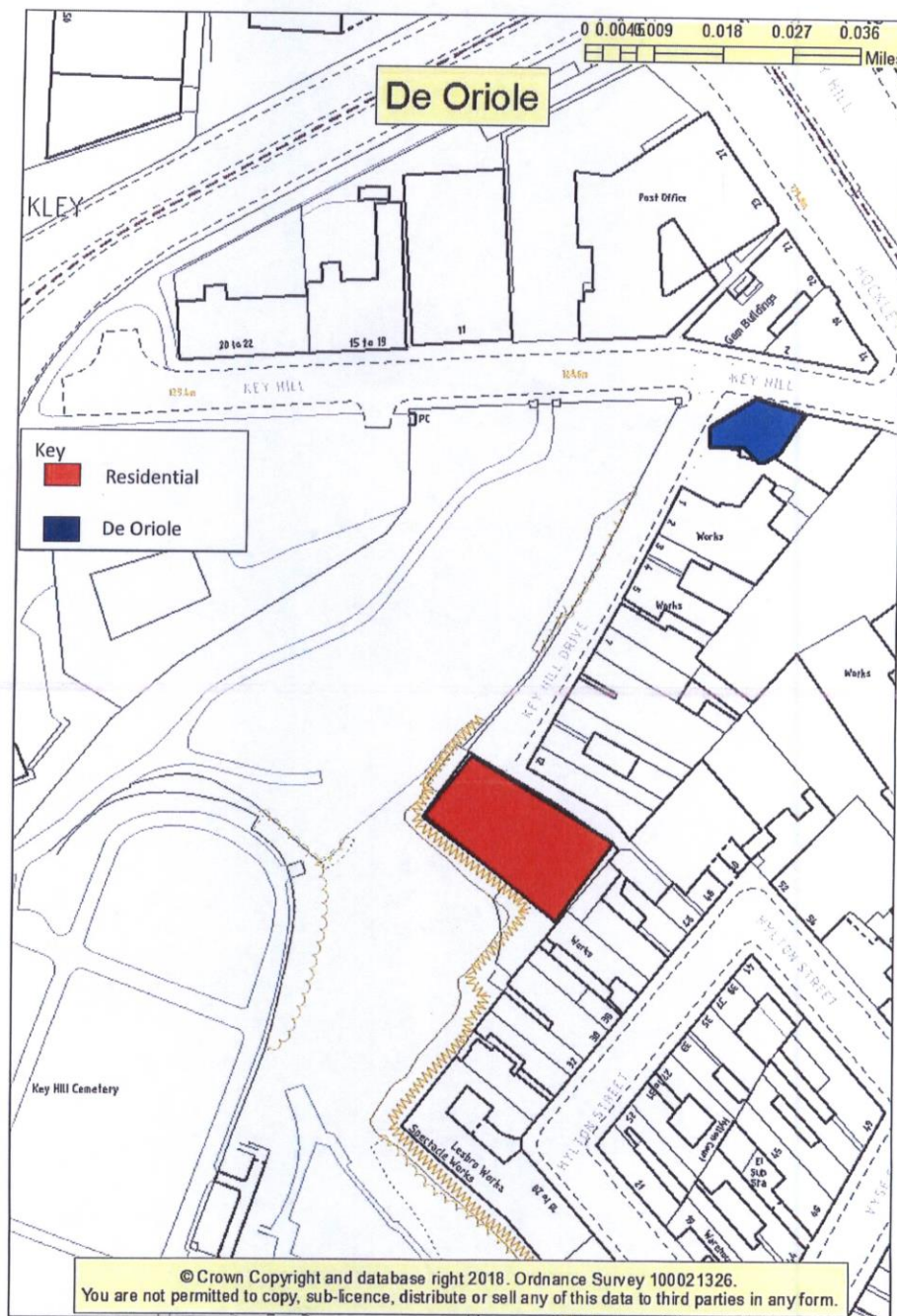
1. A responsible authority includes the local police, fire and rescue authority and other statutory bodies which exercise specific functions in the local area.
2. The ground(s) for review must be based on one of the licensing objectives.
3. Please list any additional information or details for example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

Appendix 4

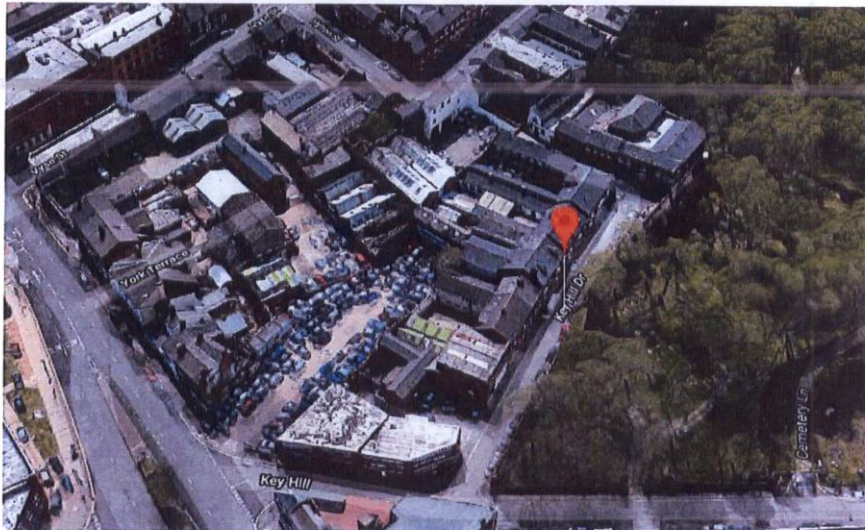
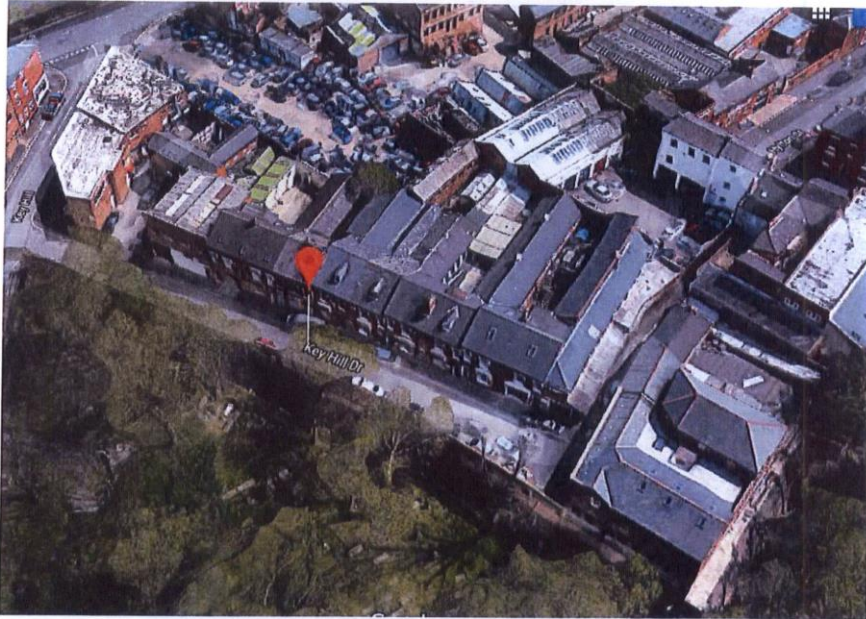
Additional information submitted for De Oriole, 54- 57 key Hill Hearing.

1. Location plan of premises and residents
2. Ariel photos of premises and residents
3. Photo of back door and car park of De Oriole
4. Photo of residents flats taken standing at the side of De Oriole
5. Front of De Oriole
6. View from residents property towards De Oriole
7. Residents picture
8. Witness Statement and diary sheets of resident
9. Suggested conditions De Oriole
10. Witness Statement of Pardip Mohan- Environmental Health Officer
11. Witness Statement of Emily Hassall- Environmental Health Officer
12. Witness Statement of - resident
13. Witness statement Martin Key- Environmental Protection Officer

1. Location plan of Premises and residents



2. Ariel views of De Oriole and residents



3.Back door and Car park De Oriole



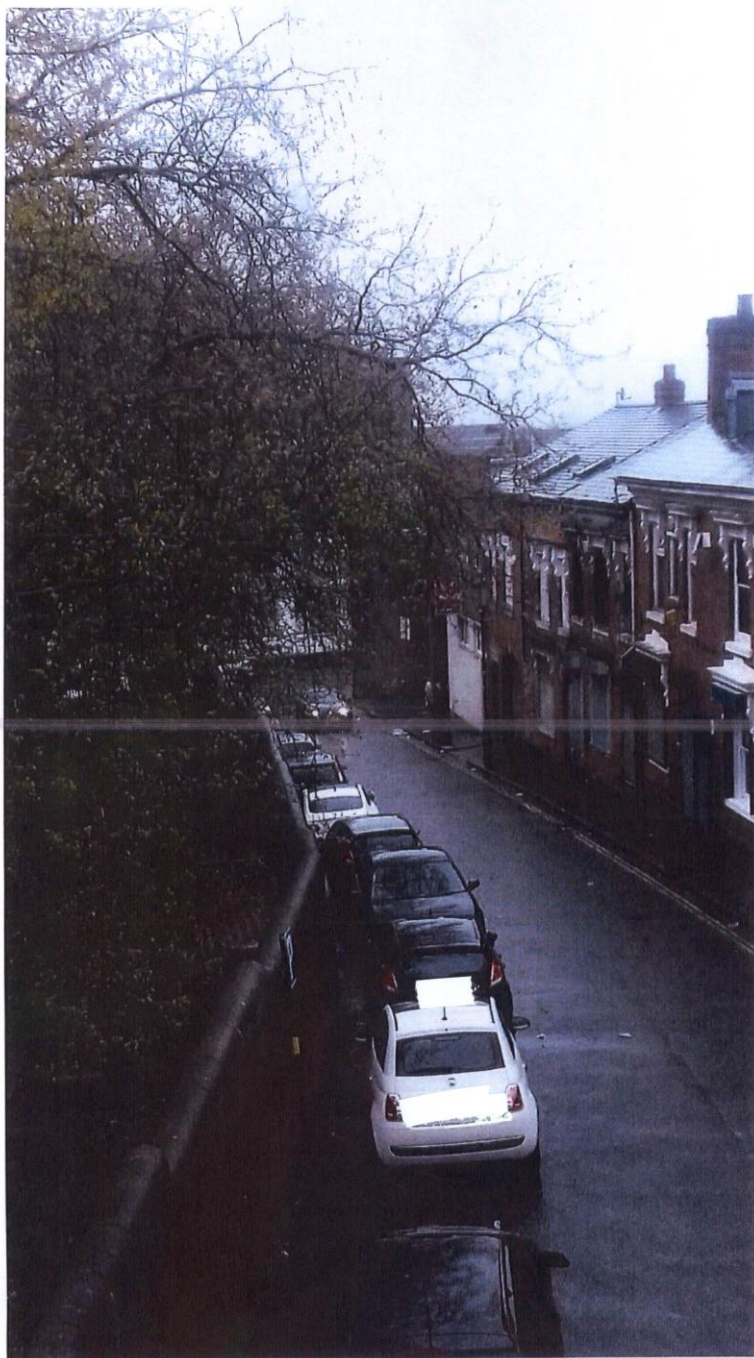
4. View of residents flats taken from side of De Oriole



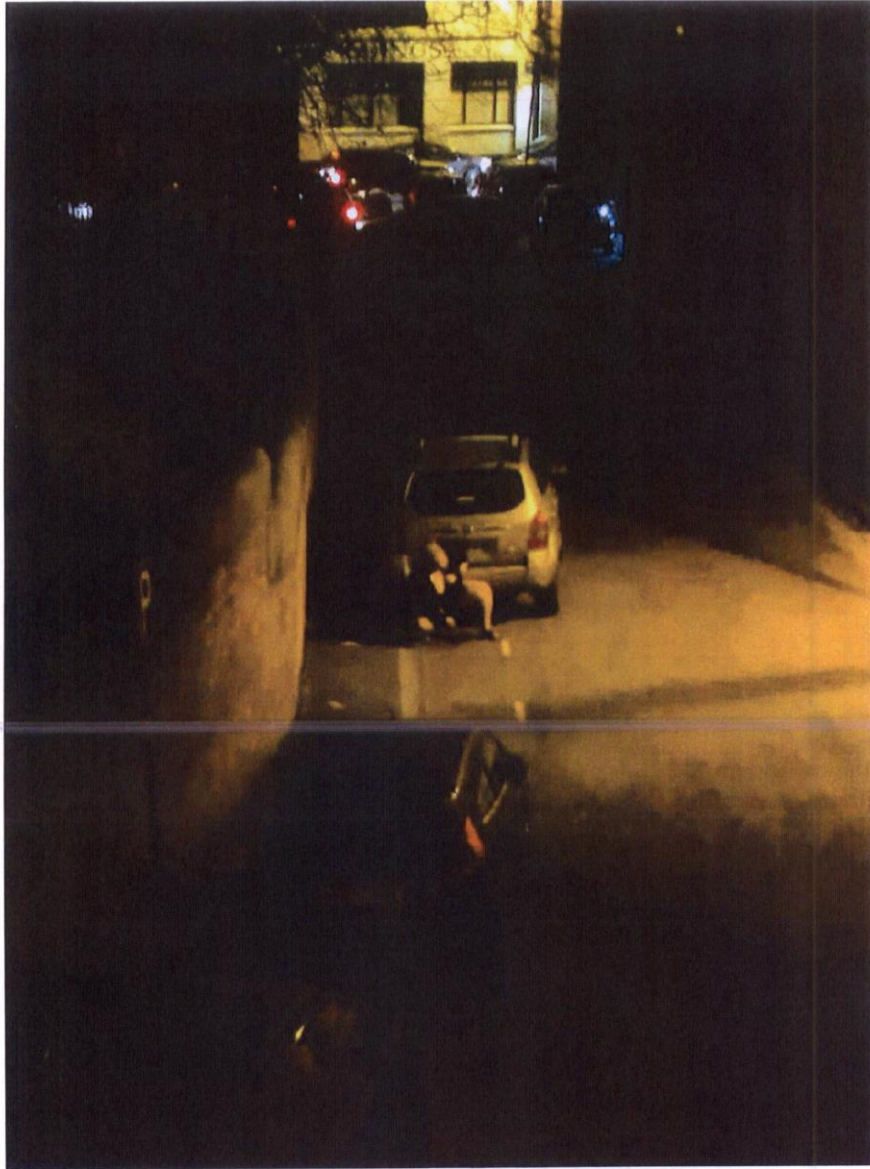
5. Front of De Oriole



6. View of back of de Oriole from residents property



7. Residents picture Monday 9/4/18 2.36am



**Birmingham City Council
REGULATORY SERVICES
STATEMENT OF WITNESS**

(Criminal Procedure Rules, r27.2;
Criminal Justice Act 1967, S. 9, Magistrates' Courts Act 1980 s.5B)

Statement of: _____

Age of Witness over 18

Occupation: **Lead Geo-environmental Engineer (Chartered)**

This statement, consisting of 2 page(s) each* signed by me, is true to the best of my knowledge and belief and I make it knowing that, if it is tendered in evidence, I shall be liable to prosecution if I have wilfully stated in it anything which I know to be false or do not believe to be true.

My name is I am 29, I have lived in Birmingham for nearly 9 Years. I am a chartered Lead Geo-Environmental Engineer for a Civil Engineering Consultancy based in the city centre. I have never lodged a statutory nuisance complaint until this time. This complaint relates entirely to De-Oreole Bar 54-57 Key Hill Drive, Birmingham B18 5NX (licence under PBs). I have been a resident of since January 7th 2017. I live in a lovely listed building which is otherwise quiet and very homely. In fact it's the first place I have ever lived which I call home. When I moved in, I had no knowledge of a nightclub operating on my road. Neither did my landlord. I did start to notice its late night operation over the summer of 2017. It was sporadic and of varying intensity. However, Since November 2017 a more frequent disturbance to myself and neighbours and indeed local businesses has been occurring. This consists of loud bass heavy music, shouting voices over a P.A system, customer noise, car horns, car music, antisocial behaviour, drug use, street drinking and blocking vehicular access to my road and address. From November 2017 the nights of disturbance became markedly more frequent and predictable. The main times of operation and indeed when the music/noise was loudest is between 02:00 and 05:00, Thursday, Friday, Sunday and Monday. This midweek loud noise is enough to prevent sleep and wake me and my partner up from sleeping, even with 37db rated ear plugs and white noise from a fan, as well as over the counter and prescription strength sleep aids. I have added an additional blackout/ noise absorbing blind to my bedroom, however the noise penetrates every room. Both of my bedrooms overlook Key Hill Drive so I have nowhere to go, no where to escape the noise. I have recorded many diary entries and videos/photos highlighting some of this behaviour and showing the issues which are appended to this statement. I have called out Environmental Health Officers to witness the disturbances when their schedule allows. The diary entries are provided as Appendix 1. Videos and Photos as Appendix 2 (submitted digitally) Particularly since January my sleep has become very disturbed and sporadic. I am now afraid for keeping my job and my international sporting commitments for Great Britain. Both of which have been negatively impacted by lack of sleep caused by De Oreole. My ability to work the required hours as per my contract has greatly been reduced as I am fatigued and often need to work from home or work flexible hours to accommodate my need to catch up on sleep during the day. I have even fallen asleep at my office. Further to this I am rarely ill, however in the last month I have needed to take time off work twice as I cannot recover during evenings/nights, one of which with a Doctors note. My work have been very accommodating, however even they are at their limits. I feel extremely restless and dread weeknights. I cannot relax at home.

Signed (Witness)

Date: 02/05/18

(To be completed if applicable being unable to
read the above statement I, of
read it to him/her before he/she signed it.

Signed: Date:)

*Delete as applicable

Birmingham City Council
REGULATORY SERVICES
STATEMENT OF WITNESS
(Criminal Procedure Rules, r27.2;
Criminal Justice Act 1967, S. 9, Magistrates' Courts Act 1980 s.5B)

Continuation Sheet No. 2

Statement of :

~~REDACTED~~

In addition to sleep deprivation there are other issues which are affecting my wellbeing coming from this club. Particularly the blocking of the road by both the licensee and his patrons preventing vehicular access to my street or my property on every occasion the club is operating. Photographs and videos are included as Appendix 2 to this statement. When the club is operating, not only can I not sleep, I feel physically trapped as I can't drive in or out of my road (despite having designated and gated secure parking). On occasion I have had to park on streets away from my property as walk past the club, which has never appeared to have any bouncers, security or door personnel. I have attempted to walk/drive past whilst navigating drunks, street drinking and drug use on the street outside the venue. Whilst not being small myself it seems very unwise to challenge this behaviour and the group personally, and I often feel intimidated by their drunken/drugged behaviour and sheer numbers and disregard for common decency. I often wonder what the capacity of this venue is considering most of its clients linger on the streets. In an emergency or if I am on call for work, there is no way in or out of the street. In addition I have witnessed many patrons of the club leaving the premises (both male and female) walking up toward my address and urinating, on and adjacent to cars/vehicles and business doors ~~and premises~~ like. In one incident when I was on the phone to 101 to inform them of the blocked road I witnessed a woman stagger from the club and defecate in front of my car, I managed to take a photograph (contained in Appendix 2) whilst on the phone to the police. ~~The woman then~~ She wiped herself up with her hair piece which I believe was discarded into the cemetery before she re-entered the club. As this club has been operating like this since November at this level of disturbance, I am now utterly exhausted and feel my health, well being and overall quality of life have been severely impacted. I have invested in sleep tracking equipment which often shows I receive on average 4 hours disturbed sleep the nights the club is operating. I don't want anyone's livelihood to be lost. But I need to be able to sleep and to use my home as it is intended, instead of staying with friends at any opportunity in a bid to get more sleep. I have a good job which I can't afford to lose and I don't want to be released from the Great Britain team. I have included in this statement my diary of incidents (Appendix 1) and digital copies of videos/photos detailing and showing the above noise, antisocial behaviour (Appendix 2). I have done all I can with regard to using BSI rated earplugs and white noise and medicinal sleep aids. It is too much.

Appendices
Appendix 1 – Diary Entries
Appendix 2 – Video and Photos

Signed (Witness)
Date: 02/05/18
(To be completed if applicable being unable to
read the above statement I, of.....
read it to him/her before he/she signed it.
Signed: Date:)

*Delete as applicable

Complainant Name:	Premises complained of: De Oreole Bar 54-57 Key Hill, Birmingham B18 5NX
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Day, Date and Time Started	How long did the noise last?	Type of Noise eg Music, Dog Barking	Disturbance Caused	In what way does the noise affect you?
Tuesday 19/12/17 03:41	4 hours +	Loud music, Bass Heavy, shouting amplified over PA, car noise, customer noise	Awoke myself and partner from sleep (video taken)	Fatigues me for the next day, unable to concentrate at work
Friday 21/12/17 02:58	3+ Hours	loud music and shouting over PA system to prevent sleep	Noise clearly heard over shut windows and conversation	Awoke me from sleep and kept me up. Keeping me tired for the week, several nights with <4hours sleep
Saturday 22/12/17 23:00	3+ Hours	Loud music and Shouting over PA system (amplified voices)	Ear plugs attempted to be used. Could not sleep	Exhausted as sleep deprived yet again. I am irritable and making rash decisions, I had to leave for as long as possible to rest for Christmas break
Thursday 05/01/18 03:00	1.5hrs	MC from club shouting over loud music. Could not sleep during the 03:00 – 04:50 period. Ear plugs used.	Awoken from sleep above ear plugs	Very disruptive to personal schedule as had to leave the house by 6am With extremely disrupted sleep making me feel nauseous
Friday 19/01/18 03:00	1.75hrs	woke by loud music and screaming female voices. Ear plugs used. Could be heard over those	Woken up by screaming and loud music	Sleep is disturbed even with ear plugs, I feel like a get no rest or respite. Every weeknight I wake up exhausted
Wednesday 31/01/18 22:00	3 Hrs +	Loud music and bass heavy, constant noise	Prevention from going to sleep	Exhaustion from going home worrying if the

		from club		club will be operating
Friday 09/02/18 03:30	1.5Hrs +	Awoke myself and partner by loud music. Screaming/shouting voice over bass heavy music using PA system.	Partner and my sleep disturbed (awoken)	Friday at work was very low productivity, difficulty concentrating. I informed my Director and line manager of on going situation
Saturday 24/02/18 04:30	1 hr	Loud music and crowd outside awoke me from sleep. Had to put in ear plugs which did little to aid me sleeping	Music started me awake	Particularly annoying as I had Great Britain practice in Derby all Saturday day, I feel my sporting commitments are now severely impacted by sleep deprivation
Tuesday 13/03/18 03:28	2 hrs	loud music and car noise awoke me from sleep.	Early night disrupted awake and woke mid sleep Bass can be heard above earplugs	Too exhausted to go to the gym and work. Quality of life and health effected
Thursday 15/03/18 23:39	5 Hrs until 04:50	loud music 20+ cars horns beeping crowd outside awoke me and partner and neighbours. Video taken. Can be heard over ear plugs. Screaming and car horns sounding frequently.	Impossible to fall asleep	Exhaustion on Friday, Had to work a short day at work and make up time on other week. Club effecting my ability to work my contracted hours.
Sunday 25/03/18 03:45	2 hrs	base music over ear plugs no EHO agent to take response	Awoke and kept awake by noise, no EHO agents to witness noise	Club destroying my weekend. Had to spend both days sleeping, averaging less than 5 hours sleep most/all club nights

Monday 26/03/18 04:45	2.15 hrs +	awoken by shouting customer noise and bass heavy music. Could not return to sleep with ear plugs until approximately 06:00	Started awoken by club noise ear plugs and white noise had little effect	I started my working week exhausted. No respite from club noise. Had to get up an hour after club noise had stopped.
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Signed: Date: 02/05/18

Complainant Name: Address:	Premises complained of: De Oreole Bar 54-57 Key Hill, Birmingham B18 5NX
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Day, Date and Time Started	How long did the noise last?	Type of Noise eg Music, Dog Barking	Disturbance Caused	In what way does the noise affect you?
Friday 30/03/18 00:55	5Hrs	woken by shouting customer noise and bass heavy music cars jackknifed across bottom of road to prevent access or egress to street and residents. Agents rang no response (called back after half an hour to check service was closed)	Awoken and kept awake, awaited repose and visit from Environmental health officers	Lack of sleep and being forced to stay awake to point beyond exhaustion. It frequently means I am unfit to train or complete my hours at work. I also believe it is making me depressed and deeply unhappy with my life
Monday 02/04/18 04:15	Music from 02:00-05:00 3hrs	woken by bass heavy music and shouting. Cars park jackknifed across entrance to key hill drive. Photograph taken. After agent hours	Startled awake by loud bass heavy music	Once again exhausted and frustrated no agents possible to observe the noise
Tuesday 03/04/18 23:00	03:15 – 04:30 However starting at 23:00 5.5hrs	myself and partner woken up by heavy music. Car horns, customer shouting. Photograph taken of blocked road.	Partner and I woken by noise. Agents called earlier in night. However earplugs used from 23:00	Feeling of being trapped and hopeless that nothing is being done about the noise. Feel Exhausted every week. Concerned that I will have to move address
Friday	3 hrs	myself and	Woken up by heavy bass	Too exhausted to wait for EHO

06/04/18 02:05		partner woken up by heavy bass music. Car horns, customer shouting. Photograph taken of blocked road.	music	attendance, It feels that even if I did nothing will be done, after submitting previous diary and calling our previously
Monday 09/04/18 02:15	2 hrs	worked up by base heavy music. Cars blocking road access. Photograph taken. Ear plugs used. Fan used to help block out noise. Police rang at 02:30 to address blocking of access to key hill drive. Reference 224. Photograph taken of woman urinating and defecating next to my car. 02:40	Woken up and kept up by very loud music and customers urinating in street and customer noise	Disgusted and forlorn that people would treat property like this. Fed up with feeling exhausted and not being able to rest at home.
Wednesday 11/04/18 01:45	2 hrs	Woken up by heavy bass music and drums. Louder than white noise from fan. 02:50 bass and drums louder than ear plugs and white noise. No sleep. Difficulty concentrating at work and at home. Stopped around 04:00	Woken up and kept awake by hideous club music	Difficulty concentrating at work and at home. Waking up feeling nauseous and exhausted.
Thursday 23:11	5 Hrs	car access blocked to key hill drive. EHO rung at 23:38. Multiple cars parked across cul-de-sac	Music got progressively louder after 2 am. No way to sleep	Exhausted and frustrated when I wake up after another night of no sleep. Needed a day off to recover

		access. No way in or out. No music. Lots of people loitering Music ongoing with mc shouting video taken at 04:22. Can be used above ear plugs and white noise.		
Monday 16/04/18 02:30	5hrs	Loud music base heavy, car noise. People entering via fire escape. Music can be heard over ear plugs and white noise. On going until past 04:30.	Woken up by music, could not return to sleep.	Forced to beg my Line manager to allow me to work from home. I feel that I cannot continue to live at this address
Sunday/Monday 23/04/18 02:30	4 hrs +	Loud music bass heavy. Car horns, groups of people loitering. Police called, (local service to answerphone and 999 as advised by the landlord. video taken. Email with videos shared with licensing, police landlord around 03:23. Music woke me over fan, and ear plugs. Clearly heard over white noise. Multiple men urinating in Workshop entrances on several occasions. Road access blocked as usual on club nights.	Awoken and kept awake by club noise and antisocial behaviour	Increaseingly reinforced feelings of not being safe in my house. Constant sleep deprivation and exhaustion makes gym, training and work increasingly more difficult. I am questioning how much longer I can live at the address

		Screaming and shouting people outside of club entering via 'fire escape'. Police Call reference 23rd April 299. Music still loud and ongoing past 04:00. Music turned down 04:45am. Cars still blocking road		
Thursday 26/04/18	23:00-05:00	Noticed cars blocking round ~23:00 EHO officers wrung to witness noise and antisocial behaviour	Club stopped me from going to sleep and kept me awake until past 05:00	Had to take the full day off, to tired to be productive. I am forlorn as I don't know how much more evidence I can provide or how much longer I can live like this.
Sunday 30/04/18 01:38		Arrived home from Manchester airport. Access partially blocked. Had to mount kerb to access my property. 02:20 road completely blocked loud base music. Ear plugs used. Beyond exhaustion at 03:00. Screaming, shouting crowd noise. Melatonin. White noise and ear plugs used. Again.	Nearly stopped from accessing my home. Loud Noise and Constant club music prevented sleep	Exhausted and beyond frustrated with having to endure constant noise to keep me awake

Signed:

..... Date: 02/05/18.....

9. Suggested conditions De Oriole

1. Hours of operation:

15.00 to 02.00 Thursday to Saturday for all regulated activities, and 15.00 to 00.00 Sunday for all regulated activities. There shall be no regulated activities at any other time.

2. To avoid nuisance being caused to neighbours the DPS, or other nominated person/staff, shall monitor the external areas of the premises (including the designated smoking area) after 23:00 hours. In addition the DPS shall ensure that an appropriate number of Door supervisors/ the DPS, or other nominated persons shall monitor and control people entering and queuing and exiting the venue after 23.00. If necessary, they shall remind customers to be respectful of neighbours and where necessary they shall take appropriate steps to avoid customers using Key Hill Drive (including use for car parking) to avoid such activities causing a nuisance.
3. No new customers shall enter the premises after 1 am Friday to Sunday.
4. The DPS shall, within 3 months of the date of issue of this licence, submit in writing a noise management plan to Environmental Protection Unit of Birmingham City Council. The noise management plan shall outline the measures to be adopted to reduce the noise impact of activities associated with the premises including music, smoking area, number of Door Supervisors, number of persons allowed on key Hill Road customer access and egress (include parking) and dispersal of customers from the surrounding area at the end of the night. All operational controls and management actions required by the approved noise management plan shall be instigated at all times. The noise management plan shall be updated regularly and all staff shall be adequately trained in their role in implementing the plan.
5. All external doors and windows shall be kept closed during regulated entertainment except as necessary for safe and effective access and egress.
6. Prior to any regulated entertainment involving amplified music taking place, a Noise Limiting Device (NLD) of a type approved by the Environmental Protection Unit of Birmingham City Council shall be fitted to the serve any area of the premises used for amplified music or sound. The NLD shall be set at a level agreed with the Environmental Protection Section to ensure that the volume of music is controlled to avoid noise nuisance to the occupiers of nearby buildings. The installation of the NLD shall be notified to the Environmental Protection Section prior to use and shall meet the following criteria:
 - a) The device shall be fitted in an approved position by a competent person and once fitted shall not be moved from the approved position or tampered with in any manner unless prior approval is given,
 - b) The device shall be capable of either:-
 - i) cutting off the mains power to the amplification equipment if the volume exceeds the pre-set level determined by the Environmental Protection Unit and shall not restore power to the amplification equipment until the NLD is reset by the DPS or their nominated person, or

ii) otherwise maintaining the volume of the music at the pre-set level determined by the Environmental Protection Unit,

c) where the NLD operates by cutting off the mains power to the amplification equipment, amplification equipment shall be operated through the sockets/power points linked to and controlled by the NLD at all times,

d) The NLD shall be maintained in full working order and at the approved pre-set volume whilst the amplification equipment is operational,

e) Any damage or malfunction to the NLD shall be reported to the Environmental Protection Unit as soon as possible and within 24 working hours of the damage occurring or malfunction being noted. The NLD shall not be used in this damaged or malfunctioning state until approval has been given by the Environmental Protection Unit.

7. No drinks shall be removed from the premises.

**Birmingham City Council
REGULATORY SERVICES
STATEMENT OF WITNESS**

(Criminal Procedure Rules, r27.2; Criminal Justice Act 1967, S. 9,
Magistrates' Courts Act 1980 s 5 (B))

Name Pardip Mohan
Age OVER 18
Occupation Environmental Health Officer

This statement, consisting of 3 page(s) each* signed by me, is true to the best of my knowledge and belief and I make it knowing that, if it is tendered in evidence, I shall be liable to prosecution if I have wilfully stated in it anything which I know to be false or do not believe to be true.

Dated the 1st day of May 2018


Signed

I, Pardip Mohan, have been qualified as an Environmental Health Officer since May 2005 and have been investigating issues of noise nuisance since December 2004. I am currently employed by Birmingham City Council as an Environmental Health Officer and I am authorised to enforce the Environmental Protection Act 1990. Part three of that Act deals with statutory nuisance. On Thursday 12th April 2018 I was on call for Birmingham City Council's out of hour's noise nuisance witnessing service. At approximately 23.40 on ____ of Apartment ____ Birmingham, B18 5NY contacted the messenger service requesting an officer to witness noise from De Oriole Nightclub 54-57 Key Hill. As my colleague Steve Egner and I walked up towards ____ apartment, we walked past the premises located at the corner of Key Hill Drive and Key Hill known as De Oriole. I could hear a male voice through a speaker system and bass beats emanating from De Oriole. My colleague Steve Egner and I arrived at 2 bedroom apartment at approximately 00:35. In the open plan lounge and kitchen

Signed



**Birmingham City Council
REGULATORY SERVICES
STATEMENT OF WITNESS**
(Criminal Procedure Rules, r27.2; Criminal Justice Act 1967, S. 9,
Magistrates' Courts Act 1980 s 5 (B))

room I could hear the same bass beats and male amplified voices I heard from De Oriole outside. We were taken into the small bedroom facing the road known as Key Hill Drive. I could hear the same beats and voices inside the small bedroom (which was being used as a study room). We were then taken into the main bedroom and I could hear the same bass beats and male voice. The music was of reggae style or origin. The music carried heavy bass beats. At approximately 00.37 we received a message from the out of hour's messenger service. It had been sent by a neighbour, living in the same block of apartments, who also requested that we witness the noise from her apartment; I understand she was unaware at the time that her neighbour had already requested the same. At approximately 00:50 my colleague and I stood in the open plan lounge and kitchen of her apartment. I could hear the same music, bass beats and male vocals I was able to hear in the neighbouring apartment at flat 4. The noise was significantly louder if a window was opened. At approximately 00:55 the music was turned up in volume and it was turned up again at 00:57. The volume was turned down a little at 01:00. At approximately 01.00 my colleague and I departed, the music was still being played loud on our departure. At this same time my colleague and I departed the block of apartments and as we walked past the premises known as De Oriole I was able to confirm the source of the noise. The vocals of the track could clearly be distinguished from the instruments. In my opinion the noise I witnessed in both apartments numbered 4 and 6 did amount to a statutory nuisance.

2

Signed
.....

**Birmingham City Council
REGULATORY SERVICES
STATEMENT OF WITNESS**
(Criminal Procedure Rules, r27.2; Criminal Justice Act 1967, S. 9,
Magistrates' Courts Act 1980 s 5 (B))

For approximately 25 minutes during our visit to the complainant's property the level of noise from the property known as De Oriole was high enough inside the complainant's bedroom and living room for me to clearly hear it. In addition to the high level of sound, the music was almost continuous and played during unsociable hours. The noise would therefore in my opinion interfere with the use and enjoyment of the complainant's property for a substantial period. The level of noise would interfere with the use of the bedroom; the music is likely to disturb sleep.

3

Signed
.....

Birmingham City Council

STATEMENT OF WITNESS

(Criminal Procedure Rules, r. 27.1;
Criminal Justice Act 1967, s. 9, Magistrates' Courts Act 1980 ss. 5A & 5B)

Statement of Emily Hassall

Age if under 18 (over 18)

Occupation. Environmental Health Officer

This statement, (consisting of 1 page, is true to the best of my knowledge and belief and I make it knowing that, if it is tendered in evidence, I shall be liable to prosecution if I have wilfully stated in it anything which I know to be false or do not believe to be true.

My name is Emily Hassall. I am an Environmental Health Officer for Birmingham City Council, Regulation and Enforcement. I am an Authorised Officer for the purposes of the Environmental Protection Act 1990. My duties involve assessing noise nuisance.

On 27th April 2018, I visited with my colleague Robert Hedges (Environmental Health Officer) as we had received a call from the resident stating that a nearby nightclub 'De Oriole' was causing problems with noise and antisocial behaviour. We arrived at at 1:05am. From the spare bedroom window I could see two cars parked diagonally at the bottom of Key Hill Drive blocking the exit onto Key Hill Road, outside De Oriole. There was some background noise associated with the gathering of people and cars arriving at the premises. At 1:14am I noted more people arriving at the premises and I could hear some patrons screeching. At 1:22am some low bass was audible at times which fluctuated but could be heard in the complainants bedroom. Some amplified voice (like an MC) was audible at intermittently. At 1:43am we moved to the complainant's bedroom which is

directly adjacent to his spare room. I could still hear the bass in this room. The complainant reported that this was a 6/10 for loudness and this would prevent him from getting to sleep. The bass did not worsen during our visit.

We left the property at around 1:55 and walked down Key Hill Drive past De Oriele with the premises on our right. The rear doors were shut. I noticed that there were a couple of groups of people outside the front door and there was Caribbean / reggae style music emanating from the front door of the premises but I did not make a note as I felt intimidated. The two cars blocking off the bottom of Key Hill Drive were not occupied and would have prevented any access/egress from Key Hill to Key Hill Drive. We did not stop, as the situation as quite intimidating with the number of people arriving and sat parked in their cars. There was noise from individuals roaming around the street, getting out of cars, arriving and smoking outside. I was of the opinion that the noise from the patrons, occasional raised amplifications from the music/MC and obstructive parking constituted a public nuisance. I could not see any other businesses open on Key Hill. We walked along Key Hill and Hockley Street, up Vyse Street and back into Hylton Street. We then left the area.

Date 14th May 2018

Signed:

**Birmingham City Council
REGULATORY SERVICES
STATEMENT OF WITNESS**

(Criminal Procedure Rules, r27.2;
Criminal Justice Act 1967, S. 9, Magistrates' Courts Act 1980 s.5B)

Statement of: _____

Ago of Witness over 18 - Yes

Occupation: Human Resources Consultant

I/We statement, consisting of 7 pages each* signed by me, is true to the best of my knowledge and belief and I make it knowing that, if it is tendered in evidence, I shall be liable to prosecution if I have wilfully stated in it anything which I know to be false or do not believe to be true.

My name is A _____, I reside at _____ with my partner _____ and I relocated from Central London and moved into the Key Hill property at the end of June 2017. This statement details our ongoing complaint against De Oriole Bar whose premises are located at 54-57 Key Hill Drive and are in close proximity to our home.

Since November 2017 we have suffered an unjustifiable number of sleepless nights as a direct result of the operations of De Oriole. Both the venue and its customers have become a nuisance that has made living in my property unbearable. I first raised a complaint via the Birmingham City Council website ON 19 December 2017 at approximately 2.30am, having been unable to sleep because of the noise coming from De Oriole Bar, both the music and its customers who mainly congregated on our street. My bedroom window is located at the front of the building and is unobstructed by any buildings or trees. Customers arriving or leaving the club would frequently park by our window with their own music playing loudly from the car stereos, in addition to the sound of the music from the bar.

Signed _____ (Witness)
Date 14/01/18
(To be completed if applicable) _____ being unable to read the above statement I _____ of _____ read it to him/her before he/she signed it
Signed _____ Date _____

*Where applicable

Birmingham City Council
 REGULATORY SERVICES
 STATEMENT OF WITNESS
 (Criminal Procedure Rules, r27.2)
 Criminal Justice Act 1967, S. 9, Magistrates' Courts Act 1980 s.5B)

Continuation Sheet 2
 Statement of

There is a small car park behind the bar which is not used for parking. The fire escape which is located at the back of the building in the small car park was being used as the main entrance and exit for the bar and left open for the duration of the bars opening hours. The noise and anti-social behaviour escalated and became more frequent. I became increasingly frustrated and On the 8 January 2018 I spoke with Jane Dunsford, Environmental Protection Officer. I informed Jane that the bar was opening mainly on Sunday, Monday and Thursday nights. Generally opening at approximately midnight and closing at any point between 4am and 5.30am. I had joked that if it had been a Friday or Saturday night I could have found it more understandable, even so the noise was unacceptable. The impact on my sleep had become a real and frequent issue for me and in particular affected my ability to work.

As a self-employed consultant my work often means early starts and late finishes, as I work with clients across the UK and globally. I have a reputation for working hard, often working long hours and travelling frequently. I found myself cancelling early morning meetings because I had not slept and did not feel able to drive safely without some rest. Coming home I would dread turning into the road and finding the bar open, fire escape open and music booming. I knew this meant that I would be in for a sleepless night. I have on occasion used prescription sleep aids on nights when I needed to guarantee a good night's sleep before a working day. This is clearly not something I could do on a regular basis but have found that there are times when I feel like I have no other choice if I want to sleep through the night.

Signed: (Witness)
 Date: 14/02/18
 To be completed if applicable being unable to
 read the above statement I of
 read it to him/her before he/she signed it.
 Signed: Date:
 *Delete as applicable

Birmingham City Council
REGULATORY SERVICES
STATEMENT OF WITNESS
(Criminal Procedure Rules, r27.2;
Criminal Justice Act 1987, S. 9, Magistrates' Courts Act 1980 s.58)

Continuation Sheet 3
Statement of

In February, I spoke with other neighbours to establish if others were having similar issues. It became clear that all of my neighbours who have windows at the front of the building were also experiencing frequent incidents of anti-social behaviour and nuisance because of De Ortole Bar and every time they opened.

At times it became unclear what the opening hours of the bar were, and it became a point of anxiety, going to bed only to be woken a few hours later by beeping horns, loud base, anywhere between 20-100 people loitering in the road. I often took refuge and tried to sleep in my home office but even then, the noise could still be heard. When the bar was open there was no refuge from the noise. There were even occasions where the glass in our sash windows would vibrate with the bass of the music and we could each and every word the MC spoke over the speakers.

Some weeks the bar would be open 5 or 6 nights a week and then be closed for a long time. It would reopen in the afternoons with outdoor BBQ's and then loud music in the evening until the morning (between 3.30 - 5.30am).

I started to keep a diary and take video evidence because it became so frequent that for several weeks I would not be able to sleep at all or be woken at 2am when the bar opened and unable to get back to sleep because of the noise.

Signed: (Witness)
Date: 14/06/18 being unable to
(To be completed if applicable)
read the above statement I of
read it to him/her before he/she signed it.
Signed: Date:)

*Delete as applicable

Birmingham City Council
REGULATORY SERVICES
STATEMENT OF WITNESS
(Criminal Procedure Rules, 27.2;
Criminal Justice Act 1967, S. 9, Magistrates' Courts Act 1980 s.5B)

Continuation Sheet 4

Statement of:

A typical week was much like the week commencing 5 March 2018. On the 7th March I woke up at 12.30am because of loud music and was not able to return to sleep until 4.30am when the noise lessened, however the customers leaving the bar at that hour were beeping car horns between 4 and 4.30am. On the 9th March 2018 I could not get to sleep because of constant loud music from cars and the bar between 1am and 4am. Again on the 11th March 2018, on this night I did not get any sleep because the noise did not stop until 5.36am and I had to leave for work at 6.30am.

In April of this year (2018), we noticed on nights the bar would open that cars would be parked across the junction of Key Hill Drive. We can only assume that this was an effort by the operators of the bar to stop customers from parking and hanging out in their cars on Key Hill Drive and by our property. However, this caused us some concern that we were unable to access or leave the cul de sac road in the night should we need to. My Father was taken ill last year and diagnosed with type 1 diabetes, my elderly and disabled grandparents also rely on me, this is one of the primary reasons we relocated to Birmingham so that we could be near to them and take care of them. Being able to come and go from our property is a fundamental right and we have on a number of occasions been unable to do so because our road or garage gates have been blocked in by either the customers or operators of De Oriole bar.

Signed: (Witness)
Date: 14/08/18
(To be completed if applicable being unable to
read the above statement I of
read it to him/her before he/she signed it.
Signed: Date:)
*Delete as applicable

Birmingham City Council
REGULATORY SERVICES
STATEMENT OF WITNESS
(Criminal Procedure Rules, r27.2;
Criminal Justice Act 1967, S. 9, Magistrates' Courts Act 1980 s.5B)

Continuation Sheet

5

Statement of:

On the 27th April 2018, I found it difficult to sleep because of the bars music, I was able to fall asleep at 3am because I was so tired. At 3.40am I was woken when the music volume was turned up and while the road was blocked by the owners vehicles, about 30 cars were bumper to bumper parked in the road on Key Hill. Multiple cars were beeping horns and there were about 40 young people in the street all chatting, drinking, smoking and dancing to the music. The next day the street was covered in litter and broken glass. That night I had only 40 minutes of sleep.

On the 30th April we had a similar incident, the bar opened at 12.30am but it was fairly low noise until 2.40am when the music volume was turned up. Our windows were vibrating because of the base. I managed to fall asleep at some time around 3.30am but was awoken at 4.05am by the bass and customers shouting in the street, several of the customers car alarms were going off.

On the 6th May, I did not get any sleep with the club closing at 5.30am.

The very next day, On the 7th May the music started around 2pm in the afternoon, it was so loud we changed our plans and decided to go out to escape the noise. Outdoor speakers had been set up at the rear of the bar in their car park, along with several BBQs and gazebos. We returned home by car later that evening. As we approached the junction from the B4100 to Key Hill the road was entirely blocked with more than 30 cars. A tent had been erected at the front door of the bar that

Signed: (Witness)

Date: 14/05/18 being unable to
(To be completed if applicable)

read the above statement I of
read it to him/her before he/she signed it.

Signed: Date:)

*Delete as applicable

Continuation Sheet 6

Statement of:

went into the road and there were about 100 people in the street outside the bar and also in the back on Key Hill Drive. We had to exit our vehicle and ask for cars to be moved so we could access Key Hill Drive. Our vehicle was entirely blocked in with cars both sides, behind and in front. Cars were double parked blocking pavements and people congregated in every spare inch of space in the road. It took about 30 minutes for cars to manoeuvre down Key Hill so we could access our street and park our car in our garage which is located under our property. We saw drugs being openly sold and taken, there were customers who were clearly under the age of 18 including several children under the age of 12. I heard several announcements over outdoor speakers that customers would need to come inside the building at 10pm, the outdoor speakers were turned off around 10.15 and the majority of customers appeared to leave. Unfortunately, we were woken at 3am, when the music volume was turned up and more people returned/arrived which continued for several hours.

In the last few weeks since the bank holiday the bar has been opening at 2.30am until 4.30am-5am. The latest incident was the 20th May (I am submitting this statement on 21 May 2018). I am aware that De Oriole have been made aware of our complaints and they continue to show no regard for their neighbours or indeed the conditions of their license. Having endured the last 7 months, we are considering trying to move from the area, we love our home and our neighbours are fantastic but the impact of De Oriole bar is unbearable. Our health and wellbeing, our work, our safety have all been compromised as a result of this nuisance. I have no faith that the owners of this establishment will remedy these issues in any meaningful and

Signed: (Witness)
 Date: 14/05/18 being unable to
 (To be completed if applicable) read the above statement I
 read it to him/her before he/she signed it
 Signed: Date:)
 *Delete as applicable

Birmingham City Council
REGULATORY SERVICES
STATEMENT OF WITNESS
(Criminal Procedure Rules, r27.2;
Criminal Justice Act 1967, S. 9, Magistrates' Courts Act 1980 s.5B)

Continuation Sheet 7

Statement of

consistent way. He has had a number of opportunities to do so and if anything, the nuisance has worsened in every way. I'd like to be clear that this does not just impact me at night but has a knock-on effect to my days. I have missed a number of family and work commitments as a direct result of sleep deprivation. My general health has declined, and it has also had a negative impact on my relationship with my partner. Sleep is not overrated. And a lack of it has terrible consequences.

As a self-employed person, I understand and respect businesses trying to make a living, one of the reasons I choose to live in a city centre is because of its amenities. However, I cannot accept that De Ortole is operating within the law and with respect to the community it is within. In my opinion it is shamelessly and intentionally flouting the rules and responsibilities it has in respect to health and safety, planning regulations, licensing rules and environmental health.

Signed⁴ _____ (Witness)
Date 14/06/18 _____ being unable to
(To be completed if applicable read the above statement I, _____ of _____
read it to him/her before he/she signed it. Signed _____ Date _____)

⁴Not applicable

**Birmingham City Council
REGULATORY SERVICES
STATEMENT OF WITNESS**

Criminal Procedure Rules, r27.1(1); Criminal Justice Act 1967, S. 9,
Magistrates' Courts Act 1980 ss 5A (3)(A) and 5 (B)

Name: Martin John Key

Age: IF UNDER 18

Occupation: Environmental Protection Officer

This statement, consisting of 1 page signed by me, is true to the best of my knowledge and belief and I make it knowing that, if it is tendered in evidence, I shall be liable to prosecution if I have wilfully stated in it anything which I know to be false or do not believe to be true.

Dated the 12 June 2018

Signed: .. Signature witnessed by: ...
Officer's Name: ...Amanda Clover.....

I am employed as an Environmental Protection Officer with Birmingham City Council. I was carrying out a number of inspections and visits on the night of 27th and early hours of 28th April 2018 with my colleague Paul Samms. I had been requested to carry out a visit to De Oriole/PBs on Key Hill Drive to make an assessment of potential noise impact from the licensed premises by Jane Dunsford. I arrived in the vicinity at approximately 03.00 on Saturday 28th April 2018 and parked on Vyse Street. I approached Key Hill Drive from Hockley Hill and could clearly hear music noise as I neared Key Hill Drive. As I approached the premises at 03.10 the music could be clearly heard and was attributable to De Oriole/PBs. The door fronting Key Hill Drive was open with a fabric open-sided gazebo attached. There was a group of approximately 10 people in the gazebo and as I approached I was greeted by a female brandishing wrist bands who asked who I was and what I wanted. I explained the purpose of my visit and she took me inside the premises to meet the manager Carlson Cabey. The music inside the premises was loud and I estimated around 80 people were inside the premises. The rear doors were closed. Mr Cabey accompanied me outside and we accessed the rear of the premises. The rear doors were closed, vehicle access to Key Hill Drive was blocked by a car but there was a group of approximately 8 people around the side of the premises smoking and talking. There was some noise escape from the rear of the premises towards the residential premises at the top of Key Hill Drive but not at levels that would create a nuisance. However the congregation of people was creating some noise which would have been audible at the residential premises on Key Hill Drive and as approached these people moved back towards the front entrance. There was significant noise escape from the front of the premises as the door was open and there was no noise lobby. In addition some of the infilled window panels at high level on the ground floor front facade were vibrating excessively created another tonal noise and allowing noise escape. In my judgement the music noise was not creating a nuisance at the residential premises on Key Hill Drive but the noise was excessively loud and may have impacted

Signed .. Signature Witnessed by.....

**Birmingham City Council
REGULATORY SERVICES
STATEMENT OF WITNESS**

Criminal Procedure Rules, r27.1(1); Criminal Justice Act 1967, S. 9,
Magistrates' Courts Act 1980 ss 5A (3)(A) and 5 (B)

Continuation Sheet No: 1 Statement of: Martin John Key

other premises. In addition the noise caused by people congregating at the rear and side of the premises was excessive and could have potentially been audible at the residential premises. Subsequently I was carrying out a number of noise assessments in the early hours of 5 May 2018 and again I had been requested to carry out a visit to De Oriole/PBs on Key Hill Drive to make an assessment of potential noise impact from the licensed premises by Jane Dunsford. I arrived in the vicinity at approximately 01.35 on Saturday 5 May 2018 and parked on Vyse Street. I approached Key Hill Drive from Hockley Hill and could clearly hear music noise as I neared Key Hill Drive. As I approached the premises at 01.40 the music could be clearly heard and was attributable to De Oriole/PBs. The door fronting Key Hill Drive was open although there were no persons outside the premises. There was no door supervision and I entered the premises unchallenged and there were approximately 10 people in the premises and the music inside the premises was loud. The rear doors were closed, vehicle access to Key Hill Drive was blocked by a car and there were no persons outside the premises. I walked to the top Key Hill Drive and the noise was barely audible outside the ground floor of the residential premises.

Signed .

..... Signature Witnessed by.....

.....

Appendix 5

BIRMINGHAM CITY COUNCIL

LICENSING ACT 2003

PREMISES LICENCE

Premises Licence Number:

2866 / 2

Part 1 - Premises details:

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

PB's
54 - 57 Key Hill
Hockley

Post town:

Birmingham

Post Code:

B18 5NX

Telephone Number:

N/A

Where the licence is time limited the dates

N/A

Licensable activities authorised by the licence

- | | |
|----|---|
| A | Plays |
| B | Films |
| C | Indoor sporting events |
| 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) |
| I | Provision of facilities for making music |
| J | Provision of facilities for dancing |
| K | Provision of facilities for entertainment of a similar description to that falling within (facilities for making music) or (facilities for dancing) |
| M3 | Sale of alcohol by retail (both on & off the premises) |

The times the licence authorises the carrying out of licensable activities

Monday - Sunday	10:00	-	04:00	All
From the end of permitted hours on New Year's Eve to the commencement of hours on New Year's Day				A ,B ,C ,E ,F ,H ,I ,J ,K ,M3

The opening hours of the premises

Monday - Sunday	10:00	-	04:30
From the end of permitted hours on New Year's Eve to the commencement of hours on New Year's Day			

BIRMINGHAM CITY COUNCIL

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

BIRMINGHAM CITY COUNCIL

Part 2

Name, (registered) address, telephone number and email (where relevant) of holder of premises licence Mr Carlson Cabcy	
Post town:	Post Code:
Telephone Number: N/A	
Email N/A	

Registered number of holder for example company number or charity number (where applicable) N/A

Name, address, telephone number of designated premises supervisor where the premises licence authorises for the supply of alcohol Carlstine Cabey	
Post town:	Post Code:
Telephone Number: N/A	

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 07/11/2012

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.

The responsible person shall take all reasonable steps to ensure that staff on relevant premises do not carry out, arrange or participate in any irresponsible promotions in relation to the premises.

The responsible person shall ensure that no alcohol is dispensed directly by one person into the mouth of another (other than where that other person is unable to drink without assistance by reason of a disability).

The responsible person shall ensure that free tap water is provided on request to customers where it is reasonably available.

The premises licence holder or club premises certificate holder shall ensure that an age verification policy applies to the premises in relation to the sale or supply of alcohol:-

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 a holographic mark.

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.

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

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Annex 2 – Conditions consistent with operating schedule

2a) General conditions consistent with the operating schedule

The Licence Holder will ensure that all staff are briefed on the Licensing Objectives, in particular no underage drinking, no drunkenness on the Premises or outside of the Premises, no use of drugs, no violent or anti - social behaviour and the need to protect children from.

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

The Licence Holder will ensure responsible management controls on the premises i.e. capacity levels.

Training and Supervision of all staff to adopt best practice, and to adhere to the Portman Group policy on drinks strategy.

Staff will receive ongoing training including the identification of anti - social behaviour or unusual behaviour.

Proof of age scheme in force at the Premises.

The Licence Holder will ensure that internal and external lighting is checked regularly.

The Premises have the benefit of 8 CCTV cameras installed and they will be operated and maintained to the satisfaction of West Midlands Police.

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

A member of staff on the Premises will be trained in first aid.

Health and safety risk assessments will be carried out regularly.

All electrics, gas and fire equipment will be checked and maintained in working order and tested annually.

Fire Risk assessment will be carried out weekly.

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

A zero tolerance to drunken and anti - social behaviour shall be adopted at the Premises.

Management and staff voluntarily follow best practice e.g. control of noise from pubs and clubs.

The Licence Holder will ensure that out of hours deliveries are monitored.

All staff will be trained to ensure that patrons vacate the premises quietly.

Ventilation of the premises will be maintained to prevent nuisance of odour and noise.

The Licence Holder will ensure that recorded music sound levels are monitored.

The Licence Holder will ensure that all windows will be kept closed after 23.00 hours.

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

Children must be accompanied by a responsible person who has attained the age of 18.

No children are allowed at the bar serveries.

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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

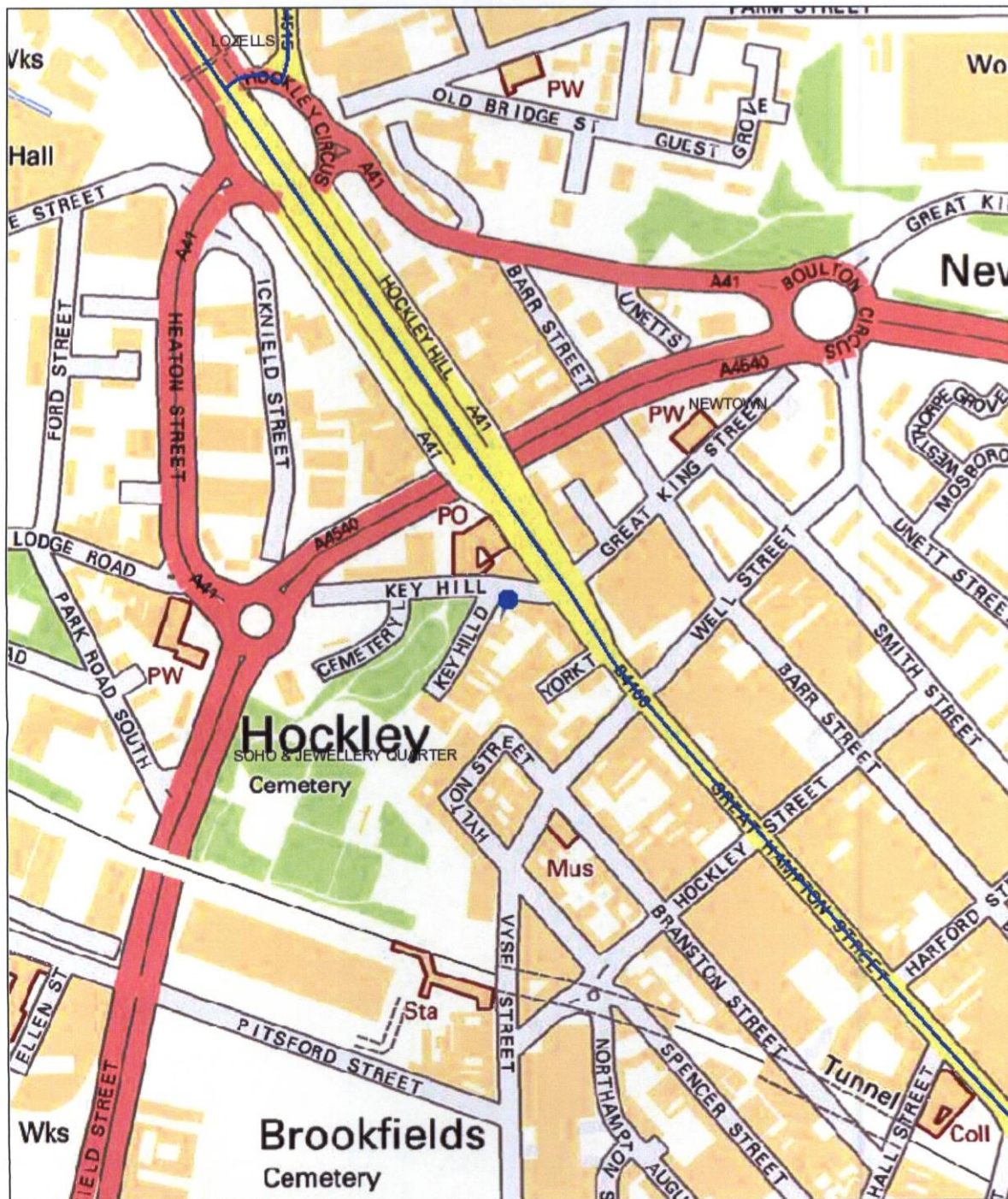
N/A

BIRMINGHAM CITY COUNCIL

Annex 4 – Plans

The plan of the premises with reference number **79824-2866/2** which is retained with the public register kept by Birmingham City Council and available free of charge for inspection between the hours of 9am – 4pm Monday, Tuesday and Thursday, 10am – 4pm Wednesday and 9am – 3.30pm Friday (excluding Bank Holidays etc) at the Licensing Service, Crystal Court, Aston Cross Business Village, 50 Rocky Lane, Aston, Birmingham B6 5RQ.

Appendix 6



Birmingham City Council Map Created By:

Date of Map Creation: 22/06/2018

Notes

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Scale:
1:4,000



Map Created By:

Date of Map Creation: 22/06/2018

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Scale:
 1:1,250