

BIRMINGHAM CITY COUNCIL

LICENSING SUB-COMMITTEE C

WEDNESDAY, 05 DECEMBER 2018 AT 09:30 HOURS
IN ELLEN PINSENT ROOM, COUNCIL HOUSE, VICTORIA
SQUARE, BIRMINGHAM, B1 1BB

Please note a short break will be taken approximately 90 minutes from the start of the meeting and a 30 minute break will be taken at 1300 hours.

A G E N D A

1 NOTICE OF RECORDING

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

2 DECLARATIONS OF INTERESTS

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

3 APOLOGIES AND NOTIFICATION OF NOMINEE MEMBERS

3 - 4

4 MINUTES

To note the public section of the Minutes of the meeting held on 14 November 2018.

5 - 60

5 LICENSING ACT 2003 PREMISES LICENCE (VARIATION) - THE BOTANIST, CHELTENHAM HOUSE, 14-16 TEMPLE STREET, BIRMINGHAM, B2 5BG

Report of the Acting Director of Regulation & Enforcement.
N.B. Application scheduled to be heard at 09:30am.

6 OTHER URGENT BUSINESS

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

7 **EXCLUSION OF THE PUBLIC**

That in view of the nature of the business to be transacted which includes exempt information of the category indicated the public be now excluded from the meeting:-

Exempt Paragraph 3

P R I V A T E A G E N D A

1 **MINUTES**

To note the private section of the Minutes of the meeting held on 14 November 2018 and to confirm and sign the Minutes as a whole.

2 **OTHER URGENT BUSINESS (EXEMPT INFORMATION)**

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

BIRMINGHAM CITY COUNCIL

LICENSING SUB - COMMITTEE C - 14 NOVEMBER 2018

**MINUTES OF A MEETING OF
LICENSING SUB-COMMITTEE C HELD
ON WEDNESDAY 14 NOVEMBER 2018
AT 0930 HOURS IN ELLEN PINSENT ROOM,
COUNCIL HOUSE, BIRMINGHAM**

PRESENT: - Councillor Mike Leddy in the Chair;

Councillors Olly Armstrong and Neil Eustace

ALSO PRESENT:

Chris Arundel– Licensing Section
Joanne Swampillai – Legal Services
Katy Poole – Committee Services.

NOTICE OF RECORDING

- 1/141118 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.

DECLARATIONS OF INTERESTS

- 2/141118 Members were reminded that they must declare all relevant pecuniary and non-pecuniary interests arising from any business discussed at the meeting. If a disclosable pecuniary interest are declared a Member must not speak or take part in that agenda item. Any declarations to be recorded in the minutes of meeting.

APOLOGIES AND NOTIFICATION OF NOMINEE MEMBERS

- 3/141118 No apologies were submitted.

4/141118 **MINUTES**

That the public section of the Minutes of the meeting held on 27 June 2018 were noted.

That the public section of the Minutes of the meeting held on 26 September 2018 were noted.

5/141118 **ANY OTHER URGENT BUSINESS**

There were no matters of urgent business.

EXCLUSION OF THE PUBLIC

6/141118 **RESOLVED:**

That in view of the nature of the business to be transacted, which includes exempt information of the category indicated, the public be now excluded from the meeting:-
(Paragraphs 3 & 4)

BIRMINGHAM CITY COUNCIL

PUBLIC REPORT

Report to:	Licensing Sub Committee C
Report of:	Acting Director of Regulation & Enforcement
Date of Meeting:	Wednesday 5th December 2018
Subject:	Licensing Act 2003 Premises Licence – Variation
Premises:	The Botanist, Cheltenham House, 14-16 Temple Street, Birmingham, B2 5BG
Ward affected:	Ladywood
Contact Officer:	Bhupinder Nandhra, Senior Licensing Officer, 0121 303 9896 licensing@birmingham.gov.uk

1. Purpose of report:

To consider relevant representations that have been made in respect of an application to vary the Premises Licence which seeks to extend the hours for the Sale of Alcohol (for consumption both on and off the premises) to operate from 09:00am until 01:00am (Sunday to Wednesday) and 09:00am until 02:00am (Thursday to Saturday).

To extend the hours for the provision of Regulated Entertainment consisting of live music and recorded music to operate indoors only from 09:00am until 01:00am (Sunday to Wednesday) and 09:00am until 02:00am (Thursday to Saturday).

To extend the hours for the provision of late night refreshment from 11:00pm until 01:30am (Sunday to Wednesday) and 11:00pm until 02:30am (Thursday to Saturday).

Premises to remain open to the public from 09:00am until 01:30am (Sunday to Wednesday) and 09:00am until 02:30am (Thursday to Saturday).

Other dates and times as specified in the application form.

2. Recommendation:

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

3. Brief Summary of Report:

Variation application received on 15th October 2018 in respect of The Botanist, Cheltenham House, 14-16 Temple Street, Birmingham, B2 5BG.

Representations have been received from West Midlands Police and Environmental Health, as responsible authorities.

4. Compliance Issues:
4.1 Consistency with relevant Council Policies, Plans or Strategies:
<p>The report complies with the City Council's Statement of Licensing Policy and the Council's Corporate Plan to improve the standard of all licensed persons, premises and vehicles in the City.</p>
5. Relevant background/chronology of key events:
<p>New World Trading Company (UK) Limited applied on 15th October 2018 to vary the Premises Licence for The Botanist, Cheltenham House, 14-16 Temple Street, Birmingham, B2 5BG.</p> <p>Representations have been received from West Midlands Police and Environmental Health, as responsible authorities. See Appendices 1 - 2.</p> <p>The application is attached at Appendix 3.</p> <p>The current Premises Licence is attached at Appendix 4.</p> <p>Site Location Plans at Appendix 5.</p> <p>When carrying out its licensing functions, a licensing authority must have regard to Birmingham City Council's Statement of Licensing Policy and the Guidance issued by the Secretary of State under s182 of the Licensing Act 2003. The Licensing Authority is also required to take such steps as it considers appropriate for the promotion of the licensing objectives, which are:-</p> <ol style="list-style-type: none"> The prevention of crime and disorder; Public safety; The prevention of public nuisance; and The protection of children from harm.
6. List of background documents:
<p>Copies of the representations are detailed in Appendices 1 – 2</p> <p>Application Form, Appendix 3</p> <p>Current Premises Licence, Appendix 4</p> <p>Site Location Plans, Appendix 5</p>
7. Options available
<p>To grant the variation application</p> <p>To refuse the whole or part of the application</p> <p>To modify the conditions of the Licence</p>

From: bw licensing
Sent: 16 October 2018 09:22
To: Licensing Online
Subject: RE: Online Variation - The Botanist Ref 697933

Dear Licensing,

West Midlands Police had been consulted prior to this application going in, and had indicated to the solicitors that any such application would likely attract an objection from us.

West Midlands Police do object to this application on the following grounds, the city centre entertainment area has expanded rapidly over the last 12-18 months, and covers an area from Temple Street, Temple Row West, Colmore Row. In this time there has been an number of new licensed premises to the area all of which are similar in style in that they are bar/restaurant set ups.

This area currently requires little policing and causes little issues mainly due to the operating hours of the majority of premises in the locality. When applications have been coming in we have endorsed a closing time of 1am, which has been accepted. With a 1am closing time the nature of the clientele that frequents the area is significantly different to that of the two more recognised night time economy areas in Birmingham City Centre. This has even been recognised by other venues within the other entertainment areas that the city centre venues attract a better clientele due to the hours.

This application seeks to change these hours to hours that we would class as a greater risk and attract a different clientele. As indicated currently the area and this premises does not cause us any concern for which we do not need to do a Policing plan for, there are residential units very close by for which we do not receive any complaints. In our professional opinion as experts in managing the night time economy, this application would change the situation in this area, it would encourage a level of ASB and crime and disorder that is not witnessed currently.

West Midlands Police therefore request a hearing for this application to be considered

Kind regards

Abs Rohomon

**PC 4075 Rohomon
BW Licensing
Police headquarters
Lloyd House
Colmore Circus
Birmingham
B4 6NQ**

Follow us on Twitter - @brumcopslicensing

West Midlands Police

Website: www.west-midlands.police.uk
Twitter: www.twitter.com/brumpolice
Facebook: www.facebook.com/westmidlandspolice
YouTube: www.youtube.com/westmidlandspolice

Vision statement - Serving our communities, protecting them from harm

From: Paul R Samms
Sent: 12 November 2018 17:02
To: Licensing
Cc: '
Subject: FW: Online Variation - The Botanist Ref 697933
Attachments: birmingham-697933-The Botanist Birmingham Variation.pdf

I, Paul R Samms, as a representative of Environmental Health, formally raise a representation on the above application.

My representation(s) concern the likely effect of the grant of the licence on the promotion of the following licensing objective: **the prevention of public nuisance**

I am concerned that the grant of the licence would undermine the licence objective for the prevention of public nuisance.

I am liaising with the applicant to try to seek a way to address the issue. I will be in contact with you in the week or so with further information about my representation.

Regards,

Paul Samms
Environmental Protection Officer

Environmental Protection Unit
Environmental Health
Manor House
40 Moat Lane
Digbeth
Birmingham
B5 5BD

Environmental Health, Regulation & Enforcement, Birmingham City Council, PO BOX 15908, Birmingham, B2 2UD

Website: <http://www.birmingham.gov.uk/eh>
Facebook: <http://www.facebook.com/ehbham>
Twitter: <http://www.twitter.com/ehbham>
Flickr: <http://www.flickr.com/photos/envhbham>

"Locally accountable and responsive fair regulation for all - achieving a safe, healthy, clean, green and fair trading city for residents, business and visitors"

108384
15/10/18 - 12/11/18

Birmingham
Application to vary a premises licence
Licensing Act 2003

For help contact
licensingonline@birmingham.gov.uk
 Telephone: 0121 303 9896

* required information

Section 1 of 18

You can save the form at any time and resume it later. You do not need to be logged in when you resume.

System reference This is the unique reference for this application generated by the system.

Your reference You can put what you want here to help you track applications if you make lots of them. It is passed to the authority.

Are you an agent acting on behalf of the applicant?

☒ Yes ☐ No

Applicant Details

* First name

* Family name

* E-mail

Main telephone number

Other telephone number

☐ Indicate here if the applicant would prefer not to be contacted by telephone

Is the applicant:

- ☒ Applying as a business or organisation, including as a sole trader
- ☐ Applying as an individual

Put "no" if you are applying on your own behalf or on behalf of a business you own or work for.

BCC
 REGULATION & ENFORCEMENT
 LICENSING SECTION
 DATE RECEIVED
 15 OCT 2018

Include country code

Applicant Business

Is the applicant's business registered in the UK with Companies House? ☒ Yes ☐ No

Note: completing the Applicant Business section is optional in this form.

Registration number

Business name

If the applicant's business is registered, use its registered name.

VAT number

Put "none" if the applicant is not registered for VAT.

Legal status

Continued from previous page...

Applicant's position in the business

Home country

The country where the applicant's headquarters are.

Registered Address

Address registered with Companies House.

Building number or name

Street

District

City or town

County or administrative area

Postcode

Country

Agent Details

* First name

* Family name

* E-mail

Main telephone number

Include country code.

Other telephone number

☐ Indicate here if you would prefer not to be contacted by telephone

Are you:

☒ An agent that is a business or organisation, including a sole trader

A sole trader is a business owned by one person without any special legal structure.

☐ A private individual acting as an agent

Agent Business

Is your business registered in the UK with Companies House? ☒ Yes ☐ No

Note: completing the Applicant Business section is optional in this form.

Registration number

Business name

If your business is registered, use its registered name.

VAT number

Put "none" if you are not registered for VAT.

Legal status

Continued from previous page...

Your position in the business

Home country

The country where the headquarters of your business is located.

Agent Registered Address

Address registered with Companies House.

Building number or name

Street

District

City or town

County or administrative area

Postcode

Country

Section 2 of 18

APPLICATION DETAILS

This application cannot be used to vary the licence so as to extend the period for which the licence has effect or to vary substantially the premises to which it relates. If you wish to make that type of change to the premises licence, you should make a new premises licence application under section 17 of the Licensing Act 2003.

I/we, as named in section 1, being the premises licence holder, apply to vary a premises licence under section 34 of the Licensing Act 2003 for the premises described in section 2 below.

* Premises Licence Number

Are you able to provide a postal address, OS map reference or description of the premises?

☒ Address ☐ OS map reference ☐ Description

Postal Address Of Premises

Building number or name

Street

District

City or town

County or administrative area

Postcode

Country

Premises Contact Details

Telephone number

Continued from previous page...	
Non-domestic rateable value of premises (£)	<input style="width: 95%;" type="text"/>
Section 3 of 18	
VARIATION	
<p>Do you want the proposed variation to have effect as soon as possible? <input checked="" type="radio"/> Yes <input type="radio"/> No</p> <p>Do you want the proposed variation to have effect in relation to the introduction of the late night levy? <input type="radio"/> Yes <input checked="" type="radio"/> No</p> <p style="text-align: right; margin-top: 10px;">You do not have to pay a fee if the only purpose of the variation for which you are applying is to avoid becoming liable to the late night levy.</p> <p>If your proposed variation would mean that 5,000 or more people are expected to attend the premises at any one time, state the number expected to attend <input style="width: 80px;" type="text"/></p> <p>Describe Briefly The Nature Of The Proposed Variation</p> <p>Describe the premises. For example the type of premises, its general situation and layout and any other information which could be relevant to the licensing objectives. Where your application includes off-supplies of alcohol and you intend to provide a place for consumption of these off-supplies, you must include a description of where the place will be and its proximity to the premises.</p> <div style="border: 1px solid black; padding: 5px; min-height: 40px;"> <p>The purpose of this application is to extend the hours for licensable activities and opening by 1 hour daily, and in light of this extension to add non-standard timings for BST.</p> </div>	
Section 4 of 18	
PROVISION OF PLAYS	
<p>See guidance on regulated entertainment</p> <p>Will the schedule to provide plays be subject to change if this application to vary is successful? <input type="radio"/> Yes <input checked="" type="radio"/> No</p>	
Section 5 of 18	
PROVISION OF FILMS	
<p>See guidance on regulated entertainment</p> <p>Will the schedule to provide films be subject to change if this application to vary is successful? <input type="radio"/> Yes <input checked="" type="radio"/> No</p>	
Section 6 of 18	
PROVISION OF INDOOR SPORTING EVENTS	

Continued from previous page...

See guidance on regulated entertainment

Will the schedule to provide indoor sporting events be subject to change if this application to vary is successful?

☐ Yes

☒ No

Section 7 of 18

PROVISION OF BOXING OR WRESTLING ENTERTAINMENTS

See guidance on regulated entertainment

Will the schedule to provide boxing or wrestling entertainments be subject to change if this application to vary is successful?

☐ Yes

☒ No

Section 8 of 18

PROVISION OF LIVE MUSIC

See guidance on regulated entertainment

Will the schedule to provide live music be subject to change if this application to vary is successful?

☒ Yes

☐ No

Standard Days And Timings

MONDAY

Start

End

Start

End

Provide timings in 24 hour clock (e.g., 16:00) and only give details for the days of the week when you intend the premises to be used for the activity.

TUESDAY

Start

End

Start

End

WEDNESDAY

Start

End

Start

End

THURSDAY

Start

End

Start

End

FRIDAY

Start

End

Start

End

SATURDAY

Start

End

Start

End

Continued from previous page...

SUNDAY

Start 09:00

End 01:00

Start

End

Will the performance of live music take place indoors or outdoors or both?

☒ Indoors

☐ Outdoors

☐ Both

Where taking place in a building or other structure select as appropriate. Indoors may include a tent.

State type of activity to be authorised, if not already stated, and give relevant further details, for example (but not exclusively) whether or not music will be amplified or unamplified.

State any seasonal variations for the performance of live music

For example (but not exclusively) where the activity will occur on additional days during the summer months.

Non-standard timings. Where the premises will be used for the performance of live music at different times from those listed, above below.

For example (but not exclusively), where you wish the activity to go on longer on a particular day e.g. Christmas Eve.

From the start time on New Year's Eve to the terminal hour for New Year's Day.

On the day that British Summer Time commences, one additional hour to disapply its effect.

Section 9 of 18

PROVISION OF RECORDED MUSIC

See guidance on regulated entertainment

Will the schedule to provide recorded music be subject to change if this application to vary is successful?

☒ Yes

☐ No

Standard Days And Timings

MONDAY

Start 09:00

End 01:00

Start

End

Provide timings in 24 hour clock (e.g., 16:00) and only give details for the days of the week when you intend the premises to be used for the activity.

TUESDAY

Start 09:00

End 01:00

Start

End

Continued from previous page...

WEDNESDAY

Start 09:00

End 01:00

Start

End

THURSDAY

Start 09:00

End 02:00

Start

End

FRIDAY

Start 09:00

End 02:00

Start

End

SATURDAY

Start 09:00

End 02:00

Start

End

SUNDAY

Start 09:00

End 01:00

Start

End

Will the playing of recorded music take place indoors or outdoors or both?



Indoors



Outdoors



Both

Where taking place in a building or other structure select as appropriate. Indoors may include a tent.

State type of activity to be authorised, if not already stated, and give relevant further details, for example (but not exclusively) whether or not music will be amplified or unamplified.

State any seasonal variations for playing recorded music.

For example (but not exclusively) where the activity will occur on additional days during the summer months.

Non-standard timings. Where the premises will be used for the playing of recorded music at different times from those listed above, list below.

For example (but not exclusively), where you wish the activity to go on longer on a particular day e.g. Christmas Eve.

From the start time on New Year's Eve to the terminal hour for New Year's Day.

On the day that British Summer Time commences, one additional hour to disapply its effect.

Continued from previous page...					
Section 10 of 18					
PROVISION OF PERFORMANCES OF DANCE					
See guidance on regulated entertainment					
Will the schedule to provide performances of dance be subject to change if this application to vary is successful?					
<input type="radio"/> Yes <input checked="" type="radio"/> No					
Section 11 of 18					
PROVISION OF ANYTHING OF A SIMILAR DESCRIPTION TO LIVE MUSIC, RECORDED MUSIC OR PERFORMANCES OF DANCE					
See guidance on regulated entertainment					
Will the schedule to provide anything similar to live music, recorded music or performances of dance be subject to change if this application to vary is successful?					
<input type="radio"/> Yes <input checked="" type="radio"/> No					
Section 12 of 18					
PROVISION OF LATE NIGHT REFRESHMENT					
Will the schedule to provide late night refreshment be subject to change if this application to vary is successful?					
<input checked="" type="radio"/> Yes <input type="radio"/> No					
Standard Days And Timings					
MONDAY	<table style="width: 100%;"> <tr> <td style="width: 50%;">Start <input type="text" value="23:00"/></td> <td style="width: 50%;">End <input type="text" value="01:30"/></td> </tr> <tr> <td>Start <input type="text"/></td> <td>End <input type="text"/></td> </tr> </table>	Start <input type="text" value="23:00"/>	End <input type="text" value="01:30"/>	Start <input type="text"/>	End <input type="text"/>
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THURSDAY	<table style="width: 100%;"> <tr> <td style="width: 50%;">Start <input type="text" value="23:00"/></td> <td style="width: 50%;">End <input type="text" value="02:30"/></td> </tr> <tr> <td>Start <input type="text"/></td> <td>End <input type="text"/></td> </tr> </table>	Start <input type="text" value="23:00"/>	End <input type="text" value="02:30"/>	Start <input type="text"/>	End <input type="text"/>
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FRIDAY	<table style="width: 100%;"> <tr> <td style="width: 50%;">Start <input type="text" value="23:00"/></td> <td style="width: 50%;">End <input type="text" value="02:30"/></td> </tr> <tr> <td>Start <input type="text"/></td> <td>End <input type="text"/></td> </tr> </table>	Start <input type="text" value="23:00"/>	End <input type="text" value="02:30"/>	Start <input type="text"/>	End <input type="text"/>
Start <input type="text" value="23:00"/>	End <input type="text" value="02:30"/>				
Start <input type="text"/>	End <input type="text"/>				

Provide timings in 24 hour clock (e.g., 16:00) and only give details for the days of the week when you intend the premises to be used for the activity.

Continued from previous page...

SATURDAY

Start

End

Start

End

SUNDAY

Start

End

Start

End

Will the provision of late night refreshment take place indoors or outdoors or both?

☒ Indoors

☐ Outdoors

☐ Both

Where taking place in a building or other structure select as appropriate. Indoors may include a tent.

State type of activity to be authorised, if not already stated, and give relevant further details, for example (but not exclusively) whether or not music will be amplified or unamplified.

State any seasonal variations.

For example (but not exclusively) where the activity will occur on additional days during the summer months.

Non standard timings. Where the premises will be used for the provision of late night refreshment at different times from those listed above, list below.

For example (but not exclusively), where you wish the activity to go on longer on a particular day e.g. Christmas Eve.

From the start time on New Year's Eve to the terminal hour for New Year's Day.

On the day that British Summer Time commences, one additional hour to disapply its effect.

Section 13 of 18

SUPPLY OF ALCOHOL

Will the schedule to supply alcohol be subject to change if this application to vary is successful?

☒ Yes

☐ No

Standard Days And Timings

Continued from previous page...

MONDAY

Start 09:00

End 01:00

Start

End

Provide timings in 24 hour clock
(e.g., 16:00) and only give details for the days
of the week when you intend the premises
to be used for the activity.

TUESDAY

Start 09:00

End 01:00

Start

End

WEDNESDAY

Start 09:00

End 01:00

Start

End

THURSDAY

Start 09:00

End 02:00

Start

End

FRIDAY

Start 09:00

End 02:00

Start

End

SATURDAY

Start 09:00

End 02:00

Start

End

SUNDAY

Start 09:00

End 01:00

Start

End

Will the sale of alcohol be for consumption?

☐ On the premises ☐ Off the premises ☒ Both

If the sale of alcohol is for consumption on
the premises select on, if the sale of alcohol
is for consumption away from the premises
select off. If the sale of alcohol is for
consumption on the premises and away
from the premises select both.

State any seasonal variations.

For example (but not exclusively) where the activity will occur on additional days during the summer months.

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Continued from previous page...

Non-standard timings. Where the premises will be used for the supply of alcohol at different times from those listed above, list below.

For example (but not exclusively), where you wish the activity to go on longer on a particular day e.g. Christmas Eve.

From the start time on New Year's Eve to the terminal hour for New Year's Day.

On the day that British Summer Time commences, one additional hour to disapply its effect.

Section 14 of 18

ADULT ENTERTAINMENT

Highlight any adult entertainment or services, activities, or other entertainment or matters ancillary to the use of the premises that may give rise to concern in respect of children.

Provide information about anything intended to occur at the premises or ancillary to the use of the premises which may give rise to concern in respect of children, regardless of whether you intend children to have access to the premises, for example (but not exclusively) nudity or semi-nudity, films for restricted age groups etc gambling machines etc.

n/a

Section 15 of 18

HOURS PREMISES ARE OPEN TO THE PUBLIC

Standard Days And Timings

MONDAY

Start

End

Start

End

Provide timings in 24 hour clock (e.g., 16:00) and only give details for the days of the week when you intend the premises to be used for the activity.

TUESDAY

Start

End

Start

End

WEDNESDAY

Start

End

Start

End

THURSDAY

Start

End

Start

End

FRIDAY

Start

End

Start

End

Continued from previous page...

SATURDAY

Start 09:00

End 02:30

Start

End

SUNDAY

Start 09:00

End 01:30

Start

End

State any seasonal variations.

For example (but not exclusively) where the activity will occur on additional days during the summer months.

--

Non standard timings. Where you intend to use the premises to be open to the members and guests at different times from those listed above, list below.

For example (but not exclusively), where you wish the activity to go on longer on a particular day e.g. Christmas Eve.

From the start time on New Year's Eve to the terminal hour for New Year's Day.

On the day that British Summer Time commences, one additional hour to disapply its effect.

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

--

☒ I have enclosed the premises licence

☐ I have enclosed the relevant part of the premises licence

Reasons why I have failed to enclose the premises licence or relevant part of premises licence.

--

Section 16 of 18

LICENSING OBJECTIVES

Describe the steps you intend to take to promote the four licensing objectives:

a) General – all four licensing objectives (b,c,d,e)

List here steps you will take to promote all four licensing objectives together.

Continued from previous page...

Please see conditions attached to existing premises licence.

b) The prevention of crime and disorder

Please see conditions attached to existing premises licence.

c) Public safety

Please see conditions attached to existing premises licence.

d) The prevention of public nuisance

Please see conditions attached to existing premises licence.

e) The protection of children from harm

Please see conditions attached to existing premises licence.

Section 17 of 18

NOTES ON REGULATED ENTERTAINMENT

Continued from previous page...

In terms of specific **regulated entertainments** please note that:

- Plays: no licence is required for performances between 08:00 and 23:00 on any day, provided that the audience does not exceed 500.
- Films: no licence is required for 'not-for-profit' film exhibition held in community premises between 08:00 and 23:00 on any day provided that the audience does not exceed 500 and the organiser (a) gets consent to the screening from a person who is responsible for the premises; and (b) ensures that each such screening abides by age classification ratings.
- Indoor sporting events: no licence is required for performances between 08:00 and 23:00 on any day, provided that the audience does not exceed 1000.
- Boxing or Wrestling Entertainment: no licence is required for a contest, exhibition or display of Greco-Roman wrestling, or freestyle wrestling between 08:00 and 23:00 on any day, provided that the audience does not exceed 1000. Combined fighting sports – defined as a contest, exhibition or display which combines boxing or wrestling with one or more martial arts – are licensable as a boxing or wrestling entertainment rather than an indoor sporting event.
- Live music: no licence permission is required for:
 - o a performance of unamplified live music between 08:00 and 23:00 on any day, on any premises.
 - o a performance of amplified live music between 08:00 and 23:00 on any day on premises authorised to sell alcohol for consumption on those premises, provided that the audience does not exceed 500.
 - o a performance of amplified live music between 08:00 and 23:00 on any day, in a workplace that is not licensed to sell alcohol on those premises, provided that the audience does not exceed 500.
 - o a performance of amplified live music between 08:00 and 23:00 on any day, in a church hall, village hall, community hall, or other similar community premises, that is not licensed by a premises licence to sell alcohol, provided that (a) the audience does not exceed 500, and (b) the organiser gets consent for the performance from a person who is responsible for the premises.
 - o a performance of amplified live music between 08:00 and 23:00 on any day, at the non-residential premises of (i) a local authority, or (ii) a school, or (iii) a hospital, provided that (a) the audience does not exceed 500, and (b) the organiser gets consent for the performance on the relevant premises from: (i) the local authority concerned, or (ii) the school or (iii) the health care provider for the hospital.
- Recorded Music: no licence permission is required for:
 - o any playing of recorded music between 08:00 and 23:00 on any day on premises authorised to sell alcohol for consumption on those premises, provided that the audience does not exceed 500.
 - o any playing of recorded music between 08:00 and 23:00 on any day, in a church hall, village hall, community hall, or other similar community premises, that is not licensed by a premises licence to sell alcohol, provided that (a) the audience does not exceed 500, and (b) the organiser gets consent for the performance from a person who is responsible for the premises.
 - o any playing of recorded music between 08:00 and 23:00 on any day, at the non-residential premises of (i) a local authority, or (ii) a school, or (iii) a hospital, provided that (a) the audience does not exceed 500, and (b) the organiser gets consent for the performance on the relevant premises from: (i) the local authority concerned, or (ii) the school proprietor or (iii) the health care provider for the hospital.

Continued from previous page...

- Dance: no licence is required for performances between 08.00 and 23.00 on any day, provided that the audience does not exceed 500. However, a performance which amounts to adult entertainment remains licensable.
- Cross activity exemptions: no licence is required between 08.00 and 23.00 on any day, with no limit on audience size for:
 - o any entertainment taking place on the premises of the local authority where the entertainment is provided by or on behalf of the local authority;
 - o any entertainment taking place on the hospital premises of the health care provider where the entertainment is provided by or on behalf of the health care provider;
 - o any entertainment taking place on the premises of the school where the entertainment is provided by or on behalf of the school proprietor; and
 - o any entertainment (excluding films and a boxing or wrestling entertainment) taking place at a travelling circus, provided that (a) it takes place within a moveable structure that accommodates the audience, and (b) that the travelling circus has not been located on the same site for more than 28 consecutive days.

Section 18 of 18

PAYMENT DETAILS

This fee must be paid to the authority. If you complete the application online, you must pay it by debit or credit card.

Premises Licence Fees are determined by the non domestic rateable value of the premises.

To find out a premises non domestic rateable value go to the Valuation Office Agency site at <https://www.tax.service.gov.uk/business-rates-find/search>

Band A - No RV to £4300 - £100.00

Band B - £4301 to £33000 - £190.00

Band C - £33001 to £87000 - £315.00

Band D - £87001 to £125000 - £450.00*

Band E - £125001 and over - £635.00*

*If the premises rateable value is in Bands D or E and the premises is primarily used for the consumption of alcohol on the premises then you are required to pay a higher fee

Band D - £87001 to £125000 - £900.00

Band E - £125001 and over - £1,905.00

There is an exemption from the payment of fees in relation to the provision of regulated entertainment at church halls, chapel halls or premises of a similar nature, village halls, parish or community halls, or other premises of a similar nature. The costs associated with these licences will be met by central Government. If, however, the licence also authorises the use of the premises for the supply of alcohol or the provision of late night refreshment, a fee will be required.

Schools and sixth form colleges are exempt from the fees associated with the authorisation of regulated entertainment where the entertainment is provided by and at the school or college and for the purposes of the school or college.

If you operate a large event you are subject to ADDITIONAL fees based upon the number in attendance at any one time

Capacity 5000-9999 - £1,000.00

Capacity 10000-14999 - £2,000.00

Capacity 15000-19999 - £4,000.00

Capacity 20000-29999 - £8,000.00

Capacity 30000-39999 - £16,000.00

Capacity 40000-49999 - £24,000.00

Capacity 50000-59999 - £32,000.00

Capacity 60000-69999 - £40,000.00

Capacity 70000-79999 - £48,000.00

Capacity 80000-89999 - £56,000.00

Capacity 90000 and over - £64,000.00

* Fee amount (£)

100.00

DECLARATION

1

Continued from previous page...

I/WE UNDERSTAND THAT 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.

☒ Ticking this box indicates you have read and understood the above declaration

This section should be completed by the applicant, unless you answered "Yes" to the question "Are you an agent acting on behalf of the applicant?"

* Full name
* Capacity
* Date / /
dd mm yyyy

Once you're finished you need to do the following:

1. Save this form to your computer by clicking file/save as...
2. Go back to <https://www.gov.uk/apply-for-a-licence/premises-licence/birmingham/change-1> to upload this file and continue with your application.

Don't forget to make sure you have all your supporting documentation to hand.

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.

OFFICE USE ONLY

Applicant reference number
Fee paid
Payment provider reference
ELMS Payment Reference
Payment status
Payment authorisation code
Payment authorisation date
Date and time submitted
Approval deadline
Error message
Is Digitally signed ☐

1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 Next >

BIRMINGHAM CITY COUNCIL

LICENSING ACT 2003PREMISES LICENCE

Premises Licence Number:

4166 / 2

Part 1 - Premises details:**Postal address of premises, or if none, ordnance survey map reference or description**

The Botanist
Cheltenham House
14-16 Temple Street

Post town:

Birmingham

Post Code:

B2 5BG

Telephone Number:

Not Specified

Where the licence is time limited the dates

N/A

Licensable activities authorised by the licence

E Live music
F Recorded music
L Late night refreshment
M3 Sale of alcohol by retail (both on & off the premises)

The times the licence authorises the carrying out of licensable activities

Sunday - Wednesday	09:00	-	00:00	E ,F ,M3
	23:00	-	00:00	L
Thursday - Saturday	09:00	-	01:00	E ,F ,M3
	23:00	-	01:00	L

From the end of permitted hours on New Year's Eve to the start of permitted hours on New Year's Day.

The opening hours of the premises

Sunday - Wednesday	09:00	-	00:30
Thursday - Saturday	09:00	-	01:30

From the end of permitted hours on New Year's Eve to the start of permitted hours on New Year's Day.

Where the licence authorises supplies of alcohol whether these are on and/or off supplies

On and Off Supplies

BIRMINGHAM CITY COUNCIL

Part 2

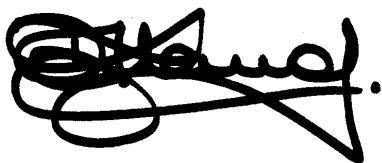
Name, (registered) address, telephone number and email (where relevant) of holder of premises licence New World Trading Company (UK) Limited 2 Malt Street Knutsford	
Post town: Cheshire	Post Code: WA16 6ES
Telephone Number:	
Email	

Registered number of holder for example company number or charity number (where applicable) 07685158

Name, address, telephone number of designated premises supervisor where the premises licence authorises for the supply of alcohol Gemma Meah	
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 PA/08/0019	Issuing Authority TAMWORTH BOROUGH COUNCIL

Dated 19/02/2016



David Kennedy
Principal 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 must ensure that staff on relevant premises do not carry out, arrange or participate in any irresponsible promotions in relation to the premises. In this paragraph, an irresponsible promotion means any one or more of the following activities, or substantially similar activities, carried on for the purpose of encouraging the sale or supply of alcohol for consumption on the premises— (a) games or other activities which require or encourage, or are designed to require or encourage, individuals to— (i) drink a quantity of alcohol within a time limit (other than to drink alcohol sold or supplied on the premises before the cessation of the period in which the responsible person is authorised to sell or supply alcohol), or (ii) drink as much alcohol as possible (whether within a time limit or otherwise); (b) provision of unlimited or unspecified quantities of alcohol free or for a fixed or discounted fee to the public or to a group defined by a particular characteristic in a manner which carries a significant risk of undermining a licensing objective; (c) provision of free or discounted alcohol or any other thing as a prize to encourage or reward the purchase and consumption of alcohol over a period of 24 hours or less in a manner which carries a significant risk of undermining a licensing objective; (d) selling or supplying alcohol in association with promotional posters or flyers on, or in the vicinity of, the premises which can reasonably be considered to condone, encourage or glamorise anti-social behaviour or to refer to the effects of drunkenness in any favourable manner; (e) dispensing alcohol directly by one person into the mouth of another (other than where that other person is unable to drink without assistance by reason of disability).

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

The premises licence holder or club premises certificate holder must ensure that an age verification policy is adopted in respect of the premises in relation to the sale or supply of alcohol. The designated premises supervisor in relation to the premises licence must ensure that the supply of alcohol at the premises is carried on in accordance with the age verification policy. The policy must require individuals who appear to the responsible person to be under 18 years of age (or such older age as may be specified in the policy) to produce on request, before being served alcohol, identification bearing their photograph, date of birth and either— (a) a holographic mark, or (b) an ultraviolet feature.

The responsible person must ensure that— (a) where any of the following alcoholic drinks is sold or supplied for consumption on the premises (other than alcoholic drinks sold or supplied having been made up in advance ready for sale or supply in a securely closed container) it is available to customers in the following measures— (i) beer or cider: ½ pint; (ii) gin, rum, vodka or whisky: 25 ml or 35 ml; and (iii) still wine in a glass: 125 ml; (b) these measures are displayed in a menu, price list or other printed material which is available to customers on the premises; and (c) where a customer does not in relation to a sale of alcohol specify the quantity of alcohol to be sold, the customer is made aware that these measures are available."

(1) A relevant person shall ensure that no alcohol is sold or supplied for consumption on or off the premises for a price which is less than the permitted price. (2) In this condition:— (a) "permitted price" is the price found by applying the formula $P = D + (D \times V)$, where— (i) P is the permitted price, (ii) D is the amount of duty chargeable in relation to the alcohol as if the duty were charged on the date of the sale or supply of the alcohol, and (iii) V is the rate of value added tax chargeable in relation to the alcohol as if the value added tax were charged on the date of the sale or supply of the alcohol; (b) "duty" is to be construed in accordance with the Alcoholic Liquor Duties Act 1979; (c) "relevant person" means, in relation to premises in respect of which there is in force a premises licence— (i) the holder of the premises licence, (ii) the designated premises supervisor (if any) in respect of such a licence, or (iii) the personal licence holder who makes or authorises a supply of alcohol under such a licence; (d) "relevant person" means, in relation to premises in respect of which there is in force a club premises certificate, any member or officer of the club present on the premises in a capacity which enables the member or officer to prevent the supply in question; and (e) "value added tax" means value added tax charged in accordance with the Value Added Tax Act 1994. (3) Where

BIRMINGHAM CITY COUNCIL

the permitted price would not be a whole number of pennies, the permitted price shall be taken to be the price rounded up to the nearest penny. (4) Where the permitted price on a day ("the first day") would be different from the permitted price on the next day ("the second day") as a result of a change to the rate of duty or value added tax, the permitted price which would apply on the first day applies to sales or supplies of alcohol which take place before the expiry of the period of 14 days beginning on the second day.

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

BIRMINGHAM CITY COUNCIL

Annex 2 – Conditions consistent with operating schedule

2a) General conditions consistent with the operating schedule

Staff shall be trained in the requirements of the Licensing Act 2003 with regard to the Licensing Objectives.

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

A full CCTV system shall be maintained and operated at the premises with cameras positioned both internally and externally. The system shall record images of sufficient quality to allow facial recognition of customers as they enter.

Recorded CCTV images will be maintained and stored for a period of twenty-eight days and shall be produced to the Police or Licensing Authority upon request.

CCTV will be in operation at any time a person is in the premises. Where CCTV is recorded onto a hard drive system, any DVDs subsequently produced will be in a format so it can be played back on a standard PC or DVD player.

Any person left in charge of the premises must be trained in the use of any such CCTV equipment, and be able to produce CCTV images to an officer from a responsible authority upon request.

A risk assessment shall be carried out by the premises licence with regards the provision of SIA registered door staff. They shall be employed at such times and in such numbers as that risk assessment deems appropriate.

When employed, a register of those door staff employed shall be maintained at the premises and shall include:

- (i) the number of door staff on duty;
- (ii) the identity of each member of door staff;
- (iii) the times the door staff are on duty.

Open containers of alcohol shall not be removed from the premises, save for consumption in any delineated external area under the control of the premises licence holder.

A refusals book will be maintained at the premises, and made available to an officer of a responsible authority upon request.

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

The premises shall maintain an Incident Log and public liability insurance.

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

Noise from amplified music or voices shall not be such as to cause a noise nuisance to occupants of nearby premises.

The exterior of the building shall be cleared of litter at regular intervals.

Notices will be positioned at the exits to the building requesting customers to leave in a quiet manner.

The concertina windows shall only be open between 9am and midnight daily.

The delivery of goods to or from the premises shall not take place outside the hours of 9am to 9pm daily.

No noise shall emanate from the premises nor vibration be transmitted through the structure of the premises which gives rise to a nuisance.

BIRMINGHAM CITY COUNCIL

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

A "Challenge 21" Policy shall be implemented and appropriate identification sought from any person who appears to be under the age of 18. The only acceptable photographic driving licences, passports, HM forces cards, or a form of identification with the "PASS" hologram.

Staff will be trained in the laws relating to under age sales, and that training shall be documented and repeated at 6 monthly intervals.

BIRMINGHAM CITY COUNCIL

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

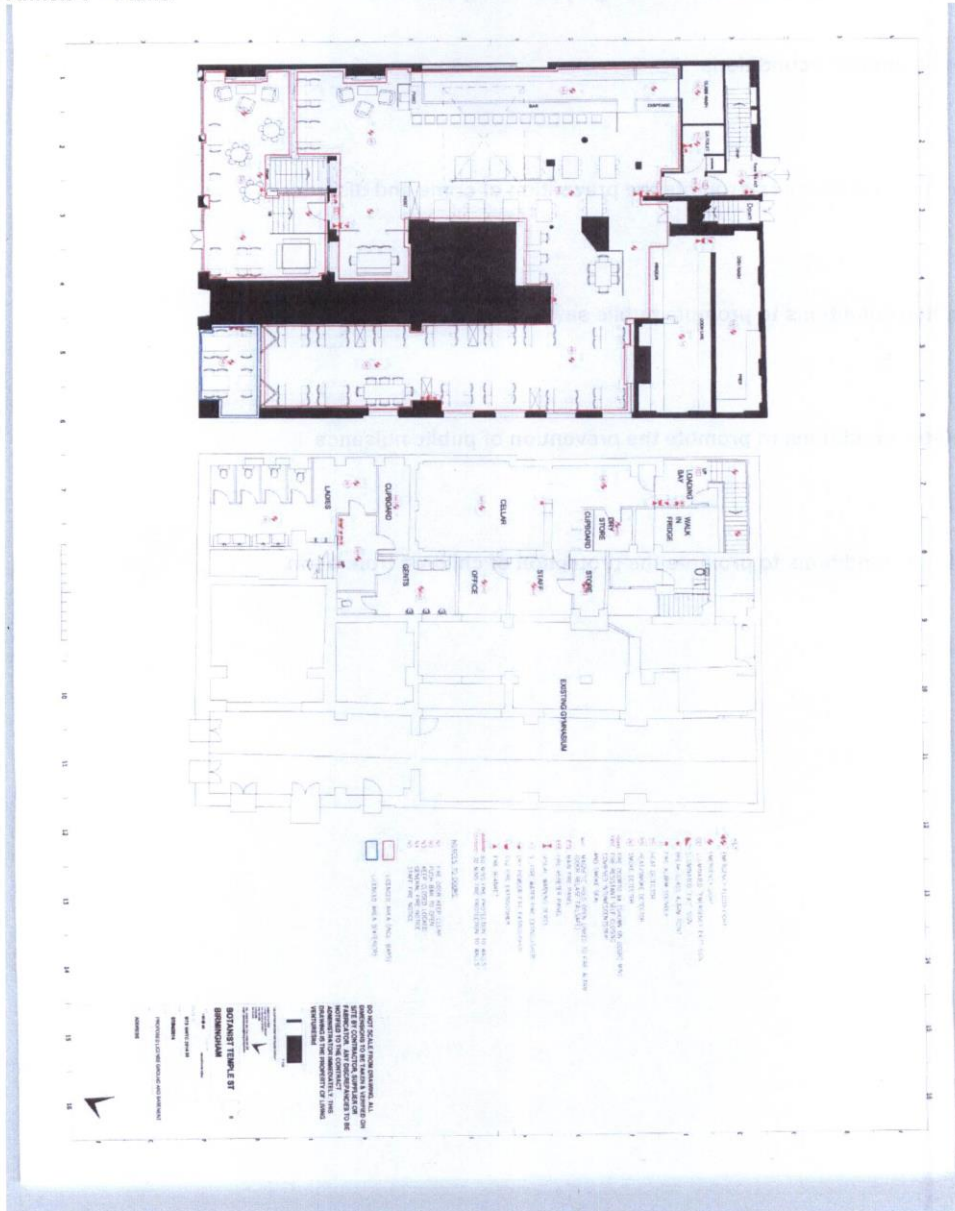
N/A

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

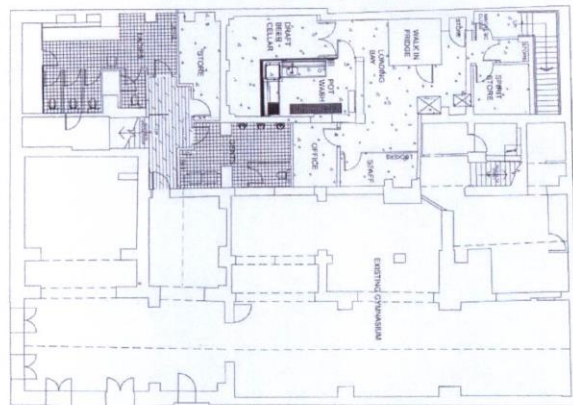
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BIRMINGHAM CITY COUNCIL

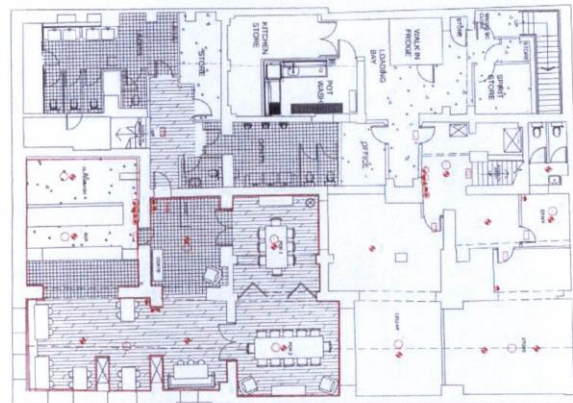
Annex 4 – Plans



BIRMINGHAM CITY COUNCIL



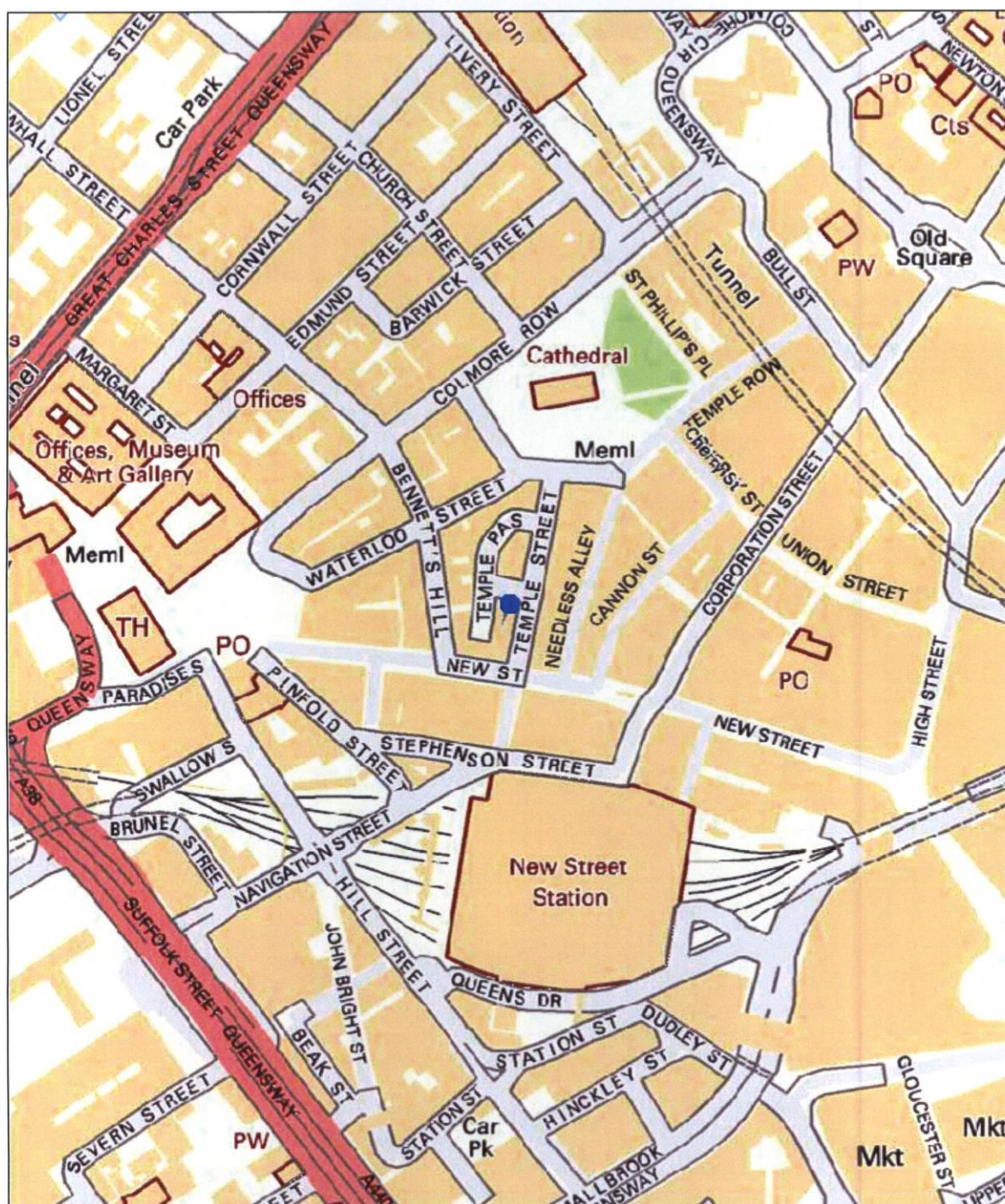
EXISTING BASEMENT LAYOUT



PROPOSED BASEMENT LAYOUT

[illegible]

Birmingham City Council, Licensing Section, P.O. Box 17013, Birmingham, B6 9ES



Birmingham City Council

Map Created By:

Date of Map Creation: 21/11/2018

Notes



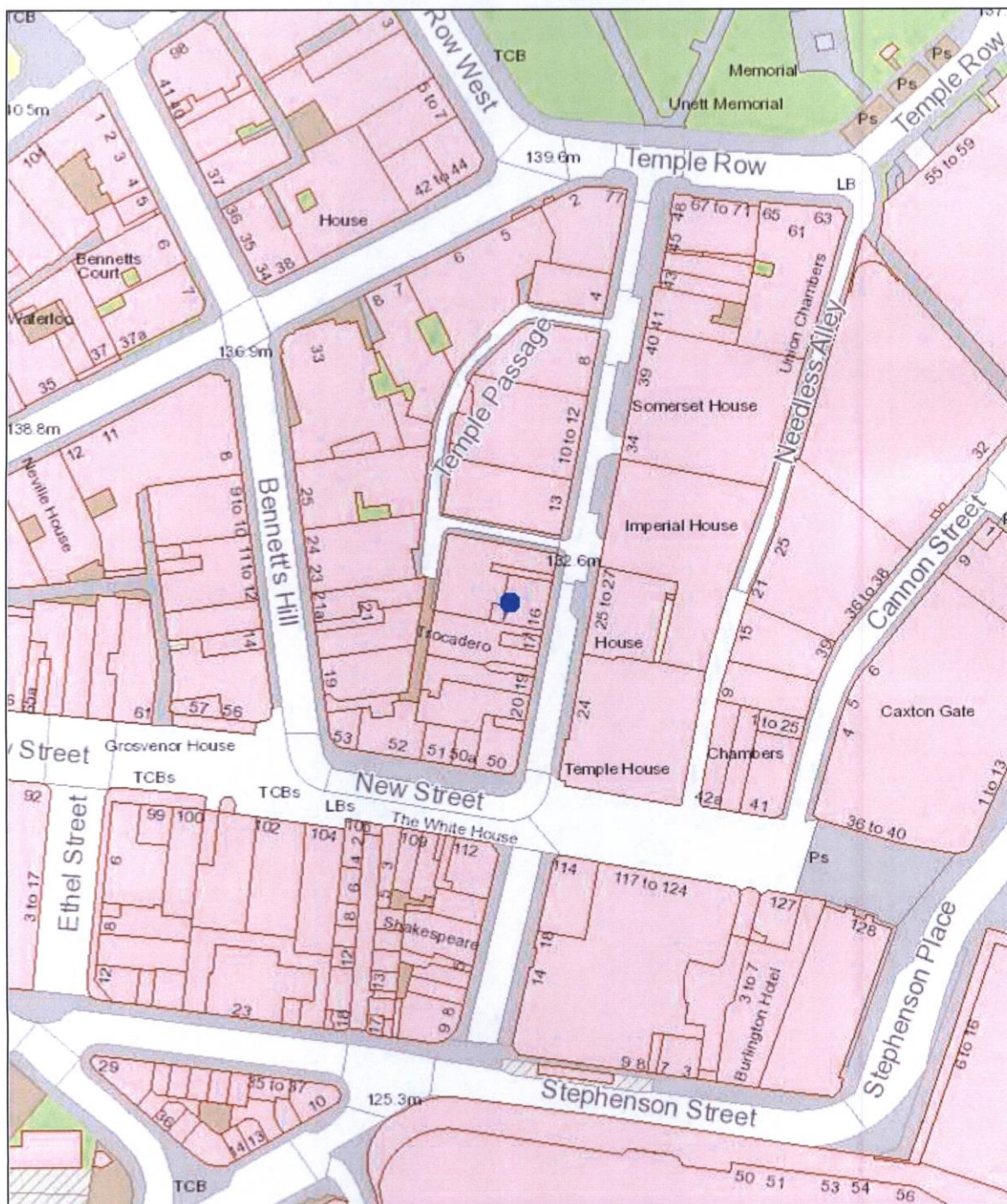
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Scale:
1:1,250

From: Paul R Samms
Sent: 30 November 2018 10:07
To: Licensing
Cc:
Subject: Representation - Additional Information - The Botanist, Cheltenham House, 14-16 Temple Street, Birmingham, B2 5BG.

All,

As promised please find update.

My representation(s) concern the likely effect of the grant of the licence on the promotion of the licensing objectives relating to the prevention of public nuisance. I am concerned that the grant of the licence would potentially result in noise nuisance to neighbouring properties due to noise breakout from the building, patrons accessing and egressing the premises and the use of the external areas in conjunction with the licensed activity (particularly bottle emptying activities and waste collection).

I have met with (and written to) the managers of the Botanist expressing regarding noise complaints.

The history of noise complaint over the last 2 years is as follows:

- i. July 2018 – Intrusive noise from emptying of bins.
- ii. November 2018 – Diary sheet returned covering intrusive noise from bin collections and loud music during Aug/Sept period (difficult for complainant to return diary sheet earlier as away on business during October).

The application is for an extra hour of live, recorded music (and operating hours resulting) in:

- Live and recorded music being extended till 1am in the morning for week days - with operating hours being extended to 1:30am.
- Live and recorded music being extended from until 2 am for weekends (includes Thursday) - with operating hours being extended until 2:30am.

I am concerned about the extension of hours as:

1. There is a history of complaint.
2. There are residential units directly opposite the premises in very close proximity.
3. Currently all licenced premises in Temple Street do not have operating hours past 12:30 in the week or 01:30am at the weekends. The presumption being that regulated entertainment after these times is likely to cause intrusive noise for neighbouring residents during the most noise sensitive time of night.

Operations of hours later than the current licenced hours gives rise to a significant risk of disturbance from:

- 1) Live and recorded music.
- 2) patrons accessing and egressing the premises.
- 3) Emptying of waste bottles.

On the basis of the above I advise the application is refused.

I do not believe that these concerns can be dealt with solely by the use of appropriate conditions.

Regards,

Paul Samms

Environmental Protection Officer

"Locally accountable and responsive fair regulation for all - achieving a safe, healthy, clean, green and fair trading city for residents, business and visitors"

From: Paul R Samms
Sent: 30 November 2018 10:34
To: Licensing
Cc:
Subject: Hearing Wed 5th Dec - Licensing Act 2003 - (Variation) The Botanist, Cheltenham House, 14-16 Temple Street, Birmingham, B2 5BG

All, I will be referring to the following statement from the complainant who has been suffering as a result of noise issues from the Botanist

Statement

"I oppose the extension of hours at the Botanist. I currently find that the music coming from the bar, due to live bands and recorded music, is too loud and can go on till past midnight. It can start quite early in the evening, disrupting simple activities like watching the tv and go on to make getting sleep difficult. The indirect noise that also results from the running of a bar, i.e. noisy customers and emptying of bottles into bins, are all equally if not more disturbing as they can occur at the early hours of the morning. This is currently causing me to have disturbed sleep through the night, causing fatigue, stress and if there has been a run of loud nights, generally run down. If the Botanist is allowed to extend their hours, I fear that the impact on my sleep and health will be very negative as I live in such close proximity to the bar. Furthermore, the Botanist is one of many bars on the street and they all currently close at the same time. I fear that the extension of hours for one will also cause a further extension for the other bars, turning my residential street into a loud and disruptive place to live."

Regards,

Paul Samms
Environmental Protection Officer

Environmental Protection Unit
Environmental Health
Manor House
40 Moat Lane
Digbeth
Birmingham
B5 5BD

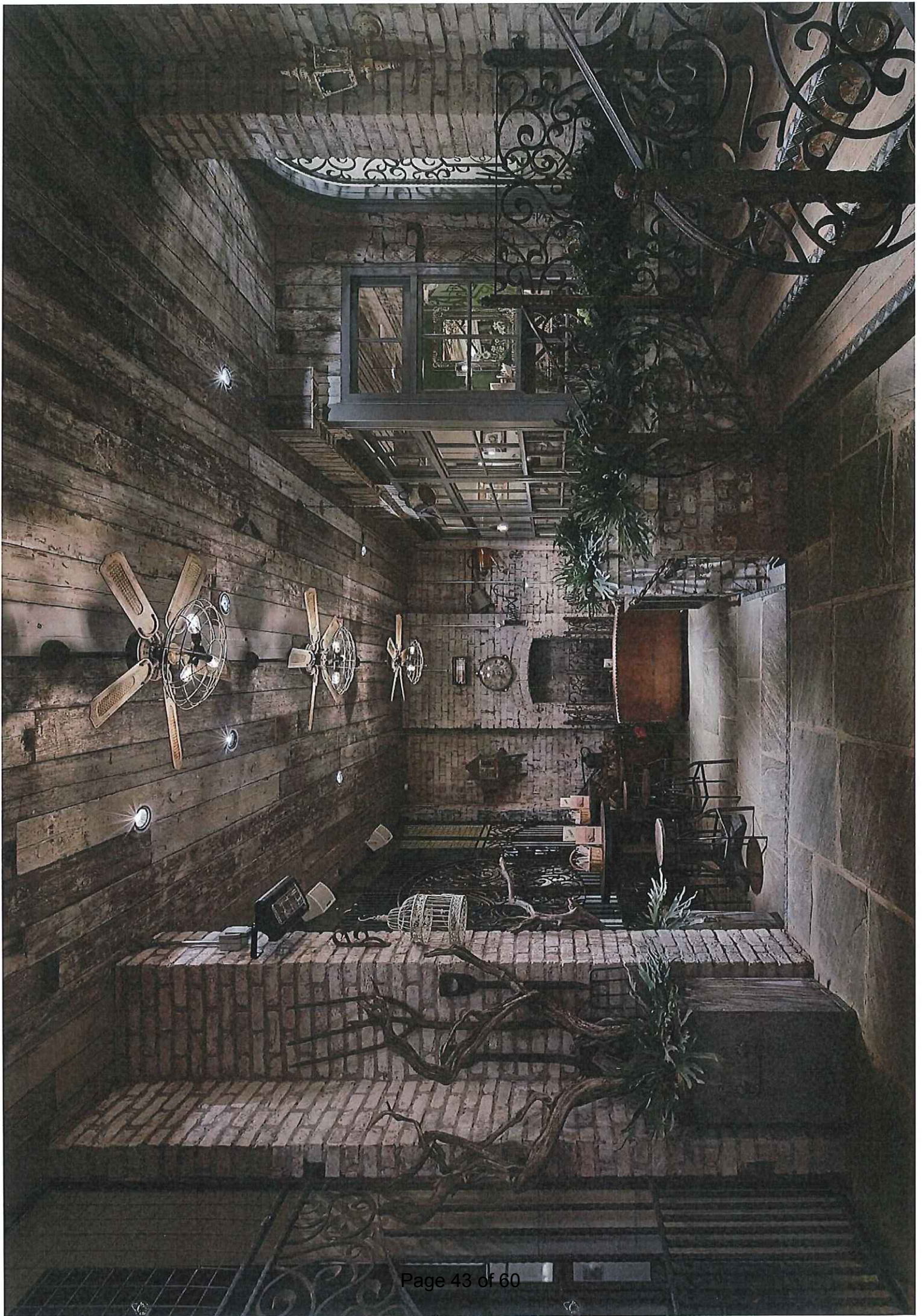
Environmental Health, Regulation & Enforcement, Birmingham City Council, PO BOX 15908, Birmingham, B2 2UD

Website: <http://www.birmingham.gov.uk/eh>
Facebook: <http://www.facebook.com/ehbham>
Twitter: <http://www.twitter.com/ehbham>
Flickr: <http://www.flickr.com/photos/envhbham>

"Locally accountable and responsive fair regulation for all - achieving a safe, healthy, clean, green and fair trading city for residents, business and visitors"











SMALL PLATES

4.25 each, or enjoy 3 small plates for 11.75.

Cumberland chipolatas DF
with honey and sesame

Edamame beans DF / VG
with chilli and garlic

Polenta and halloumi chips V

Garlic flatbread V
with whipped goat's cheese
and romesco sauce

Salt and pepper onion petals V
with crème fraîche

Pork crackling DF
with apple ketchup

Spicy sausage rolls

STARTERS

Scotch egg
with piccalilli

5.95

Chicken wings
with hot sauce or salt and pepper

6.95

King prawn and chorizo cazuela
served with baked sourdough

6.95

Baked Camembert
in garlic and rosemary sourdough
perfect for sharing between two

12.95

Calamari
with sweet chilli and crème fraîche

6.95

Houmous DF / VG
with grilled flatbread and crudités

4.95

Sweet potato, carrot
and coriander soup DF / VG
served with a mini Hovis loaf

4.25

Creamy garlic mushrooms V
served with a mini Hovis loaf

5.50

MAINS

Fish and chips with mushy peas and tartare sauce	13.50	Pork schnitzel with spicy macaroni cheese and sun-dried tomato salad	12.50
Salt and pepper sea bass fillets DF with sweet chilli and ginger, served with coconut rice	14.95	Paella DF with chicken thighs, king prawn and chorizo	12.50
Malaysian vegetable curry DF / VG with coconut rice <i>Add chicken +2.00 Add prawns +3.00</i>	9.95	Chinese BBQ pork with properly seasoned chips	10.95
		Harissa aubergine steak DF / VG with saffron and almond couscous, baby gem and tahini	9.50

SIDES

Buttermilk coleslaw V	2.95	Tenderstem® broccoli DF / VG with almonds	3.50
Salt and pepper chips V	4.25	Corn on the cob V	3.50
Properly seasoned chips DF / VG	3.25	Garlic and Parmesan mushrooms	3.50
Sweet potato fries VG	4.25	Rocket and Parmesan salad	3.50
Salt and pepper onion petals V	3.50		

CLUB SANDWICHES

*A lunchtime speciality, served on bloomer bread with properly seasoned chips. 11.50 each.
Available Monday - Saturday until 6pm.*

Classic club with bacon, lettuce and tomato	Cuban club with roast pork, ham, Swiss cheese, mustard, pickles, red onion and tomato
Coronation chicken with tomato, cucumber, red onion and lettuce	

FROM THE GRILL

10oz rump steak with properly seasoned chips and buttermilk coleslaw	15.95	10oz sirloin steak with properly seasoned chips and buttermilk coleslaw	17.95
Rump steak sandwich with Swiss cheese, tomato relish and crispy onions	11.95	<i>Add peppercorn sauce or blue cheese sauce for +1.25</i>	

BURGERS

All served with properly seasoned chips.

Beef burger DF with tomato, red onion and rocket	10.95	Crispy halloumi burger V with tomato, red onion and rocket	10.95
Crispy chicken burger with katsu curry sauce, cucumber and red onion	10.95	Falafel burger DF / VG with tomato, rocket and tahini	10.95

Add a topping +1.25 each.
*smoked bacon, Lancashire cheese,
blue Stilton, fried onions, buttermilk
coleslaw or spicy sausage*

DELI BOARD

11.95

*Select four items from any of the categories below; all served with jalapeño
and cheddar bloomer bread. Add an extra item for 3.25 each.*

CHILLED FAVOURITES

Olives DF / VG
Buttermilk coleslaw V
Houmous DF / VG
Green salad DF / VG
Roast sweet potato quinoa DF / VG
Coronation chicken
Saffron and almond couscous DF / VG

MEAT & FISH

Spicy sausage rolls
Smoked mackerel pâté
Prosciutto DF
Scotch egg
Beef brisket with gherkin DF

HOT POTS

Crispy chicken with hot sauce
Cheese and onion spring roll V
Salt and pepper whitebait
Macaroni cheese with spicy sausage
Chorizo with tomato and red wine

CHEESE

Shorrocks Lancashire V
Long Clawson Stilton V
Camembert with sun-dried tomatoes
Red Leicester V

OUR FAMOUS HANGING KEBABS™

Lamb kofta DF with harissa jam and properly seasoned chips	12.95	Salt and pepper pork belly DF with sweet chilli, apple and coriander sauce and properly seasoned chips	12.95
Chicken with sweet chilli, properly seasoned chips and garlic butter	11.95	Halloumi and falafel V with sweet chilli, saffron and almond couscous and garlic butter	10.95
Tandoori cod and king prawn with mango chutney, mint yoghurt and coconut rice	12.95		

PIES

All served with gravy and mash or properly seasoned chips.

Chicken, ham and leek	11.75	Butternut squash, goat's cheese and mushroom V	11.75
Steak and ale	11.95		

ROTISSERIE

Duck leg DF served with properly seasoned chips and gravy	12.95	Half chicken with barbecue-maple glaze, served with properly seasoned chips	11.50
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SALADS

Crispy beef DF with sesame and soya beans	11.50	Crispy chicken Caesar with bacon	10.95
Goat's cheese and romesco V with candied walnuts and balsamic <i>Add chicken +2.00</i>	10.95	Sweet potato and quinoa DF / VG with Tenderstem® broccoli, spiced aubergine and tahini	9.95

DESSERTS

Baked chocolate chip cookie dough with marshmallows, vanilla ice cream and butterscotch sauce	5.95	Hanging Kebab™ marshmallows, strawberries, brownie, doughnut and a cake pop, with candy floss and vanilla ice cream	6.75
Sticky toffee pudding V with caramelised custard and vanilla ice cream	5.95		
Bitter chocolate and mint mousse DF / VG with candy floss and honeycomb	5.95		
Ice cream selection V	4.50		

MADE FOR SHARING

Marvellous centrepieces to finish your meal

The Botanist allotment 13.95
churros, millionaires shortbread,
meringues, jellies and amaretti crumb
with a smoking almond surprise...

Pudding planter 11.95
sharing pots of custard cream with
raspberry, baked peanut and Biscoff
s'mores and vanilla ice cream sundae

DF Dairy Free VG Vegan V Vegetarian

If you have any special dietary requirements, please request our allergen information. A non gluten menu is also available upon request.

A discretionary 10% service charge will be charged to parties of 6 or more. All gratuities & service charges go to the team that prepare and serve your meal and drinks, excluding all management.
All prices include VAT at the current rate. Cheese may not be made with vegetable rennet. Allergen information is available upon request. All weights stated are prior to cooking.



SUNDAY THE DAY OF ROAST

At the heart of flavour, friends and family lies a long-standing tradition, the Sunday roast. For the occasion, we've handpicked a seasonal selection of the finest British fare, sourced from farms and fields across the country. Enjoy rotisserie-roasted dishes, fresh produce and flavoursome delights; all prepared and perfected in-house by our experts.

ROASTS

All roasts served with honey-mustard glazed carrots, red cabbage, Tenderstem® broccoli, roast potatoes, a Yorkshire pudding and rotisserie gravy.

Rotisserie-roasted Ridings 13.95
Reserve premium English beef
served with homemade horseradish cream

Outdoor-reared slow 11.95
roast pork belly
served with fresh Bramley apple sauce

Red Tractor assured 12.95
rotisserie chicken
slow roasted and seasoned
with salt and pepper

Mushroom, red lentil, 10.95
stilton and chestnut roast v
served with homemade vegetable gravy

Rotisserie-roasted lamb 12.95
served with homegrown mint sauce

ADD YOUR SIDES

2.50 each

Shorrocks Lancashire
cauliflower cheese
topped with crispy onions

Baked courgette, sage and
apricot stuffing balls

Creamed garlic kale and leeks

Buttered carrot and
parsnip mash

DESSERT TO SHARE

9.50

Toffee apple, pear and almond crumble
with custard or ice cream

FOR THE KIDS

6.95

A choice of...

Roast beef

Rotisserie chicken

Vegetable chestnut roast v

BLOODY MARYS

6.95

A Sunday institution, and for good reason. Whether it be the cure or the cocktail of choice; we've crafted the Bloody Mary with a botanical twist.

Smoked garlic and rosemary

Red chilli and oregano

Classic Mary

DF Dairy Free v Vegetarian

If you have any special dietary requirements,
please request our allergen information.

A discretionary 10% service charge will be charged to parties of 6 or more. All gratuities & service charges go to the team that prepare and serve your meal and drinks, excluding all management. All prices include VAT at the current rate. Cheese may not be made with vegetable rennet. Allergen information is available upon request. All weights stated are prior to cooking.

WITNESS STATEMENT

IN SUPPORT OF AN APPLICATION FOR A FULL VARIATION TO THE PREMISES LICENCE FOR THE BOTANIST, 14-16 TEMPLE STREET, BIRMINGHAM

Name: Matt Bamber

Occupation: Operations Director

Dated: 04 November 2018

1. My name is Matt Bamber and I am the Operations Director of New World Trading Company (UK) Limited (NWTC), the premises licence holder in respect of The Botanist, 14-16 Temple Street Birmingham. I make this statement in support of the application made for a variation to the premises licence for this site, simply to provide the Committee with some background information about The Botanist and our style of operation.
2. NWTC trades a number of restaurant and bar concepts, the most tried and tested being The Botanist. This brand has been trading since 2012, when we opened our first site in Alderley Edge, Cheshire. We now have 25 sites trading across the country, with new openings planned soon.
3. The Botanist has been trading on Temple Street in Birmingham since April 2015. In that time, I understand that it has become a valued and positive part of the city centre's night-time economy, and that it trades without causing negative impact in respect of the licensing objectives. Indeed, I was very pleased to see that this is supported by the fact that, whilst the police have objected to the application, they specifically state that it currently does not cause them any concern.

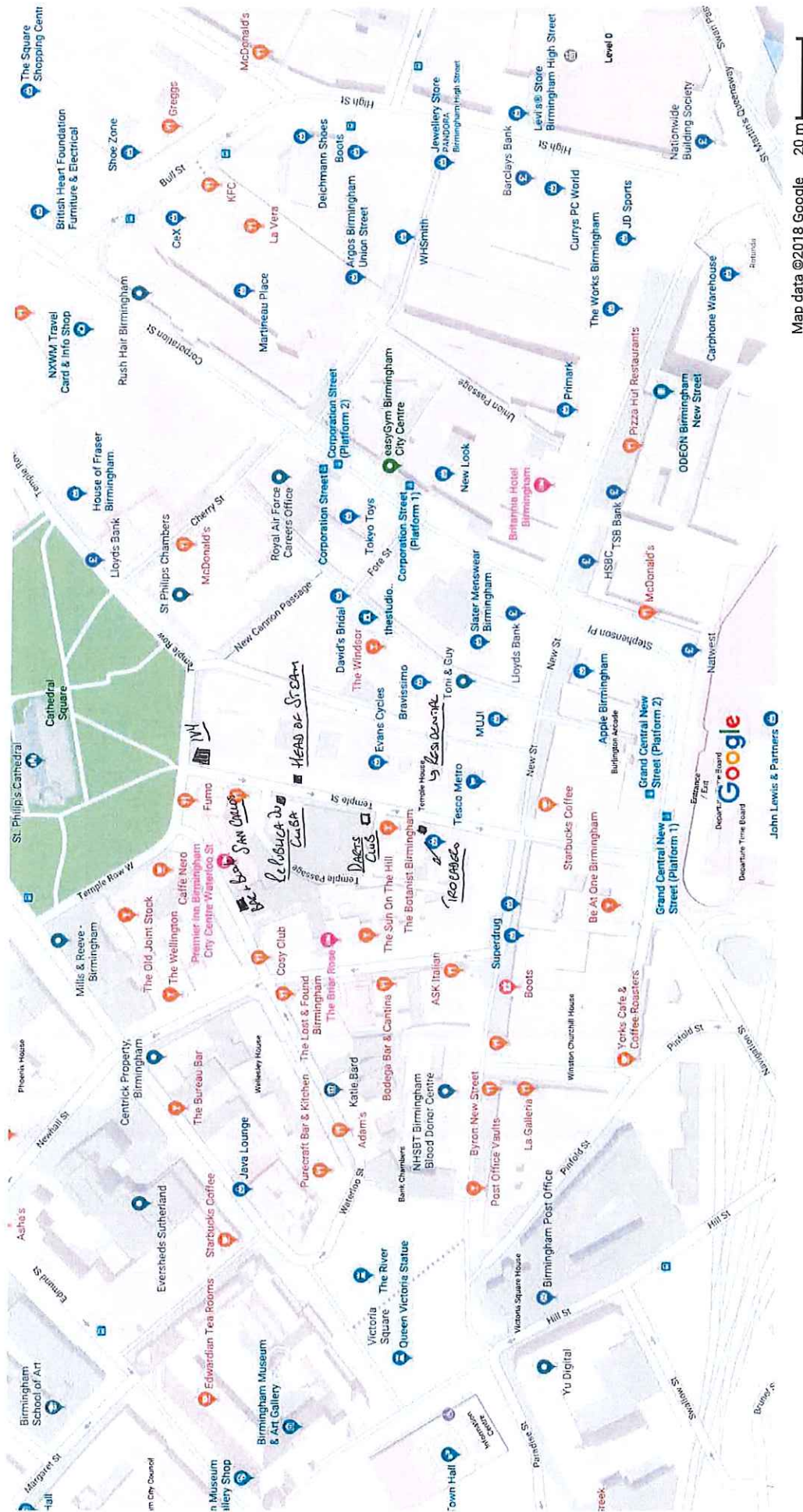
4. I believe that this is due to our style of operation and the way in which we manage the premises, and I would like to take this opportunity to provide a little further detail around that.
5. The Botanist concept is based around creating a 'secret garden' for food and drinks. We invest significantly in our fit out (the Birmingham site was the subject of a £1.2m investment), creating really attractive and unusual spaces. I attach at Appendix 1 some photographs of the premises on Temple Street to demonstrate how this looks in practice at this site.
6. We strive to create beautiful, comfortable and welcoming surroundings where our customers wish to dwell. As such, our premises are predominately seated. There are various different seating areas within the premises, and minimal space for vertical drinking. This also reflects the significant food element of the business.
7. Indeed, since its inception, the aim of The Botanist has always been to provide an all-day haven. We offer extensive all day menus, with a focus on lunch and evening meals, as well as an exciting selection of high quality cocktails. Our chefs freshly prepare and deliver our food menus, whilst our talented mixologists combine their skill and technique with the very best ingredients to create the inventive cocktails. I attach at Appendix 2 an example copy of our menus.
8. We are not just another restaurant and bar. Our customers visit The Botanist because they want a better quality offering, at all times of the day. We are not somewhere that customers stop off for a quick, cheap drink en-route to the next venue; we are a destination. The dwell time in our premises is much higher than is common in other restaurants and bars. We encourage our customers to take a table and spend the evening with us, socialising and enjoying the food and drinks on offer.
9. Another important part of the offering at The Botanist is the music, with all premises providing live music. There is a piano in every site, and customers really enjoy the high quality acoustic music that is provided. We truly believe that this is a USP. The music is not too loud or overbearing, as we still want customers to be able to converse over their meals, but it really enhances the atmosphere of all of our premises.

10. All of these key features of our premises are delivered and upheld by our fantastic staff. We are extremely keen to ensure that at The Botanist our focus is on quality of service and providing an exceptional customer experience. This sets our establishments apart from other offerings in the sector and is across our estate. We want to be, and believe we are, at the very forefront of the restaurant and bar scene in the cities and towns in which we operate, providing a unique combination of food, drink and atmosphere which is unrivalled by other operators.
11. This commences with the training of our staff. All staff undertake an intensive and robust 2 week training/induction programme with us prior to commencing work at any of our sites. They must undertake mandatory CPL training courses in health and safety, food safety, fire awareness, age verification, drug awareness and equality and diversity amongst other things. They will also all undertake the Award for Licensed Premises Staff (ALPS) and the Aware for Underage Sales Prevention (AUSP). In this way, each and every one of our new employees understands our ethos, the way in which we operate, what we want to achieve, and how they fit into this structure.
12. We have a reputation as one of the best employers in the industry because of our training, support, staff retention and family values. We were delighted to have had this reflected in our 7th place in the 'Sunday Times 100 Best Companies to Work For' in 2018.
13. It is these staff who allow us to create the atmosphere and experience that we strive for at all of our sites. We do believe that we are truly successful in delivering what we set out to achieve, as demonstrated by the awards and accolades received across the estate. In 2015 we were awarded Best Food Venue at the Licensee International Awards, demonstrating the strength of our food offering, and in 2017 we set a new record by winning six Publican Awards for our brands. More recently, we won 4 Publican Awards in 2018, including Best Operations Team, and are shortlisted for 6 in 2019. This site specifically won the People's Choice Restaurant of the Year Award at the Birmingham Food and Drink Hospitality Awards within 18 months of opening.
14. This superior nature of offering means that we attract a certain type of customer. Our patrons are not the sort of people who visit licensed premises with the intention of consuming as much alcohol as possible. They want somewhere relaxed and inviting

that they can visit for all manner of occasions. Many of our customers are repeat visitors.

15. As a result of the various factors described above, we attract a more mature customer, with the vast majority being over the age of 25. As well as being more mature, our customers are more discerning, choosing to visit our premises and pay the premium prices attached to our premium products.

16. It is as a result of this style of operation and customer base that The Botanist has such a successful trading history, both across the country and in Birmingham specifically, and I truly believe that this will be no different if the Committee are minded to grant this application.





1. Home (<https://www.gov.uk/>)
2. Alcohol licensing: using case law (<https://www.gov.uk/government/publications/alcohol-licensing-using-case-law>)

1. Public Health

England (<https://www.gov.uk/government/organisations/public-health-england>)

Guidance

Alcohol licensing: using case law

Published 13 March 2017

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1. Case law and the Licensing Act

The Licensing Act 2003 is the Act of Parliament that establishes the statutory framework for regulating licensable activities in England and Wales. When cases are brought before the courts, the decisions can help us to interpret the Act.

When a case is decided by the courts the decision can provide an example of the interpretation of the Act. This can then be used to guide other committees and courts when they are making decisions on cases with similar facts.

It can be helpful for public health teams contributing to a new case to look at previous decisions and to understand the judgments that have been passed down. This can help you to make a more convincing case.

As a rule, the higher the court, the more weight a judgment carries. For example, a decision in a magistrates' court may be persuasive but a decision in the Court of Appeal will be binding. This means that another committee or court can consider the judgment from the magistrates' court and decide differently, but they must follow the decision of the Court of Appeal.

When you are relying on the decision in a particular case it is important to refer to the judgment itself rather than commentary, because commentators can interpret the judgment in different ways – it is always best to quote what the judge actually said.

Case names will be set out as 'the name of the party that brought the claim' versus 'the name of the party that the claim was against', followed by the year, then the court it was brought to and the case number. This is known as a 'neutral citation', and will help you find the judgment.

For example, R (on application of Hope and Glory Public House Ltd) v City of Westminster Magistrates' Court and Others (2011) EWCA Civ 31 indicates that in 2011 Hope and Glory Public House Ltd brought a claim against Westminster Magistrates' Court which was heard in the Civil Division of the Court of Appeal of England and Wales, and was the 31st case of the year.

There have been many cases decided by the courts since the Act came into force, but those described below are most frequently relied on.

2. The British Beer and Pub Association v Canterbury City Council

The British Beer and Pub Association, The Association of Licensed Multiple Retailers, The British Institute of Innkeeping v Canterbury City Council [2005] EWHC 1318 (Admin)

This is an important case looking at what Licensing Authorities can and should include in their Statements of Licensing Policy. This case would be most relevant when you are involved in updating your local policy.

Mr Justice Richards said:

A policy ... not only guides the decision-maker but also serves to inform an applicant about what he should consider in preparing his application... An application that takes account of the matters set out in the policy, for example by including what is referred to in the policy or by giving a reasoned justification for not doing so, is less likely to give rise to relevant representations and more likely to be granted without additional conditions.

And:

The council is entitled to indicate in the policy its own expectations with regard to the promotion of the licensing objectives; and I do not think that an applicant can legitimately complain if a failure to take account of those expectations gives rise to representations...An applicant who does not tailor his application to the policy therefore faces an uphill struggle.

Responsible Authorities should be encouraged by this case to take an active role in the preparation and drafting of Statements of Licensing Policy, because these policies are an important tool in shaping the activities that take place in each vicinity. A well drafted policy gives a strong and clear basis for representations on individual matters and helps licensing committees make robust decisions.

The full judgment is available on the Licensing Resource (<http://www.licensingresource.co.uk/sites/all/files/la2003/bbp.pdf>).

3. Hope and Glory Public House v City of Westminster Magistrates' Court and Others

R (on application of Hope and Glory Public House Ltd) v City of Westminster Magistrates' Court and Others (2011) EWCA Civ 312

This case, referred to as 'Hope and Glory', is essential reading for Responsible Authorities and licensing committees. It is relevant to most hearings.

The decision is important because it:

- illustrates that licensed premises, and the activities that take place in those premises, exist in a dynamic environment and should not be looked at entirely in isolation
- confirms that this can include the impact that licensable activities have on a range of factors such as crime, the quality of life for residents and visitors to the area, and demand for licensed premises
- sets out the approach that should be taken when making licensing decisions

Lord Justice Toulson said:

Licensing decisions often involve weighing a variety of competing considerations: the demand for licensed establishments, the economic benefit to the proprietor and to the locality by drawing in visitors and stimulating the demand, the effect on law and order, the impact on the lives of those who live and work in the vicinity, and so on. Sometimes a licensing decision may involve narrower questions, such as whether noise, noxious smells or litter coming from premises amount to a public nuisance.

Although such questions are in a sense questions of fact, they are not questions of the 'heads or tails' variety. They involve an evaluation of what is to be regarded as reasonably acceptable in the particular location. In any case, deciding what (if any) conditions should be attached to a licence as necessary and proportionate to the promotion of the statutory licensing objectives is essentially a matter of judgment rather than a matter of pure fact.

Responsible Authorities should be encouraged by this decision to make representations so that their information can be taken into account, and appropriate measures put in place for the licensing objectives to be promoted.

The full judgment is available from the British and Irish Legal Information Institute (<http://www.bailii.org/ew/cases/EWCA/Civ/2011/31.html>).

4. Daniel Thwaites plc v Wirral Magistrates' Court and Others

R (on application of Daniel Thwaites plc) v Wirral Magistrates' Court and Others (2008) EWHC 838 (Admin)

This case, referred to as 'the Thwaites case', is important because it emphasises the important role that Responsible Authorities have in providing information to decision makers to contextualise the issue before them.

This case is sometimes misconstrued as requiring decisions to be based on 'real evidence', and that conditions cannot be imposed until problems have actually occurred. This is wrong. The purpose of the Act is to prevent problems from happening. Decisions can and should be based on well-informed common sense. The case recognises that Responsible Authorities are experts in their fields, and that weight should be attached to their representations. It is most relevant when opposing grant applications.

The Honourable Mrs Justice Black said:

[D]rawing on local knowledge, at least the local knowledge of local licensing authorities, is an important feature of the Act's approach. There can be little doubt that local magistrates are also entitled to take into account their own knowledge but, in my judgment, they must measure their own views against the evidence presented to them. In some cases, the evidence presented will require them to adjust their own impression. This is particularly likely to be so where it is given by a Responsible Authority such as the police.

The approved judgment is available from Guildford Council (https://www.guildford.gov.uk/media/10669/Item-27%E2%80%9420Thwaites-Casepdf/pdf/pdf210_1.pdf).

5. Murco Petroleum Ltd v Bristol City Council

R (on application of Murco Petroleum Ltd) v Bristol City Council [2010] EWHC 1992 (Admin)

This case is important because it confirms that licensing committees and courts can require applicants to provide any information that they believe will help them make a decision about the promotion of the licensing objectives. It is relevant to most hearings.

Responsible Authorities should be encouraged by this case to ask applicants to provide further information they believe will help them understand the application more fully. If that information is not provided by the applicant, Responsible Authorities can make representations to committees who have the power to require the request is met.

Mr Justice Cranston said:

The sub-committee [has the power] to ask a question of a party, where the question is calculated to elicit an answer which will facilitate the function of considering and adjudicating upon the relevant question

The full judgment is available from the British and Irish Legal Information Institute (<http://www.bailii.org/ew/cases/EWHC/Admin/2010/1992.html>).

6. East Lindsey District Council v Abu Hanif

East Lindsey District Council v Abu Hanif (t/a Zara's Restaurant) 2016

In this case, the High Court upheld the Licensing Committee's decision to revoke a premises licence where the licensee had employed an illegal worker.

The significance of the case is that it reaffirms the principle that Responsible Authorities need not wait for the licensing objectives to actually be undermined before objecting to a licence being granted. This case would be most relevant when opposing a grant application.

Commenting on the way committees and courts should approach the promotion of the licensing objectives, Mr Justice Jay said:

[T]he prevention of crime and disorder requires a prospective consideration of what is warranted in the public interest, having regard to the twin considerations of prevention and deterrence.

The full Judgement is only available from subscription services such as Westlaw (<http://login.westlaw.co.uk/maf/wluk/app/authentication/formLogin>) or Lawtel (<https://www.lawtel.com/Login?ReturnUrl=%2f>).

7. General principles proven in case law

There are also cases that do not directly relate to the Licensing Act but provide general principles that are relevant.

7.1 R (on application of Westminster City Council) v Middlesex Crown Court and Chorion plc (2002) EWHC 1104 (Admin)

This case is important because it sets out the approach that courts on appeal should take where a council has a policy. Responsible Authorities should be encouraged by this case to help shape their council's licensing policy so that it sets out a strategic approach to promoting the licensing objectives in their particular area. A clear policy will provide a strong basis to impose conditions, refuse licences and so on, which should then be upheld by the court on appeal because the reasons for the conditions or refusals will be well-founded and readily understood. It would be most relevant when updating Statements of Licensing Policy.

Mr Justice Scott Baker said:

It must accept the policy and apply it as if it were standing in the shoes of the Council considering the application.

The full judgment is available from the British and Irish Legal Information Institute (<http://www.bailii.org/ew/cases/EWHC/Admin/2002/1104.html>).

7.2 Stepney Borough Council v Joffe [1949] 1KB 5997

This case, alongside Sagnata Investments Ltd v Norwich Corporation [1971] 2 QB 614, is important because it has long established the principle that the court on appeal should only overturn a decision where it is wrong. This would be most relevant in appeal hearings.

[On appeal the Court ought] to pay great attention to the fact that the duly constituted and elected local authority have come to an opinion on the matter and ought not lightly, of course, to reverse their opinion. It is constantly said (although I am not sure that it is always sufficiently remembered) that the function of a court of appeal is to exercise its powers when it is satisfied that the judgment below is wrong, not merely because it is not satisfied that the judgment is right.

This means that although appeals are re-hearings, the onus is on the appellant to persuade the court that the decision being appealed is wrong – not for the council to persuade the court that the decision is right. Responsible Authorities should provide the council with any information they believe is relevant to place before the court on appeal, so that the court can make a fully informed decision.

8. An example of using case law in a representation

This is an illustrative example of how you may wish to refer to the case law above in your representations to licensing committees:

The premises are not yet trading so the Licensing Objectives have not yet been undermined; but I believe that it is likely they will be undermined if the licence is granted.

In the case of *East Lindsey District Council v Abu Hanif (t/a Zara's Restaurant)* (2016) Mr Justice Jay said:

[T]he prevention of crime and disorder requires a prospective consideration of what is warranted in the public interest, having regard to the twin considerations of prevention and deterrence.

I believe that the fact the premises are proposing to sell alcohol and play music 24 hours a day in a residential area means it is likely that there will be nuisance caused to residents through late night noise and anti-social behaviour. Having regard to the existing levels of alcohol-related crime and anti-social behaviour, I believe that this will be worsened if this application is granted.

This guidance has been produced by Lawyers in Local Government and Public Health England, and is intended to give a brief overview of the case law most relevant to the Licensing Act. It does not constitute legal advice, and should be used as a guide for more detailed consideration of the cases depending on the individual facts in question.