

# BIRMINGHAM CITY COUNCIL

## PUBLIC REPORT

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

### 1. Purpose of report:

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

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

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

### 2. Recommendation:

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

### 3. Brief Summary of Report:

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

Representations have been received from other persons.

<b>4. Compliance Issues:</b>
<b>4.1 Consistency with relevant Council Policies, Plans or Strategies:</b>
<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>
<b>5. Relevant background/chronology of key events:</b>
<p>Commercial Street Hotel Ltd applied on 25<sup>th</sup> August 2015 to vary the Premises Licence for Hotel Indigo Birmingham, The Cube, 180 Wharfside, Birmingham, B1 1PR.</p> <p>Representations have been received from other persons. See Appendices 1 – 8.</p> <p>The application is attached at Appendix 9.</p> <p>Conditions have been agreed with Environmental Health and the applicant, which are attached at Appendix 10.</p> <p>The current Premises Licence is attached at Appendix 11.</p> <p>Site Location Plans at Appendix 12.</p> <p>When carrying out its licensing functions, a licensing authority must have regard to Birmingham City Council's Statement of Licensing Policy and the Guidance issued by the Secretary of State under s182 of the Licensing Act 2003. The Licensing Authority is also required to take such steps as it considers appropriate for the promotion of the licensing objectives, which are:-</p> <ul style="list-style-type: none"> <li>a. The prevention of crime and disorder;</li> <li>b. Public safety;</li> <li>c. The prevention of public nuisance; and</li> <li>d. The protection of children from harm.</li> </ul>
<b>6. List of background documents:</b>
<p>A copy of the representations as detailed in Appendices 1 – 8</p> <p>Application Form, Appendix 9</p> <p>Conditions agreed with Environmental Health, Appendix 10</p> <p>Current Premises Licence, Appendix 11</p> <p>Site Location Plans, Appendix 12</p>
<b>7. Options available</b>
<p>To grant the variation application</p> <p>To refuse the whole or part of the application</p> <p>To modify the conditions of the Licence</p>

## Appendix 1

ENTERED AI

---

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

Dear Sirs,

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

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

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

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

Kind regards,

## Appendix 2

2

ENTERED  
RJ

---

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

Dear sir

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

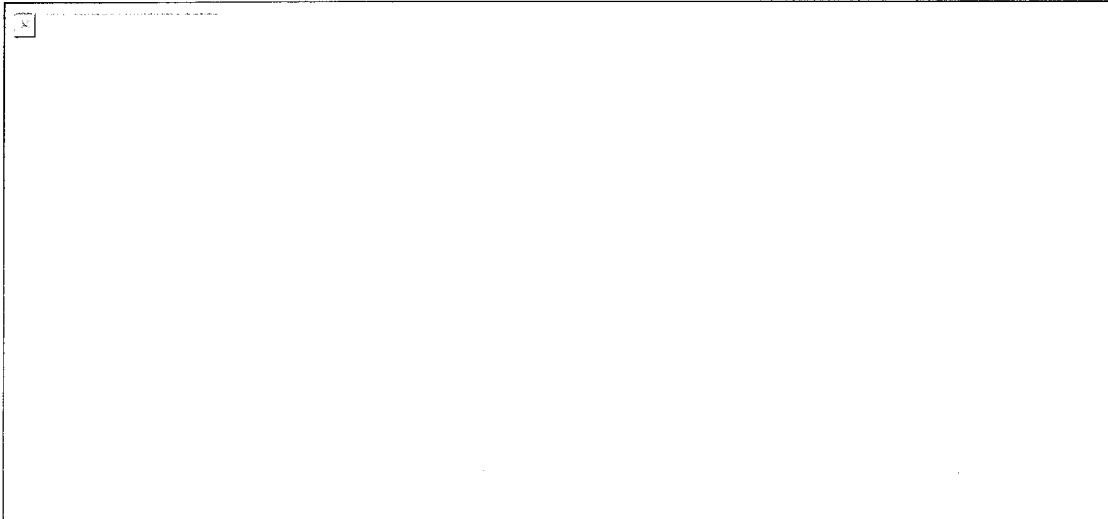
I am a resident of the cube (apartment ) and the noise from MPW via hotel indigo is disturbing and is not conducive to a residential development. There have been numerous previous complaints about both the noise from the 25th floor, the throwing of rubbish over the balcony from the 25th floor which represents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

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

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

We would therefore urge the licensing authority to reject the application

Resident . the cube



## Appendix 3

ENTERED R/

1

---

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

To whom it may concern:

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

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

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

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

We hope the license will be declined.

The Cube East

---

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

Dear Sir or Madam

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

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

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

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

Best wishes

Resident of Apartment      The Cube West, Birmingham, B1

## Appendix 5

Entered  
RJ

---

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

Dear Sir/Madam,

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

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

Regards

ENTERED RJ

6

---

**From:**

**Sent:**

23 September 2015 15:49

**To:**

Licensing

**Subject:**

Hotel Indigo / Marco Pierre White / Commercial Street Hotel Limited

The Cube East,  
Wharfside Street,  
Birmingham,  
B1

Dear Sir/Madam,

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

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

Thank you for your consideration.

Yours faithfully,



---

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

To whom it may concern:

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

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

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

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

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

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

Thank you and yours faithfully,

## Appendix 8

ENTERED  
RJ

---

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

Dear Sir/Madam,

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

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

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

Regards,

The Cube East  
B1

92626  
29/8-24/9

### Application to vary a premises licence under the Licensing Act 2003

#### PLEASE READ THE FOLLOWING INSTRUCTIONS FIRST

Before completing this form please read the guidance notes at the end of the form.  
If you are completing this form by hand please write legibly in block capitals. In all cases ensure that your answers are inside the boxes and written in black ink. Use additional sheets if necessary.  
You may wish to keep a copy of the completed form for your records.

I/We Commercial Street Hotel Limited

(Insert name(s) of applicant)

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

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

#### Part 2 – Applicant details

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

**Part 3 - Variation**

Please tick yes

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

☒

If not do you want the variation to take effect from

Day		Month		Year	
1	2	1	2	1	2

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

The above shall not affect any other Levels.

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

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

#### Part 4 Operating Schedule

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

##### **Provision of regulated entertainment**

**Please tick yes**

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

##### **Provision of entertainment facilities:**

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

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

☐

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

☐

**In all cases complete boxes N, O and P**

**A**

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

# B

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

**C**

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



**D**

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

**E**

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

**F**

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

**G**

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

## H

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

I

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

**J**

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

**K**

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



L

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

## M

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

## N

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

O

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

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

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

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

Please tick yes

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

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

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

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

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

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

**b) The prevention of crime and disorder**

As above in a.

**c) Public safety**

As above in a.

**d) The prevention of public nuisance**

As above in a.

**e) The protection of children from harm**

As above in a.

Please tick yes

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

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

**Part 5 – Signatures** (please read guidance note 10)

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

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

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

Signature	
Date	
Capacity	

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

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

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

## Appendix 10

---

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

Hello Jane,

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

Regards, Carl.

**Carl Bruder**  
Solicitor

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

---

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

Dear Carl,

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

Regards

Jane Dunsford  
Environmental Protection Officer  
Environmental Protection Unit

---

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

Hello Jane,

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

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

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

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

The intention is:

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

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

Regards, Carl.

**Carl Bruder**  
Solicitor

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


---

EAD Solicitors LLP is a Limited Liability Partnership registered in England (registered number OC334289) and is authorised and regulated by the Solicitors Regulation Authority (487037).

For more information about EAD, please visit our website and social media pages

[www.eadsolicitors.co.uk](http://www.eadsolicitors.co.uk)

[www.facebook.com/pages/Liverpool/EAD-Solicitors/112820735407166](https://www.facebook.com/pages/Liverpool/EAD-Solicitors/112820735407166)  
[www.twitter.com/merseysidelaw](https://www.twitter.com/merseysidelaw)

 Please consider the environment before printing this email.  
This e-mail carries a disclaimer. To view this information, please visit <http://www.eadsolicitors.co.uk/disclaimer.aspx>

\*\*\*\*\*

\*\*\*\*\*



---

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

Hi Joshua,

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

Regards, Carl.

---

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

Hi Carl

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

If so, please specify the new times.

Many Thanks

Joshua Randhawa  
Licensing Officer

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

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

## BIRMINGHAM CITY COUNCIL

LICENSING ACT 2003PREMISES LICENCE

Premises Licence Number:

3669 / 4

**Part 1 - Premises details:**

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

**Where the licence is time limited the dates**

N/A

**Licensable activities authorised by the licence**

B	Films
E	Live music
F	Recorded music
G	Performances of dance
H	Anything of similar description to that falling within (live music), (recorded music) or (performances of dance)
L	Late night refreshment
M3	Sale of alcohol by retail (both on & off the premises)

**The times the licence authorises the carrying out of licensable activities**

Monday - Sunday	00:00 - 23:59	F
	08:00 - 02:00	B ,E ,G ,H ,M3
	23:00 - 02:00	L
All activities are sought for the benefit of the residents, their bona fide guests and patrons of the hotel on a 24hour basis.		B ,E ,G ,H ,L ,M3
New Year's Eve into New Year's Day, the terminal hour shall be 04:00		B ,E ,G ,H ,L ,M3

**The opening hours of the premises**

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

**BIRMINGHAM CITY COUNCIL**

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

BIRMINGHAM CITY COUNCIL

Part 2

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

<b>Registered number of holder for example company number or charity number (where applicable)</b> 07078144
--

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

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

Dated 05/06/2015

David Kennedy  
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 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.

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

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

## **BIRMINGHAM CITY COUNCIL**

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

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

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

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

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

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

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

CCTV - images to be held for 31 days

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

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

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

No enforceable conditions identified from operating schedule.

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

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

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

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

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

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

No enforceable conditions identified from operating schedule.

**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**

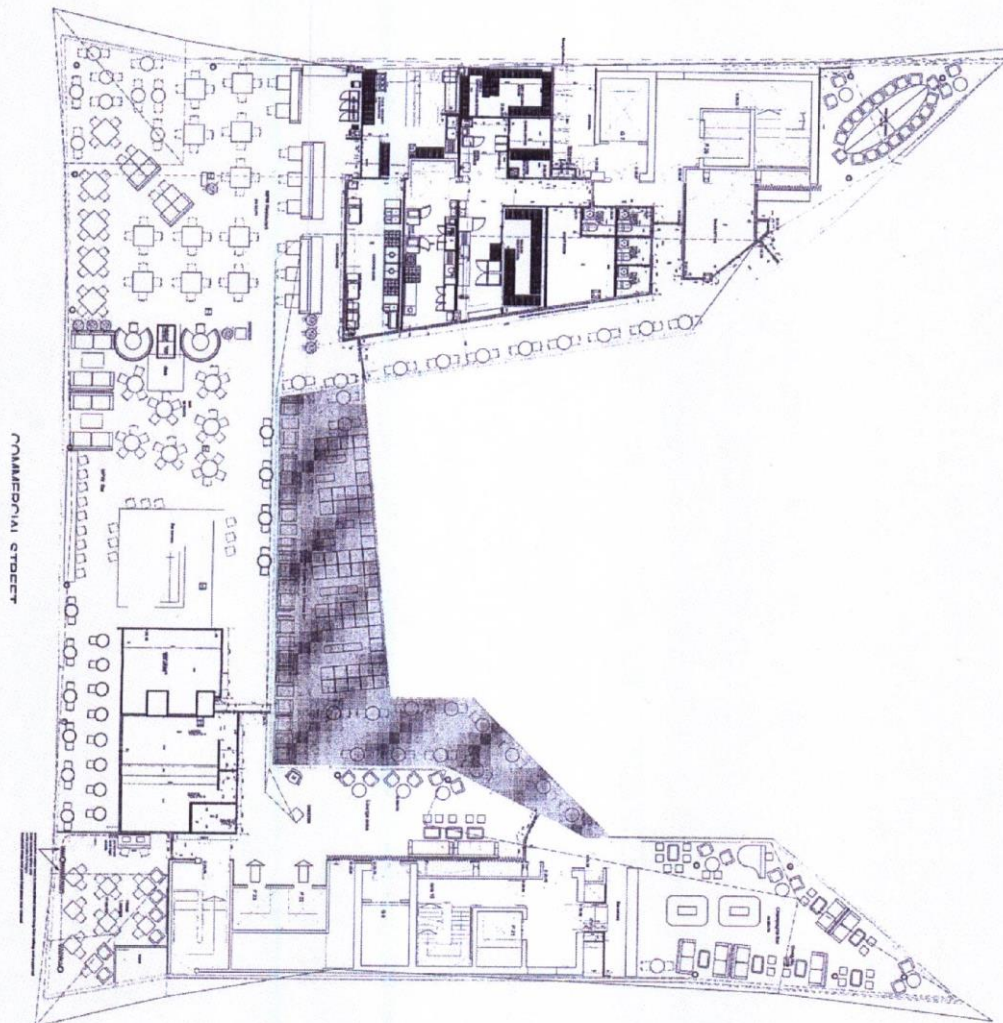
N/A

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

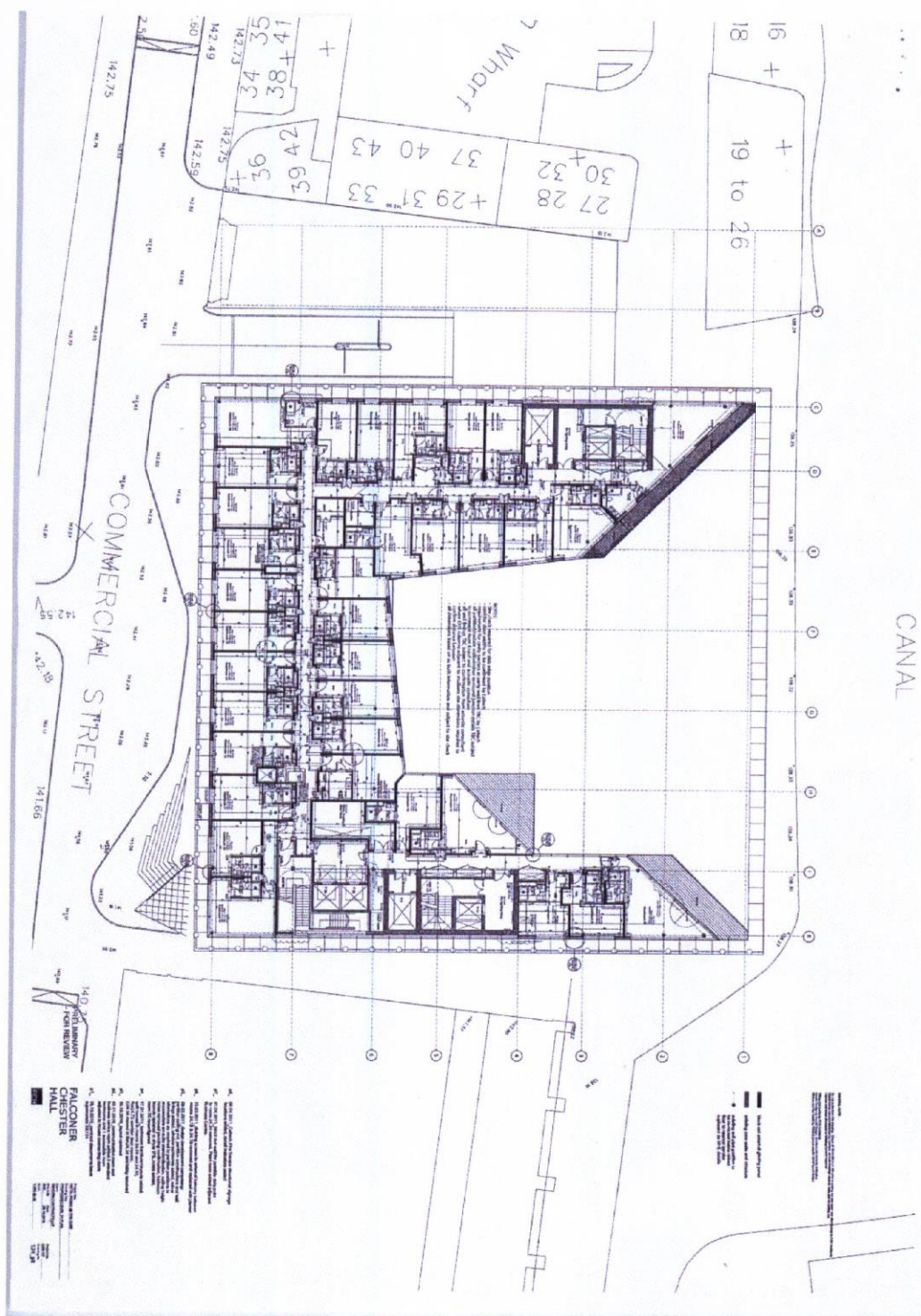
N/A



Annex 4 – Plans



**BIRMINGHAM CITY COUNCIL**





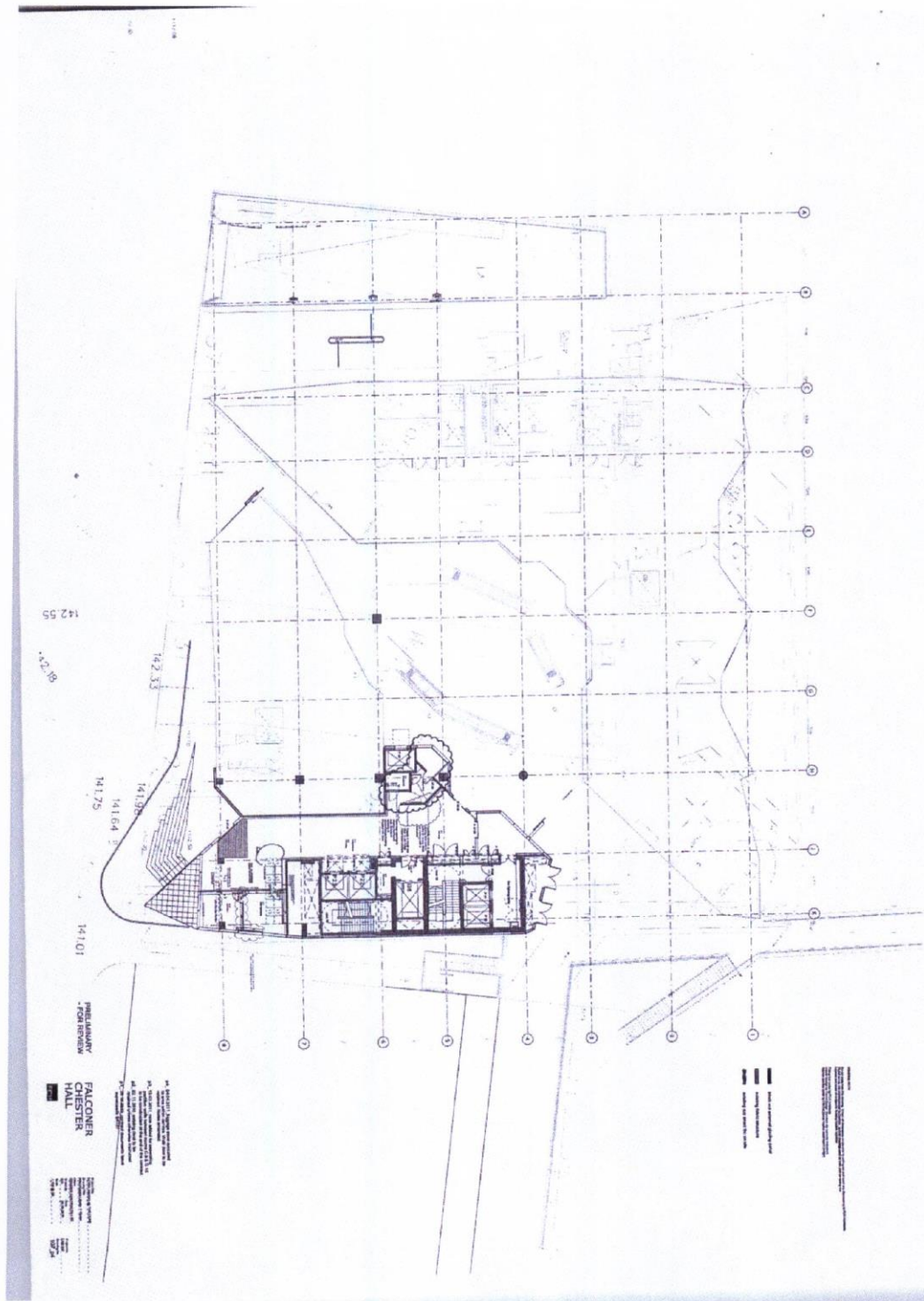
Architectural floor plan of Falconer Hall, Chester, showing the layout of the building, including rooms, corridors, and external features like the canal and wharf. The plan includes a detailed section of the building with room numbers and a list of room numbers on the right side.

Room numbers listed on the right side of the plan:

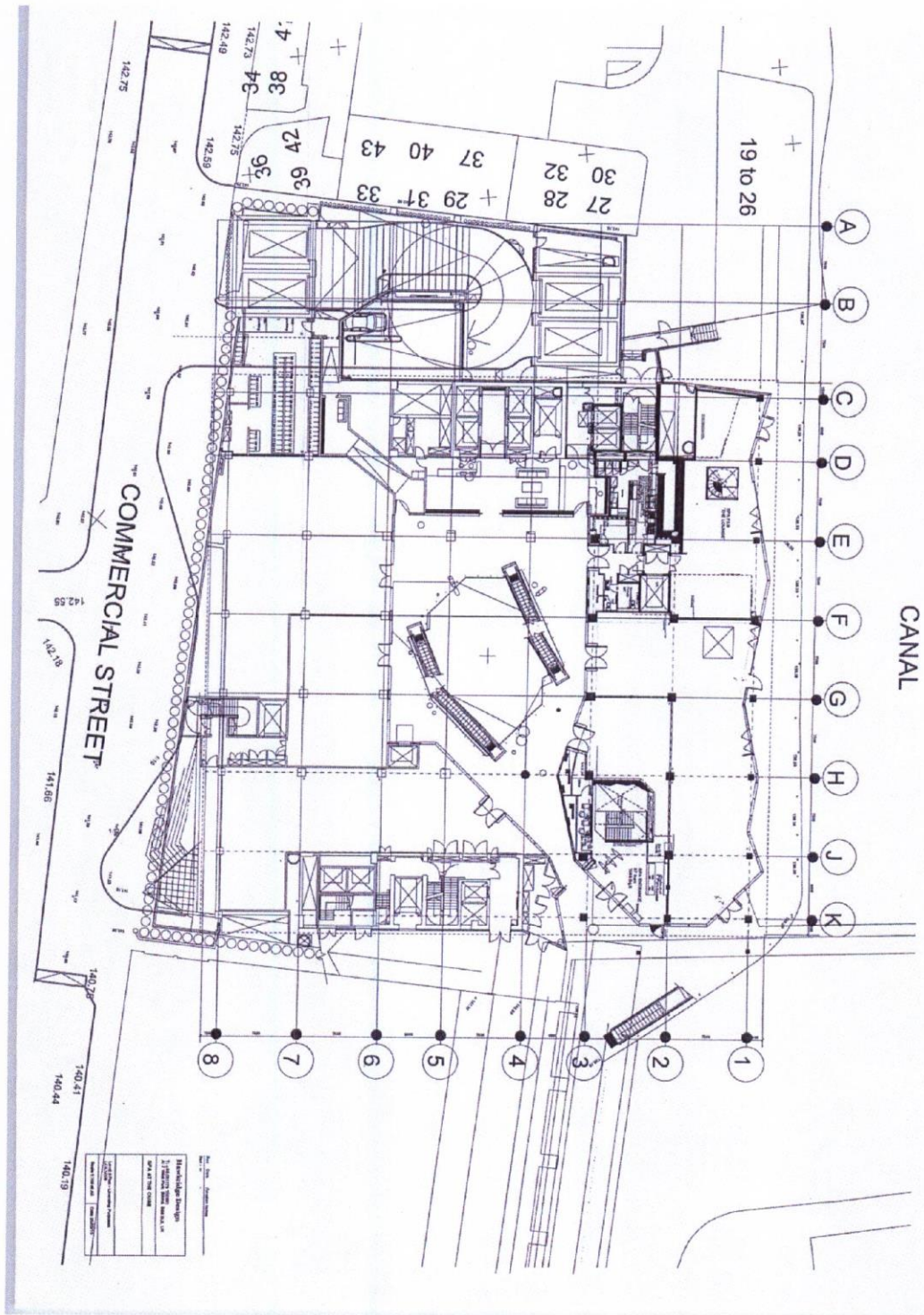
- 6 + 8
- 19 to 26
- 27 28 + 30 + 32
- 29 31 33
- 37 40 43
- 36 + 39 42
- 34 35 + 38 + 41

Labels on the plan include:

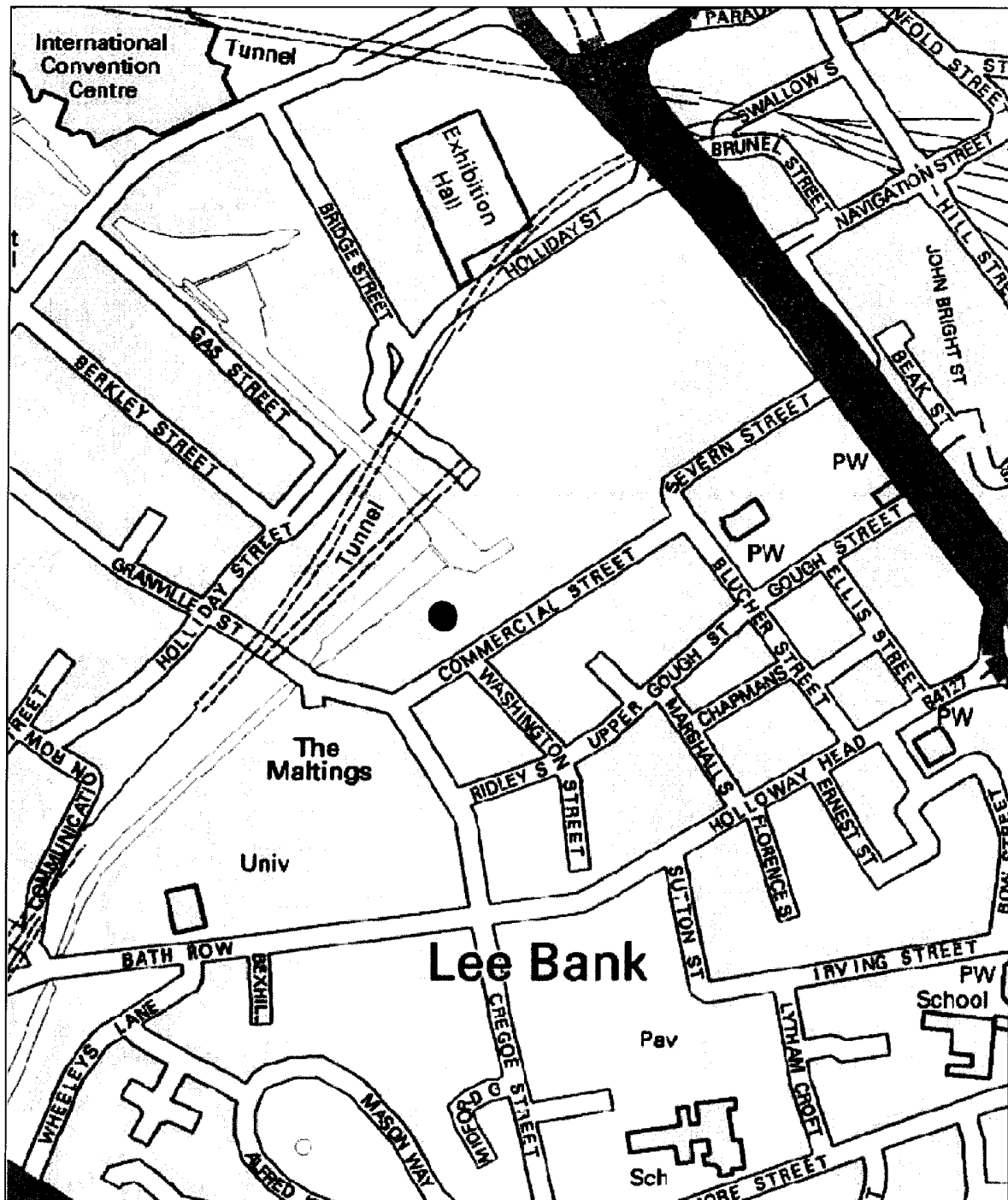
- Wharf
- Canal
- Commercial Street
- Falconer Hall
- Architectural Drawing
- Scale
- North Arrow











Map Created By:

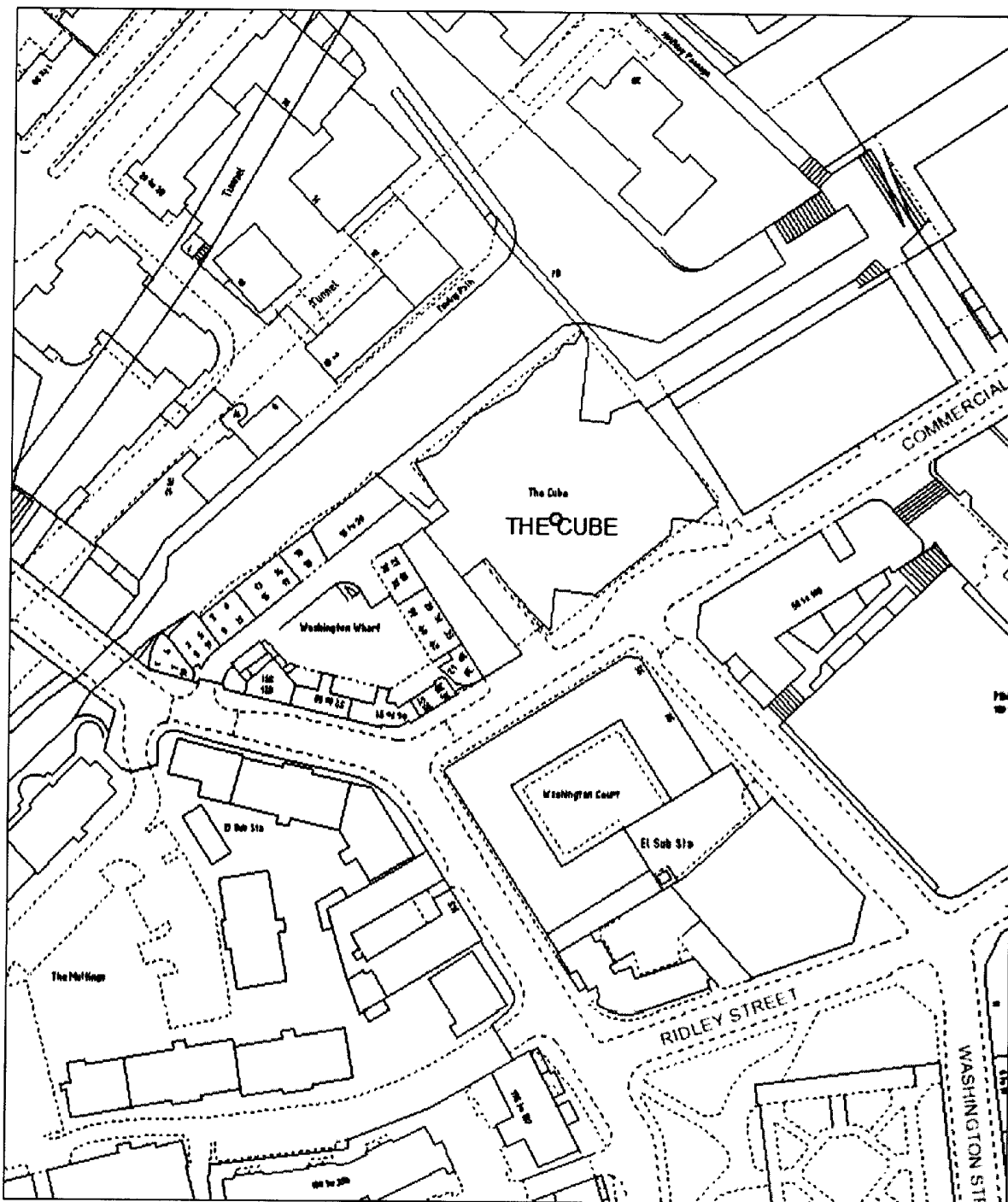
Notes

Date of Map Creation: 28/09/2015

(c) Crown copyright. All rights reserved. Birmingham City Council 100021326 (2014).  
 You are not permitted to copy, sub-licence, distribute or sell any of this data to third parties in any form.  
 (c) GeoPerspectives, supplied by Bluesky International Ltd  
 Cities Revealed® copyright by The GeoInformation® Group, 2014 and Crown Copyright © All right reserved

Scale:  
 1:4,000





**Birmingham City Council** Map Created By:

**Notes**

Date of Map Creation: 29/09/2015



(c) Crown copyright. All rights reserved. Birmingham City Council 100021326 (2014).  
 You are not permitted to copy, sub-licence, distribute or sell any of this data to third parties in any form.  
 (c) GeoPerspectives, supplied by Bluesky International Ltd  
 Cities Revealed® copyright by The GeoInformation® Group, 2014 and Crown Copyright © All right reserved

Scale:  
 1:1,250