



BIRMINGHAM CITY COUNCIL

LICENSING SUB-COMMITTEE - B

13 October 2015

Hotel Indigo Birmingham, The Cube, 180 Wharfside Street, B1 1PR

That the application by Commercial Street Hotel Ltd to vary the premises licence in respect of Hotel Indigo Birmingham, The Cube, 180 Wharfside Street, B1 1PR, under Section 34 of the Licensing Act 2003 **be granted subject to the following conditions**, with immediate effect.

A.	Modification of hours – Regulated entertainment	The extension of hours to be operated outside for Level 25 only, regulated entertainment, for both hotel residents (and their bona fide guests), and non-hotel residents shall apply as follows: <ul style="list-style-type: none">• Live music to operate from 8.00am to 11.00pm (Monday to Sunday)• Recorded music 8.00am to 2.00am (Monday to Sunday).
B.	Opening hours	The premises to remain open to the public as follows: <ul style="list-style-type: none">• 8.00am – 3.00am (Monday to Sunday) for non-hotel residents• 24 hours (Monday to Sunday) for hotel residents and their bona fide guests.
C.	Other conditions as proposed by the applicant	<ul style="list-style-type: none">i) The premises licence holder shall install a noise limiter device to be calibrated by the Environmental Health Authority.ii) There shall be no amplified music outside the premises for level 25.iii) Suitable signage requesting patrons to leave the premises quietly shall be displayed at the appropriate locations

The Sub-Committee's reasons for imposing the proposed conditions (at part C 1-3) are due to the submissions made by the applicant having taken into account the concerns raised by the residents in their original written representations.

The Sub-Committee determined that the proposed conditions would satisfactorily address the issues raised by the residents having considered the applicant's representations regarding the history, location and impact of the proposed operation. It was therefore concluded by the Sub-Committee that the likelihood of public noise nuisance emanating from the varied application would have a minimal impact on the residents living in the vicinity.

It was noted that the applicant had engaged in talks with the Residents' Association, and liaised with Environmental Health during the consultation process and had reduced the hours initially sought and offered additional measures at the hearing to promote the prevention of public nuisance objective.

The Sub-Committee gave consideration to the concerns of the residents regarding the noise generated from visitors entering and leaving the atrium resonating inside around The Cube but were unable to pinpoint the source of noise associated to a specific licensed premises in view of the fact that The Cube is a mixed use development designed to enhance city living.

The Sub-Committee felt that the evidence submitted by the residents needed to be balanced carefully against the needs of those providing and seeking entertainment within the vicinity of the Cube. It was therefore inconclusive that the licensed premises operating on level 25 within The Cube could be the sole source of noise nuisance associated with patrons leaving at noise sensitive times and therefore believed the impact of the proposed activity would not add to the existing levels of noise nuisance in view of the conditions proposed by the applicant.

The Sub-Committee carefully considered the operating schedule put forward by the applicant and the likely impact of the application but did not accept that there was evidence of a significant public nuisance arising from the proposed and current operation of the premises.

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

In addition to the above conditions, those matters detailed in the operating schedule and the relevant mandatory conditions under the Licensing Act 2003 will form part of the licence issued.

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

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