

Appendix 1



TOWER HAMLETS

LBTH
TRADING STANDARDS

- 1 NOV 2010

LICENSING

Memorandum

To Licensing Department
From Planning Enforcement
Contact Cain Duncan
Extension 3975
Date 28/10/10
Our Ref. ENF/07/00271
Your Ref.
Subject Application to Review a Premises License

Development & Renewal Directorate
Planning Enforcement
Mulberry Place (AH)
PO Box 55739
5 Clove Crescent
London E14 1BY
Tel 020 7364 3975
Fax 020 7364 5415
e-mail cain.duncan@towerhamlets.gov.uk

www.towerhamlets.gov.uk

**Application to Review the Premises License of Gramophone, 60-62
Commercial Street, London, E1 6LT**

1. The Planning Department of the London Borough of Tower Hamlets is applying for a review of the Premises License held by Gramophone, 60-62 Commercial Street, London, E1 6LT. The Planning Department, in its capacity as a responsible authority wishes to proceed with the review on the grounds that the premise is failing to meet the licensing objectives to prevent crime and disorder and to prevent public nuisance.

Background Information

2. On the 11th December 2003, planning permission (PA/03/1520) was granted for the change in use of the premises from an office and showroom to a jazz club with live music on the basement floor and a restaurant/bar on the ground floor. As part of this planning permission a condition was imposed on the hours the premises could open to customers.
3. The hours of operation imposed by planning permission PA/03/01520 are as follows:
 - 8am to 11pm Mondays to Thursdays;
 - 8am to 1am Fridays and Saturdays; and
 - 9am to 11pm on Sundays and Public Holidays
4. A copy of Planning Permission PA/03/01520 is attached as exhibit "CRD1".
5. On the 1st February 2005, a planning application was made to vary condition 2 of planning permission PA/03/1520 to enable the bar/restaurant/jazz club to open between 9am and 1am Sundays and public holidays; 8am and 1am Mondays to Thursdays and 8am and 3am Fridays and Saturdays.

6. Planning permission to extend the opening hours was refused on the 17th March 2005 and that decision was subsequently appealed to the Secretary of State. The appeal was dismissed on the 4th January 2006 on the basis that the condition, as imposed, was reasonable and necessary to safeguard the living conditions of nearby residents. A copy of the Planning Inspectorates decision is attached as exhibit "CRD2".
7. An application was made for a new Premises License by Mr Bakpa on the 10th February 2005 asking for opening hours until 0100hrs Sunday to Thursday and 0300hrs on Fridays and Saturdays. A representation on this application was made by the Planning Department objecting to the granting of a Premises License outside the permitted planning hours and clearly stating that the hours being applied for could not be implemented unless planning permission had been sought and obtained. A copy of the Planning Departments objection is attached as exhibit "CRD3".
8. A further planning application to vary the opening hours of the premises to 24 hours a day / 7 days per week was refused on amenity/public nuisance grounds on the 9th May 2006.
9. A warning letter was sent to Gramophone on the 19th July 2007, notifying them of their permitted planning opening hours and that failure to adhere to these would result in formal enforcement action being taken by the Council. A copy of this letter is attached as exhibit "CRD4".
10. Following investigations in the early part of September 2007, including a late night site visit, sufficient evidence was collected to prove that the premises was still opening beyond its permitted planning opening hours. This formed the basis for the issuing of a Breach of Condition Notice on the 20th September 2007. The Notice required the premises to comply with its approved planning opening hours. A copy of the Notice is attached as exhibit "CRD5".
11. The Notice required that compliance with the approved planning opening hours be achieved by the 21st September 2007.
12. On the 5th October 2007, a Judicial Review pre-action letter was sent to the Council from the owners of Gramophone. The Council did not agree with the content of the pre-action letter nor did it believe there were any grounds to challenge either the service of the Breach of Condition Notice or the refusal of the Local Planning Authority and Secretary of State to approve longer planning opening hours in 2005 and 2006.
13. Following the Council's response, a Judicial Review claim was lodged with the High Court on the 6th November 2007. It listed the Secretary of State and the Council as defendants.

14. On the 21st November 2007, a further letter was sent to the owners of Gramophone reiterating that a Breach of Condition Notice had been served and the premises could not operate outside the approved planning hours. It noted that visits had been made to the property since compliance with the Notice was required to be achieved and the premises was still open for business well after the permitted 1am closing time. A copy of this letter is attached as exhibit "CRD6".
15. A decision on the Judicial Review claim against the Council and the Secretary of State was heard by the Honorable MR Justice Sullivan on the 11th June 2008. He ordered that Roboko Limited's (owners of Gramophone) claim for an adjournment be refused, its renewed application to apply for judicial review be refused and that its claim was wholly without merit. A copy of Justice Sullivan's decision is attached as exhibit "CRD7".
16. On the 19th June 2008, Roboko Ltd lodged an appeal against Justice Sullivan's decision on the grounds that the Local Planning Authority and the Secretary of State always refuse planning permission and licenses to people of a particular ethnic origin.
17. Attempts were made in July 2008 to open dialogue with Mr Bakpa and the owners of Gramophone but these were met with hostility. Due to the lack of co-operation by the owners the Local Planning Authority decided to commence the collection of evidence for a prosecution.
18. During the months of September and October 2008 evidence was collected by way of CCTV footage, site visits and internet searches, which enabled the Council's Legal Service to lay eight criminal charges against the current License Holder and DPS, Ms Kalliopi Papadimatos, the two owners of Gramophone, Mr Basil Bakpa and Ms Roberta Hall and Roboko Ltd.
19. Letters were sent to Roboko Ltd and Ms Kalliopi Papadimatos on the 26th November 2008 stating that the matter had been referred to the Council's Legal Service. A copy of this letter is attached as exhibit "CRD8".
20. On the 12th June 2009, Gramophone's appeal against the decision of the High Court to refuse their Judicial Review claim was heard by the Rt.Hon. Sir Richard Buxton sitting at the Court of Appeal. He dismissed the claim as being totally without merit and a serious misuse of the facilities of the Court. A copy of the Court of Appeal decision is attached as exhibit "CRD9".

21. Mr Bakpa, Ms Hall and Roboko Ltd were convicted at the Thames Magistrates Court on the 1st October 2009 and fined a total of £13,895 including the Council's prosecution costs. The cases against Ms Papadimatos was adjourned to the 11th December 2009.
22. Ms Papadimatos failed to attend Court on the 11th December 2009 and was subsequently convicted in absence on the 8th January 2010 and fined £3,215 and costs of £200.
23. An appeal against conviction was lodged by Mr Bakpa, Ms Hall and Roboko Ltd against the decision of the Thames Magistrates Court and was subsequently heard at Snaresbrook Crown Court on the 2nd December 2009. These appeals were dismissed and the original financial penalties upheld.

Prevention of Crime and Disorder

24. Despite a criminal conviction on the 8th January 2010, the License Holder and DPS has continued to allow the opening of the premises past 1am on a weekly basis, thus committing a criminal offence by failing to comply with a Breach of Condition Notice. In support of this statement I present recent evidence from site visits to the property conducted on the 9th October 2010 as exhibit "CRD10", 16th October 2010 as exhibit "CRD11" and 23rd October 2010 as exhibit "CRD12". On all these occasions officers witnessed the property open past 1am. In addition to this, I exhibit a flyer stuck to street furniture on Brick Lane and a print out of the events from the premises website as exhibit "CRD13".
25. The DPS appears to have no intention of ceasing the illegal opening of the premises, which is clearly being aided by the later hours stipulated in the Premises License. No argument can be raised that the DPS is unaware of the requirements to have planning permission; indeed it was made clear when the License was first applied for, in numerous other letters and pieces of correspondence dating back over five years and by way of eight convictions in the Courts.
26. The Local Planning Authority believes the later licensing operating hours are providing the License Holder with a continued mechanism for not complying with the Local Planning Authorities stipulated opening hours and the costs of any fines imposed by the Courts are simply being incorporated as a running cost of the business. The License Holder/DPS is not adhering to the licensing objective to prevent crime and disorder as she is directly facilitating criminal activity by not complying with the Local Planning Authorities Breach of Condition Notice.

27. It should also be noted that the advertising material exhibited under "CRD 13" stipulates longer opening hours than currently allowed for under the current Premises License. Many events show a closing time of 3.30am or later, yet the terminal hour of the premises stipulated on the Premise License is 03.00hrs.

Prevention of Public Nuisance

28. Recent complaints have been received by the Council's Environmental Health Service regarding noise and disturbance to residents living behind the premises, at 10 Lolesworth Close. A statutory noise nuisance was witnessed by Council Officers within the residential dwellings at [REDACTED] on the 13/10/10, which was confirmed as emanating from Gramophone. Prior to this, visits had been made to Gramophone, in September 2010, to set provisional noise levels after a number of complaints about noise breakout were received from surrounding residents.
29. It should be noted that [REDACTED] is a newly built apartment block and concerns were raised with the Planning Department during the planning application process about the use of the premises for residential purposes. As a result of these concerns specific conditions were added to the planning permission requiring additional investigations to be carried out by the developer to protect future residents from noise from the Gramophone venue. These additional insulation measures were passed by the Council's Planning and Environmental Health Service in April of this year, following a request for additional information and sound testing. Further to this, a Completion Certificate was issued under the Building Regulations on the 18th December 2009, this confirmed amongst other things, compliance with Part E of the Building Regulations (Resistance to the Passage of Sound).
30. There is no evidence to suggest that the residential units are inadequately sound-proofed, indeed additional measures have been taken above and beyond that normally required under the Building Regulations. The problem appears to be that excessively loud music is being played within Gramophone, for which their premises is not adequately sound proofed to contain. Having spoken to neighbouring residents it appears the main problem is when the new satellite sound system on the ground floor is used (installed approximately 4 months ago, which ties in with the first complaints being received). The ground floor area was never designed to be used for the playing of loud music and this appears to be the main source of music outbreak.
31. Planning Enforcement Officers have made numerous visits to the property over the last 3 years to collect evidence for various enforcement investigations, on these occasions music could occasionally be heard outside the venue but on the recent visits to the property a considerable increase in the volume of the music audible on the street was witnessed. On the all three

recent visits to the venue loud bass music was clearly audible from the other side of Commercial Street and Officer's witnessed on the 16th and the 23rd October that this was coming from the ground floor area. On the 23rd October 2010, the lyrics to songs being played were clearly audible from the other side of Commercial Road when the doors leading into the groundfloor bar area were opened.

32. Complaints have also been received about the use of Lolesworth Road (Public Highway) as a queuing and smoking area for Gramophone. This has resulted in members of the public having to cross through a security cordon in order to access their homes. Officers did note a number of barriers set out across the road during a visit to the property on the 16/10/10, which appeared to be laid out to facilitate queuing into the side entrance of the club. However at the time there were only a small number of people in this area smoking. This area is shown in the photos exhibited under "CRD11".

Conclusions

33. The Planning Department is concerned with the continued failure of the License Holder/DPS to comply with the opening hours specified in the Local Planning Authorities Breach of Condition Notice. This is being aided by the longer hours stipulated in the properties Premises License and is providing a mechanism for the DPS to continue to facilitate the breach of the Local Planning Authorities Notice, which is a criminal offence. Further to this, there have been recent verified statutory noise nuisances witnessed at neighbouring residential properties as a result of music breakout from the premises, which is believed to have been caused by the installation of a new satellite sound system on the ground floor. The Local Planning Authority also has concerns about the use of Lolesworth Close as a queuing and smoking area for patrons of the venue to the detriment of other road users and surrounding residents.
34. The Local Planning Authority would request that the provision for regulated entertainment be suspended at the premises until such time as the noise break-out issues have been rectified to the satisfaction of the Council's Environmental Health Service and the hours of for the provision of regulated entertainment, late night refreshment and the sale of alcohol be permanently reduced to the following:
- Sunday to Thursday 11.00hrs to 10.30hrs; and
 - Friday and Saturday 11.00hrs to 00.30hrs the following day
 - *Closing time of the premises being 30 minutes after the times stipulated above.*

Cain Duncan
Planning Enforcement Team Leader

CR01



Your ref:
My ref: PA/03/01520

11 December, 2003



Customer Services
Town Planning
41-47 Bow Road
London E3 2BS
www.towerhamlets.gov.uk

Enquiries to:
Tel: 020 7364 6002
Fax: 020 7364 5415
TH: 561

**Town and Country Planning Act 1990 (as amended)
Town and Country Planning (General Development Procedure Order) 1995**

Dear Sir/Madam,

CONDITIONAL PERMISSION FOR DEVELOPMENT

In accordance with the Act and Order mentioned above, Tower Hamlets Council as Local Planning Authority hereby gives notice of its decision to grant permission for the development referred to in the schedule to this notice and as shown on the submitted plans and particulars subject to the conditions set out in the schedule.

You are advised that this permission does not modify or extinguish any covenants, easements or other restrictions applying to or affecting the land, or the rights affecting the land, or the rights of any other person entitled to the benefits thereof. You are also advised that this permission does not relieve you of the need to obtain any approval necessary under the Building Act 1984, Building Regulations 2000, or other related legislation. In this connection you should contact the Head of Building Control, 41-47 Bow Road, E3 2BS (020 7364 5241) for advice or guidance on the necessity for obtaining building regulation approval in this particular case.

Your attention is drawn to the following statement of applicants' rights:-

1) Appeals to the Secretary of State

If you are aggrieved by this decision you may appeal to the Secretary of State for the Environment in accordance with Section 78 of the Town and Country Planning Act 1990. If you want to appeal then you must do so within three months of the date of this decision notice, using a form which you can get from the Planning Inspectorate, Temple Quay House, 2 The Square, Temple Quay, Bristol, BS1 6PN (Tel 0117 372 8372). The Secretary of State can allow a longer period for giving notice of an appeal, but he will not normally be prepared to consider an appeal if it seems to him that the local planning authority could not have granted planning permission for the proposed development or could not have granted it without the conditions it imposed, having regard to the statutory requirements, to the provisions of the development order and to any directions given under the order. In practice the Secretary of State does not refuse to consider appeals solely because the local planning authority based its decision on a direction given by him.

2) Purchase Notice

If either the local planning authority or the Secretary of State for the Environment refuses permission to develop land or grants it subject to conditions, the owner may claim that they can neither put the land to a reasonably beneficial use in its existing state nor can they render the land capable of a reasonably beneficial use by the carrying out of any development which has been or would be permitted. In these circumstances, the owner may serve a purchase notice on the Council in whose area the land is situated. This notice will require the Council to purchase their interest in the land in accordance with the provisions of Part VI of the Town and Country Act 1990.

3) Compensation

In certain circumstances compensation may be claimed from the local planning authority if permission is refused or granted subject to conditions by the Secretary of State on appeal or on reference of the application to him. These circumstances are set out in Section 114 and related provisions of the Town and Country Planning Act 1990.

Yours faithfully,



Owen Whalley
Head of Planning



2003-2004
Community Cohesion

Corporate Director (Customer Services)
Eric Bohl

SCHEDULE

Full Planning Permission

Location: 60-62 COMMERCIAL STREET, LONDON, E1 6LT

Proposal: Change of use from an office and showroom to a Jazz club on the basement floor with live music (Class D2) and restaurant/bar on the ground floor (Class A3).

Date: 11 December, 2003

Reference: PA/03/01520

Application Received on: 28 October, 2003
Last Amended Date: 28 October, 2003

Drawings Approved:

Registered Number: PA/03/01520

Applicant's Number: Siteplan, 167/01, /02, /03, /04

Conditions and Reasons

- 1 The development hereby permitted shall be begun before the expiration of five years from the date of this permission.

Reason: As required by Section 91 of the Town and Country Planning Act 1990 to avoid the accumulation of unexercised planning permissions.

- 2 The uses hereby permitted shall not be open to customers other than between the hours of
- a) 9am and 11pm on Sundays and Public Holidays,
 - b) 8am and 11pm Mondays to Thursdays, and
 - c) 8am through to 1am Fridays and Saturdays.

Reason: To ensure compliance with the Council's policy set out in ART1 of the LBTH UDP (1998) that seeks to safeguard the amenity of adjoining residents and protect the general environment.

- 3 No process shall be carried out on or machinery installed so as to cause detriment to the amenity of the area by reason of noise, vibration, smell, fumes, smoke, soot, ash, dust, grit, or electrical interference.

Reason: To safeguard the amenities of neighbouring residents and the area generally by preventing noise, vibration and unacceptable discharges.

PA/03/01520 continued

- 4 No music shall be played within the premises so as to be audible from outside the premises.

Reason: To safeguard the amenities of neighbouring residents and the area generally by preventing noise and vibration.

- 5 The doors of the premises shall be self-closing and shall be kept closed at all times except as required for the incidental entry or exit of goods or customers.

Reason: To safeguard the amenities of neighbouring occupiers and the area generally by preventing noise.

- 6 The use hereby permitted shall not commence until the accommodation has been insulated in accordance with details which shall be submitted to and approved by the local planning authority so as to ensure that noise from operations conducted on the premises is not audible above the ambient noise level of the surrounding area.

Reason: To safeguard the amenities of neighbouring occupiers and the area generally by preventing noise.

- 7 Details of the means of ventilation to the premises shall be submitted to and approved by the local planning authority before the use hereby permitted commences and the use shall take place only with the benefit of ventilation.

Reason: To safeguard the amenities of neighbouring occupiers and the area generally by preventing noise, vibration and unacceptable discharges.

- 8 No external ventilation ducts or equipment shall be erected on or adjoining the premises without the prior written approval of the local planning authority.

Reason: To safeguard the appearance of the property and to safeguard the amenities of neighbouring occupiers by preventing noise, vibration and unacceptable discharges.

- 9 All mechanical and ventilation equipment and outlets serving the development hereby permitted shall be acoustically treated to avoid noise nuisance in accordance with details to be approved in writing by the local planning authority before the use hereby permitted commences.

Reason: To safeguard the amenities of neighbouring residents and the area generally by preventing noise.

- 10 Provision shall be made for the storage of refuse in accordance with details to be submitted to and approved in writing by the Council as Local Planning Authority prior to the commencement of the development. Such provision shall be made prior to the occupation of the site and shall thereafter be made permanently available for the occupiers of this site.

Reason: In compliance with the Council's policies that seek to protect amenity and ensure adequate provision for the storage of refuse.

CRD2

Appeal Decision

Site visit made on 14 December 2005

by John C Greenwood MRICS MRTPI

an Inspector appointed by the First Secretary of State

The Planning Inspectorate
4/11 Eagle Wing
Temple Quay House
2 The Square
Temple Quay
Bristol BS1 6PN
☎ 0117 372 6372
e-mail: enquiries@planning-inspectorate.gsi.gov.uk

Date

Appeal Ref: APP/E5900/A/05/1189134
60-62 Commercial Street, London. E1 6LT

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission under section 73 of the Town and Country Planning Act 1990 for the development of land without complying with a condition subject to which a previous planning permission was granted.
- The appeal is made by [REDACTED] against the decision of the Council of the London Borough of Tower Hamlets.
- The application Ref PA/05/00154, dated 28 January 2005, was refused by notice dated 17 March 2005.
- The application sought planning permission for the change of use from an office and showroom to a Jazz Club on the basement floor with live music (Class D2) and a restaurant/bar on the ground floor (Class A3) without complying with a condition attached to planning permission Ref PA/03/01520, dated 11 December 2003.
- The condition in dispute is N° 2 which states that: *The uses hereby permitted shall not be open to customers other than between the hours of (a) 9am and 11pm on Sundays and Public Holidays, (b) 8am and 11pm Mondays to Thursdays, and (c) 8am through to 1am Fridays and Saturdays.*
- The reason given for the condition is: *To ensure compliance with the Council's policy set out in ART1 of the LBTH UDP (1998) that seeks to safeguard the amenity of adjoining residents and protect the general environment.*

Summary of Decision: The appeal is dismissed.

Procedural Matters

1. The application proposes the following opening hours: (a) 0900 hours on Sundays and Public Holidays until 0100 hours the following morning, (b) 0800 hours on Mondays to Thursdays until 0100 hours the following morning, and (c) 0800 hours on Fridays and Saturdays until 0300 hours the following morning.
2. The Council was unable to provide a copy of the officer's report or representations received in relation to the application.
3. Works to upgrade the premises as indicated on drawing N°s 16701, 167/ME02D, 167/ME03D and 167/ME04A were nearing completion when the planning appeal was submitted. I made an unaccompanied site visit and so did not go into the premises but all the external works appeared to be complete in accordance with the submitted drawings.
4. I note that since permission was refused for longer opening hours at 60-92 Commercial Street the Council has granted planning permission for 6 two-bedroom and 8 one-bedroom flats on the upper floors at 58 Commercial Street next door to the appeal premises

(Ref. PA/04/00985). My decision must be based on circumstances now rather than at the time of the Council's decision to refuse permission for extended opening hours.

Planning Policy

5. Policy ART1 of the London Borough of Tower Hamlets Unitary Development Plan (1998) to which reference was made in the Council's original decision indicates that permission will normally be given for arts and entertainment facilities if they do not cause an unacceptable level of disturbance or nuisance in a residential area. Policy DEV2 of the plan, to which reference was made in the second decision, indicates the need to protect the amenity of residential occupiers and the environment of the Borough generally from the effect of pollution. Policies ENV1 and CC2 of the First Deposit Unitary Development Plan for the period up to 2016 cover similar ground but preparation of this plan is at an early stage and it can therefore be given little weight in this appeal.

Main Issue

6. I consider the main issue in this appeal is whether the condition as imposed is reasonable and necessary as a means of safeguarding the living conditions of neighbouring occupiers and the character of the surrounding area.

Reasons

7. Premises in this part of Commercial Street typically have commercial uses on the ground floor with some residential accommodation on upper floors. More specifically the Council indicated that N^{os} 44, 56, 58, 70-72 on the east side of Commercial Street and N^{os} 43, 43a, 57-65 and 71-79 on the west side of the Street have existing residential accommodation or have been given planning permission for residential use. The fact that this is not a primarily residential area does not, in my opinion, alter the need to safeguard the quality of the living conditions of those who do live here.
8. There are two matters to be considered in this case. The first is noise generated within the building whilst the premises are in use. The Council's Environmental Health Officer has stated that the approved noise attenuation measures were considered adequate to bring the premises up to "a satisfactory standard" based on the assumption that the building next door would not be used for residential purposes. This has now changed. The permission for flats at 58 Commercial Street was subject to a condition requiring sound insulation "to ensure that any future occupants do not suffer excessive noise nuisance from other occupiers or the external environment", though it is not clear whether the "external environment" includes the building next door or only the environment outside buildings. I have not been informed whether appropriate measures have yet been agreed but I cannot assume that they will go beyond what is necessary to provide reasonable living conditions in relation to the approved hours of use of the club.
9. In my opinion a club which operates until 1100 hours on five days a week and until 0100 on the other two days is significantly different from one which operates until 0100 hours on five days a week and until 0300 hours on the other two days. Planning Policy Guidance 24: *Planning and Noise* uses the term "night time" to refer to the period from 2300 – 0700 hours and I consider this particular care is needed if material harm is not to occur to neighbouring occupiers during this period. In this case there is no evidence that the combined sound mitigation measures at 58 and 60-62 Commercial Street would be adequate

to prevent disturbance to the occupiers of the proposed flats at a time when most people expect noise levels to be at a minimum.

10. The second matter to be considered is noise arising from people who have left the premises and are still in the surrounding area until or beyond 0300 hours. The proximity of residential accommodation in Commercial Street and in adjacent streets where patrons may park cars gives serious cause for concern about noise from raised voices, car doors and car engines etc. and in my view it is unreasonable to inflict noise and disturbance of this kind on local residents so far into the night.
11. The appellant drew attention to background noise from traffic in Commercial Street throughout the day and night but my concern is with noise transmitted from within the premises to 58 Commercial Street and from people who leave the premises during the night.

Conclusions

12. Drawing together my conclusions I consider that the condition as imposed is reasonable and necessary to safeguard the living conditions of nearby residents including those who will live next door if the extant planning permission is implemented.
13. For the reasons given above and having regard to all other matters raised, I conclude that the appeal should be dismissed.

Formal Decision

14. I dismiss the appeal.


INSPECTOR

CR03



Memorandum

Memo

RE: Application for a Public Entertainment Licence at 60-62 Commercial Street, London E1.
To: Mohshin Ali
From: Nathan Te Pairi
Ref: TH 561 BGN
Date: 25 February 2005

Directorate of Development and Renewal

Town Planning
41-47 Bow Road
London E3 2BS

Tel 020 7364 5343
Fax 020 7364 5415

Planning Department objects to the proposal at the above-mentioned address on the following grounds.

1. Full Planning Permission (PA/03/1520) was granted on 11th December 2003 for a change of use a 'Jazz Club' on the basement floor with live music (Class D2) and restaurant/bar on the ground floor (Class A3) at the above mentioned premises. Condition 2 states that the uses hereby permitted shall not be open to customers other than between the hours of:
 - a) 9am and 11pm on Sundays and Public Holidays;
 - b) 8am and 11pm on Mondays to Thursdays, and
 - c) 8am through to 1am Fridays and Saturdays.

I note that the applicant is applying for a licence to open the premises to customers on Sunday-Thursday to 1am and Friday-Saturday 3am and must advise that such an extension could not be implemented unless planning permission had just been sought and obtained for an amendment to the planning permission.

2. The operating hours suggested, until 1 and 3am, are a potential source of nuisance to local residents and would not necessarily be given planning permission.

I have attached copy of the relevant planning permission.

If you have any further queries, please contact the planning helpdesk.


Stephen Irvine
Planning Applications Manager



alr/los



CRD 4

My ref: ENF/07/Grama

19 July 2007

Grama-Phone
60-62 Commercial Street
London
E1 6LT

Development & Renewal
Mulberry Place (AH) Anchorage
House PO Box 55739, 5 Clove
Crescent London E14 1BY

www.towerhamlets.gov.uk

Enquiries to: Cain Duncan
Tel: 020 7364 3975
Fax: 020 7364 5415

Dear Sir/Madam

TOWN AND COUNTRY PLANNING ACT 1990

Location: **60-62 Commercial Street, London, E1 6LT**

Breach: **Operation of a nightclub and bar outside approved opening hours**

As you are aware your recent planning application to extend your opening hours was refused by the Council. Despite this you are continuing to operate to the unauthorised hours.

This letter is a formal warning requiring that you immediately comply with your approved opening hours which are:

- a) 9am and 11pm on Sundays and Public Holidays,
- b) 8am and 11pm Mondays to Thursdays, and
- c) 8am through to 1am Fridays and Saturdays.

Failure to adhere to the requirements of this letter will result in formal enforcement action being taken which may result in the closing of your premises.

If you wish to discuss any of the issues raised in this letter further please do not hesitate in contacting me directly.

Yours faithfully,

Cain Duncan

Planning Enforcement Officer



2006 - 2007
Early Intervention
(Children at Risk)
2003 - 2006
Winner of 4 previous
Beacon Awards



INVESTOR IN PEOPLE



Corporate Director
Development and Renewal
Emma Peters

CR05



IMPORTANT - THIS COMMUNICATION AFFECTS YOUR PROPERTY

**Town and Country Planning Act 1990
(as amended by the Planning and Compensation Act 1991)**

BREACH OF CONDITION NOTICE

SERVED BY:

**The Mayor And Burgesses Of The London Borough Of Tower Hamlets, of the
Town Hall, Mulberry Place, 5 Clove Crescent, London E4 2BG ("the Council")**

TO:

1. [REDACTED]
2. [REDACTED]
3. [REDACTED]
4. [REDACTED]
5. "The Owner", 60-62 Commercial Street, London, E1 6LT.

1. THIS NOTICE is issued by the Council, under section 187A of the above Act, because they consider that a condition imposed on a grant of planning permission, relating to the land described in **paragraph 2** below, has not been complied with. The Council consider that you should be required to comply with the condition specified in this notice. The Annex at the end of this notice contains important additional information.

2. THE LAND TO WHICH THE NOTICE RELATES

Land at ground and basement level, 60-62 Commercial Street, London, E1 6LT shown edged red on the attached plan.

3. THE RELEVANT PLANNING PERMISSION

The relevant planning permission to which this notice relates is the permission granted by the Council on 11th December 2003 for the change of use from an office and showroom to a jazz club on the basement floor with live music (Class D2) and restaurant/bar on the ground floor (Class A3).

4. THE BREACH OF CONDITION

The following condition has not been complied with:

(1) Condition 2: The uses hereby permitted shall not be open to customers other than between the hours of

- a) 9am and 11pm on Sundays and Public Holidays,
- b) 8am and 11pm Mondays to Thursdays, and
- c) 8am through to 1am Fridays and Saturdays.

5. WHAT YOU ARE REQUIRED TO DO

As the person responsible for the breach of condition specified in **paragraph 4** of this notice, you are required to comply with the stated condition by taking the following steps:

- (1) Cease opening the premises to customers outside the following hours, 8am until 11pm Mondays to Thursdays, 8am until 1am Fridays and Saturdays and between 9am and 11pm on Sundays and Public Holidays.

Period for compliance: 30 days beginning with the day on which this notice is served on you.

Dated:

20/9/07
0

Signed:



On behalf of: Directorate of Development and Renewal
Mulberry Place (AH) Anchorage House
PO Box 55739, 5 Clove Crescent
London, E14 1BY

ANNEX

WARNING

THIS NOTICE TAKES EFFECT IMMEDIATELY IT IS SERVED ON YOU IN PERSON OR ON THE DAY YOU RECEIVED IT BY POST.

THERE IS NO RIGHT OF APPEAL TO THE SECRETARY OF STATE FOR THE ENVIRONMENT AGAINST THIS NOTICE.

It is an offence to contravene the requirements stated in **paragraph 5** of this notice after the end of the compliance period. You will then be at risk of immediate prosecution in the Magistrates' Court, for which the maximum penalty is £1,000 for a first offence and for any subsequent offence. If you are in any doubt about what this notice requires you to do, you should get in touch immediately with:

Mr Cain Duncan

Planning Enforcement

Development and Renewal

Mulberry Place (AH) Anchorage House

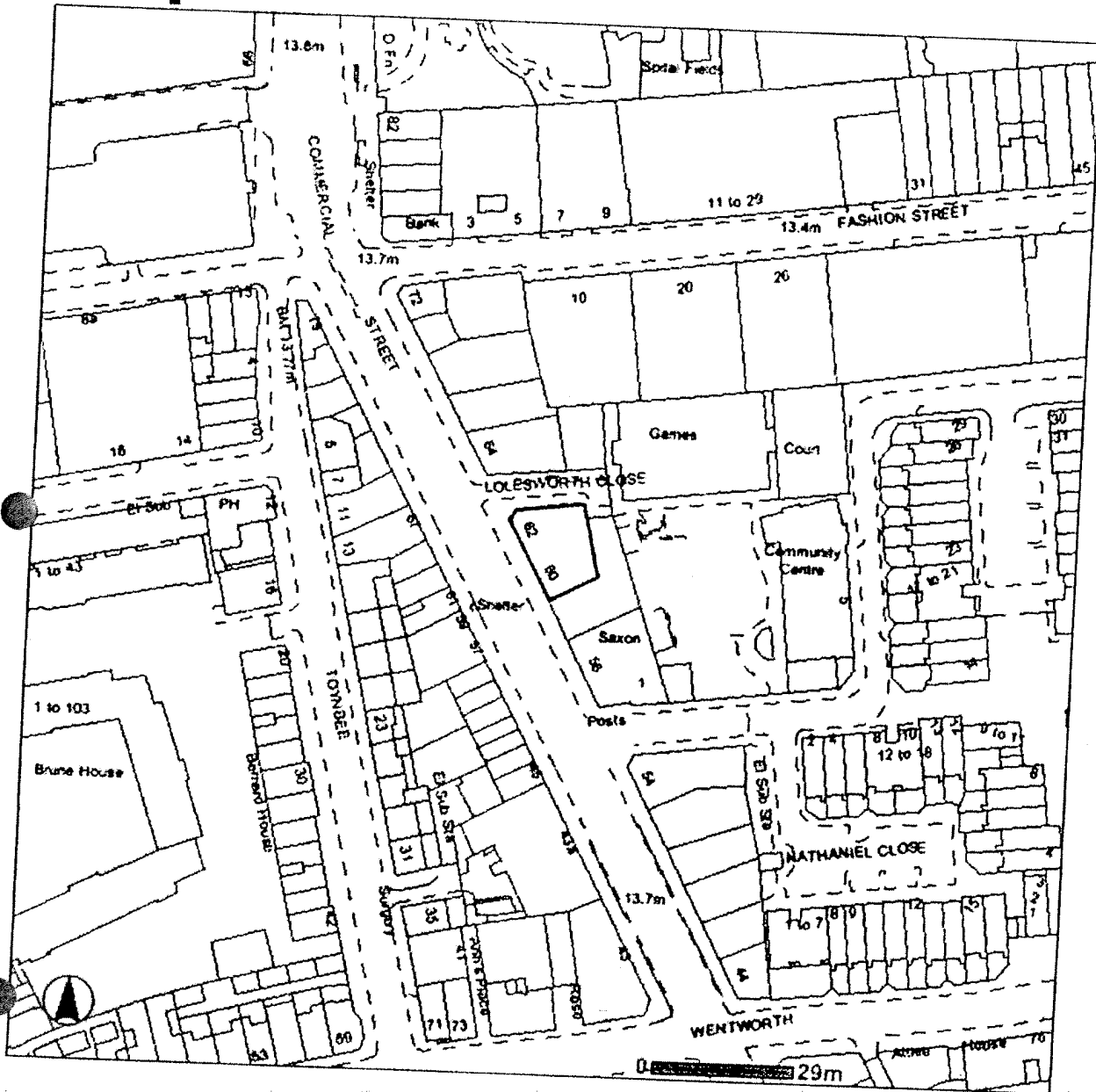
PO Box 55739, 5 Clove Crescent

London, E14 1BY

Phone: 0207 364 3975

If you do need independent advice about this notice, you are advised to contact urgently a lawyer, planning consultant or other professional adviser specialising in planning matters. If you wish to contest the validity of the notice, you may only do so by an application to the High Court for judicial review.

Map



Scale 1:1250

Map of:

Notes:

Breach of Conditon Notice Site Plan for 60-62 Commercial Street, London, E1 6LT

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CRD6

TOWER HAMLETS

My ref: ENF/07/00271

21 November 2007



Development & Renewal
Mulberry Place (AH) Anchorage House
PO Box 55739, 5 Clove Crescent
London E14 1BY

www.towerhamlets.gov.uk

Enquiries to: Cain Duncan
Tel: 020 7364 3975
Fax: 020 7364 5415

Dear Mrs Hall,

TOWN AND COUNTRY PLANNING ACT 1990

I write with reference to the Breach of Condition Notice that was served on Roboko Limited and other persons with interest in the land on the 21/09/07. The Notice required that you comply with condition 2 of the planning permission granted for the change of use of the basement and ground floor to a jazz club and restaurant/bar on the 11/12/03. The condition stated that:

"The uses hereby permitted shall not be open to customers other than between the hours of
a) 9am and 11pm on Sundays and Public Holidays
b) 8am and 11pm Mondays to Thursdays, and
c) 8am through to 1am Fridays and Saturdays"

The Breach of Condition Notice gave you 30 days from the date by which the Notice was served on you to comply with its requirements, being the 22/10/2007.

Site visits have been made by officers on a number of occasions since you were required to comply with the Notice and they have witnessed the premises open for business well after its permitted 1am closing time. While I am aware you have applied for a Judicial Review against the Council and Planning Inspectorate's decision to refuse you planning permission, this does not prevent the Council lodging criminal proceedings against [REDACTED] and other parties with interest in the land.

For your information proceedings have also been lodged against Bar 54, and Notices issued against Public Life Bar and the Edge Nightclub, the later having now complied with the Notices.

Considering the circumstances of this case and [REDACTED] Limited's failure to comply with the Breach of Condition Notice, I will now be instructing the Council's legal service to lodge proceedings in the Thames Magistrates Court. Further to this, the Council is also considering the issuing of a Temporary Stop Notice. You will be advised in due course of your initial hearing date and any further enforcement action the Council intends to take.



2007 - 2008
School Improvement
2003 - 2007
Winner of 5 previous
Beacon Awards



INVESTOR IN PEOPLE



I must also bring to your attention the operating hours of your premises at 16-18 Whitechapel High Street. Your approved planning hours are 1100 - 0200 hours. From officer observations it is clear that these hours are being regularly exceeded.

Can you please take immediate action to comply with the approved opening hours at 16-18 Whitechapel High Street. If you wish to make a planning application to vary these opening hours, application forms can be downloaded from:
<http://www.towerhamlets.gov.uk/data/planning/>

If action has not been taken within 28 days, to rectify this breach of planning control, the Council will be left with no option but to issue a Breach of Condition Notice on your premises at 16-18 Whitechapel High Street.

Please do not hesitate in contacting me directly should you wish to discuss any of the issues raised in this letter further.

Yours faithfully,



Cain Duncan

Planning Enforcement Officer

Cc:



London, E163B

CRD7



In the High Court of Justice
Queen's Bench Division
Administrative Court

Ref: CO/9793/2007



the matter of a claim for Judicial Review

The Queen on the application of Roboko Limited
Versus 1) The Secretary of State for Communities & Local
Government
2) The London Borough of Tower Hamlets
Interested Party: Tellerbell Limited

NOTIFICATION of the Court's decision following an oral hearing on the renewed application for permission to apply for Judicial Review

IT IS ORDERED by The Honourable Mr Justice Sullivan that:-

1. The Claimant's application for an adjournment be refused
- 2 This renewed application for permission to apply for Judicial Review be refused
- 3 Under CPR Part 3.37 this claim is wholly without merit

The Claimant and the Defendant not being represented

(time of the court: 10.30am to 10.35am)

Date 11th June 2008

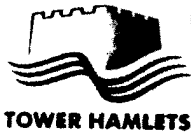
By the Court

Claimant: Roboko Limited, 60-62 Commercial Street, London E1 1EW Ref:
Roberta Hall

1st Defendant's Solicitor: Treasury Solicitors, DX 123242 Kingsway Ref:
LT73407G/SZM/1D

2nd Defendant's Solicitor: Tower Hamlet Council, Development and Renewal
Department, Mulberry Place, Anchorage House, PO Box 55739, 5 Clove
Crescent, London E14 1BY

Interested Party: Tellerbell Limited, St. Alphage House, 2 Fore Street, London
EC2Y 5HD



CRD8

TOWER HAMLETS

My ref: ENF/07/00271

26 November 2008

Development & Renewal
Mulberry Place (AH) Anchorage House
PO Box 55739, 5 Clove Crescent
London E14 1BY

www.towerhamlets.gov.uk



Limited

Enquiries to: Cain Duncan
Tel: 020 7364 3975
Fax: 020 7364 5415

Dear Mrs Hall,

TOWN AND COUNTRY PLANNING ACT 1990

Location: **60-62 Commercial Street, London, E1 6LT**
Breach: **Failure to comply with a Breach of Condition Notice**

I write with reference to the reported breach of planning control at the above property.

In September and October 2008 the Council made a number of site visits to the above property as well as collected evidence from CCTV, illegal fly-posters and the internet, which confirm further offences in relation to non-compliance with the Breach of Condition Notice issued on the 20th September 2007.

I must inform you that I will be putting forward a recommendation that Court proceedings are lodged in relation to these offences. Further to this, should the continued breaches of planning control continue the Council will have little option but to serve upon you a Temporary Stop Notice.

Should you wish to discuss any of the matters raised in this letter further please contact me directly. I look forward to your immediate co-operation in this matter.

Yours faithfully,

Cain Duncan

Planning Enforcement Officer

Cc: Kalliopi Papadimitas - 153b Brick Lane, London, E1 6SB
Tellerbell Ltd - 17 Thomas More Street (6th Floor), London, E1W 1YW



2007 - 2008
School Improvement
2003 - 2007
Winner of 5 previous
Beacon Awards



INVESTOR IN PEOPLE





TOWER HAMLETS

My ref: ENF/07/00271

26 November 2008

Development & Renewal
Mulberry Place (AH) Anchorage House
PO Box 55739, 5 Clove Crescent
London E14 1BY

www.towerhamlets.gov.uk

Enquiries to: Cain Duncan
Tel: 020 7384 3975
Fax: 020 7384 5415

Dear Ms Papadimatas,

TOWN AND COUNTRY PLANNING ACT 1990

Location: **60-62 Commercial Street, London, E1 6LT**
Breach: **Failure to comply with a Breach of Condition Notice**

I write with reference to the reported breach of planning control at the above property.

In September and October 2008 the Council made a number of site visits to the above property as well as collected evidence from CCTV, illegal fly-posters and the internet, which confirm further offences in relation to non-compliance with the Breach of Condition Notice issued on the 20th September 2007.

I must inform you that I will be putting forward a recommendation that Court proceedings are lodged in relation to these offences. Further to this, should the continued breaches of planning control continue the Council will have little option but to serve upon you a Temporary Stop Notice.

Should you wish to discuss any of the matters raised in this letter further please contact me directly. I look forward to your immediate co-operation in this matter.

Yours faithfully,


Cáin Duncan

Planning Enforcement Officer

Cc: 



2007 - 2008
School Improvement
2003 - 2007
Winner of 5 previous
Beacon Awards



CRO9

FORM 269B1



IN THE COURT OF APPEAL, CIVIL DIVISION

(250 GS VO 17 10 06)

REF: C1/2008/1445

[SEAL]

order no. 012354

R(Roboko) -v- SSCLD

12 JUN 2009

ORDER made by the Rt. Hon. Sir Richard Buxton

On consideration of the appellant's notice and accompanying documents, but without an oral hearing, in respect of an application for permission to appeal and extension of time

Decision: Refused, as being totally without merit. The applicant is not entitled to have the application reconsidered at an oral hearing

Reasons

Sullivan J's decision is unchallengeable, for the reasons that he gave. The attempt to do so is a serious misuse of the facilities of this court.



Information for the parties: This decision is final.

Where the Court of Appeal refuses permission to appeal without a hearing, it may, if it considers that application is totally without merit, make an order that the person seeking permission may not request the decision to be reconsidered at a hearing (see CPR 52.3(4A)). Such an order has been made in this case. The appellant is therefore unable to request that an oral hearing be arranged.

Signed: [Redacted]
Date: 10 June 2009

Supreme Court

Case Number:

CRD 10

09/10/10
UAA



0113hrs



0113hrs



0113h2



0113h2

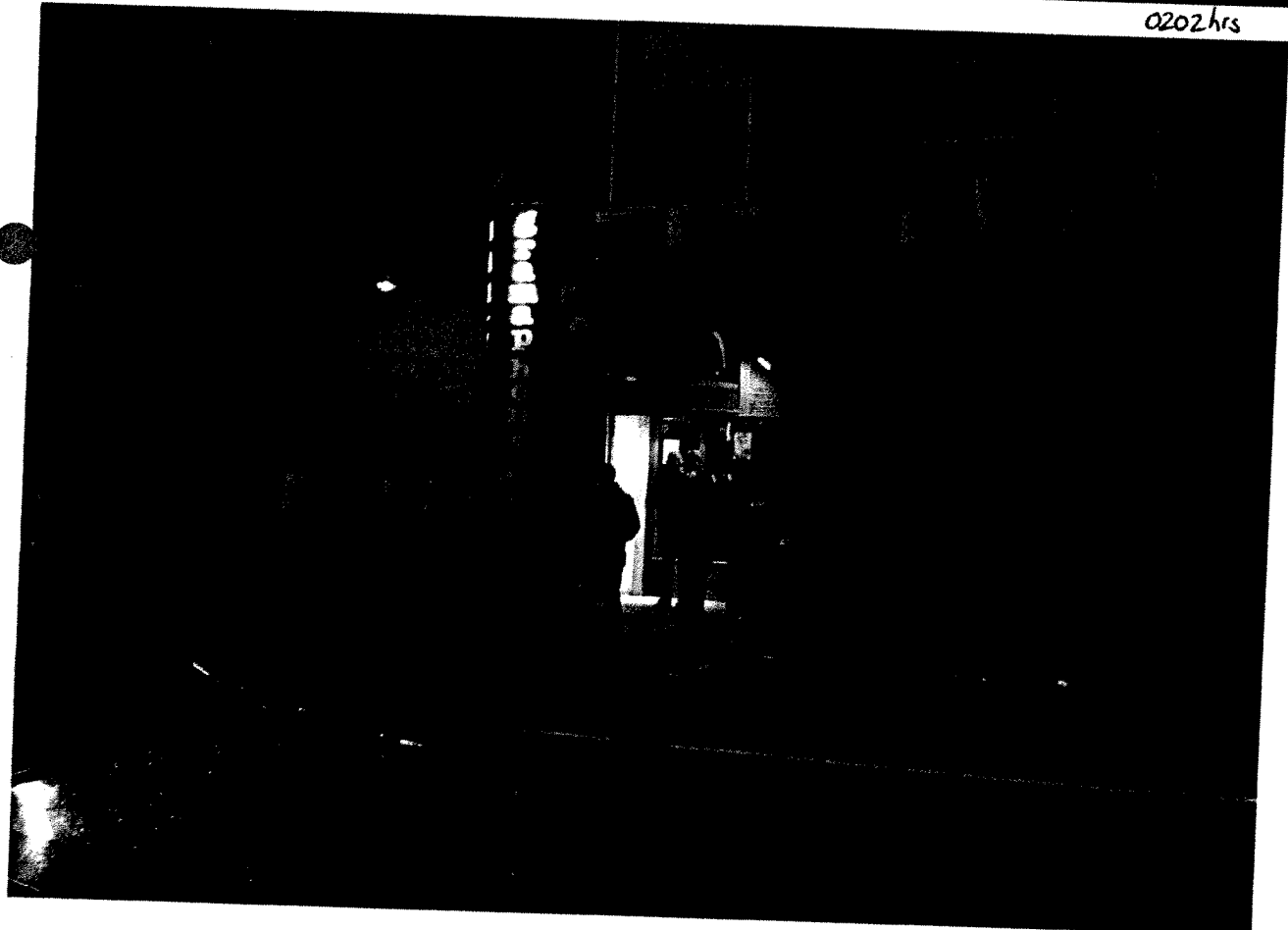
CRD 11

161010

GAH



0202 hrs



0203 hrs

CRD 12

23/10/10

[Handwritten signature]



0114hrs



0118hrs



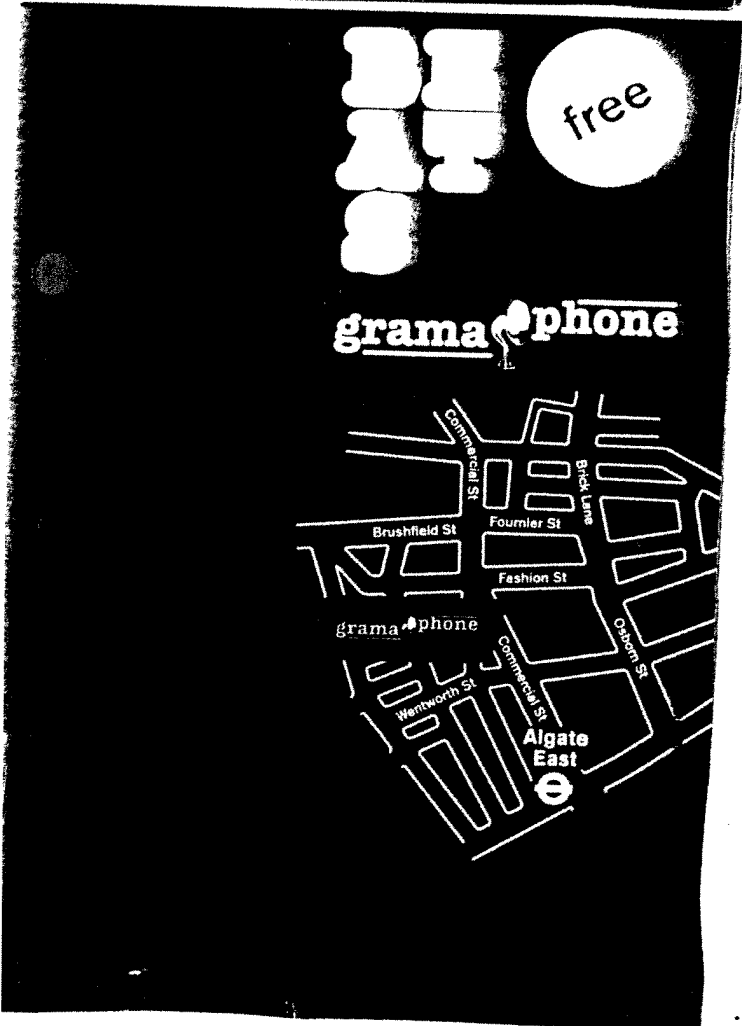
0120hrs



0122hrs

ots steady presents beats.

CRD13



The Gramophone" title="Bar, Restaurant, Lounge and Live Music venue - Spitalfields, East London" />

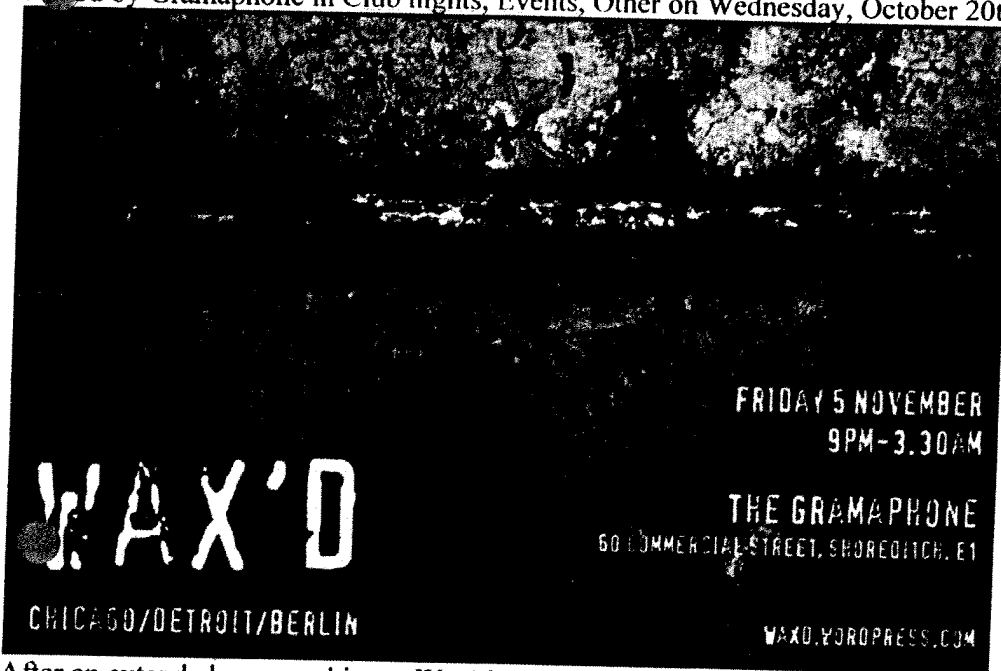
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Wax'd

Posted by Gramophone in Club nights, Events, Other on Wednesday, October 20th, 2010 | no responses yet



After an extended summer hiatus, Wax'd rolls back into town to kick off its winter 2010 season on Friday 5 November at The Gramophone in Shoreditch.

Armed with stacks of fresh and forgotten vinyl, the Wax'd team will take over the intimate basement club of the Gramophone in Shoreditch, just metres from Liverpool Street, Spitalfields market and Brick Lane.

Housed in a commercial building dating back to Victorian times, The Gramophone displays original brick arches and stone slabs combined with wooden floors, a Funktion 1 soundsystem and a well stocked bar.

This space is the perfect fit for the deepest house sounds of Wax'd, as our residents dig deep in their crates for their unique blend of forgotten gems and modern cuts, with a number of special guests to be confirmed.

Get yourselves down early to ensure entry. See you on the dancefloor!

Share this entry:

- 

<http://www.thegramophone.co.uk/2010/10/waxd/>

28/10/2010

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Rebirth

Posted by Gramophone in Club nights, Events, Other on Thursday, September 30th, 2010 | no responses yet



22.10.2010 // 9PM - 4AM

REBIRTH

THE GRAMAPHONE
60-62 Commercial Street
Tower Hamlets
London
E1 6BT

DSCI4



DSCI4 & ENNEX PROUDLY PRESENTS

REBIRTH

CLASSIC AND FUTURE TECH DnB WITH THE MERRY FUNCTION FIREWORKS SYSTEM PER AM

TRACE (DSCI4)

PROLIX (GAMWATER / RENEGADE HARDWARE)

VICIOUS CIRCLE (RENEGADE HARDWARE / DSCI4)

NEED FOR MIRRORS (SHOULDER / DJ RECORDS)

ALLIED (DSCI4 / SNAZBOYS RECORDS)

ROB ENNEX (ENNEX / DSCI4 / DRIEN UK)

EBK (DSCI4 / RENEGADE HARDWARE / REVOLUTION)

INSIDE INFO (LIVED / GAMWATER / HORIZONS)

HOSTED BY - A SURPRISE GUEST MC

**ONLY £7
ALL NIGHT
LONG!!**

Friday 22nd October 2010 | 9pm - 4am

DSCI4 and ENNEX are the proud sponsors of REBIRTH and we are starting tonight with a limited release featuring some of the freshest new DJs in the UK. 60-62 is a truly unique venue with the best DJs and the night through to Sunday. See you there!

This night is a special one and we expect to announce the names of some exciting new DJs in the next few days. We are also looking for some more DJs to join the team. If you are interested in joining the team, please contact us at rebirth@the-gramophone.co.uk or call 0204 370 1234 to give us a call.

VERY LIMITED Advanced Tickets Available Ticketweb www.ticketweb.co.uk

Classic and future Tech DnB featuring Trace, Prolix, Vicous Circle, Need for Mirrors, Allied, EBK, Rob Ennex, Inside Info

7 all night, very limited tickets available at www.ticketweb.co.uk

Share this entry:



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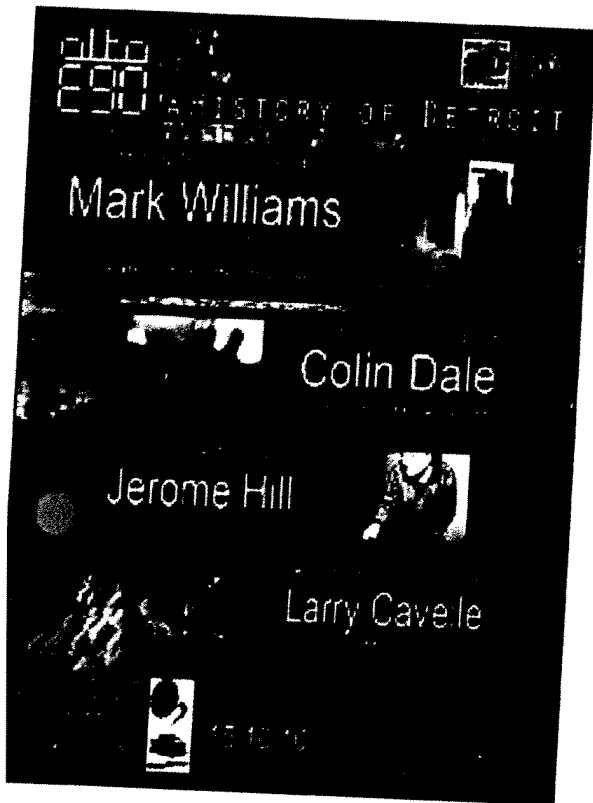
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A History of Detroit

Posted by Gramophone in Club nights, Events, Other on Monday, September 13th, 2010 | no responses yet



We are absolutely torn at the tragic news of our dear brother, Detroit House Legend, Aaron-Carl (headline act for the night). AC passed away on Thursday 30th September from his short battle with Cancer. I (the promoter) Larry Cavele, was really close to AC and would like to now have the night as a massive tribute to the music hero we hold close to our hearts. I know for certain he'd want us to rock the dam joint out.

History ...of Detroit.....Starring:

- Techno Legend, Mark Williams
- London Techno Legend, Colin Dale
- Electro Funk Turntablist, Jerome Hill
- JK Detroit Techno Spinner, Larry Cavele

[p://www.thegramophone.co.uk/2010/09/a-history-of-detroit/](http://www.thegramophone.co.uk/2010/09/a-history-of-detroit/)

A History of Detroit | The Gramophone

Alta Ego UK and W.A.R.M.T.H.313 Int present a story of Detroit Electronica for this gritty intimate basement nightclub setting at The Gramophone.

Visit www.Altago.org and www.warmth313.com for the full story.....

£7 Limited Advanced/VIP tickets on sale ****UNTIL 8th OCTOBER**** at: <http://www.residentadvisor.net/event.aspx?185462>
£9 before 22:30 / £10 after 22:30

FACEBOOK EVENT PAGE: <http://www.facebook.com/event.php?eid=140972882606357>

Share this entry:



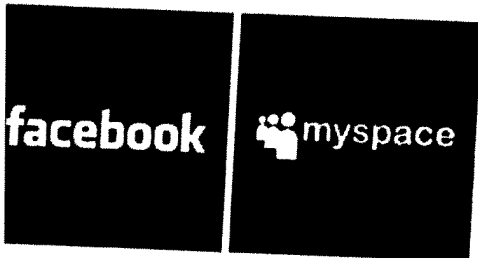
Leave a Reply

Name (required)

Mail (will not be published) (required)

Website

Submit Comment



ramaphone Elsewhere

[p://www.thegramophone.co.uk/2010/09/a-history-of-detroit/](http://www.thegramophone.co.uk/2010/09/a-history-of-detroit/)

The Gramophone" title="Bar, Restaurant, Lounge and Live Music venue - Spitalfields, East London" />

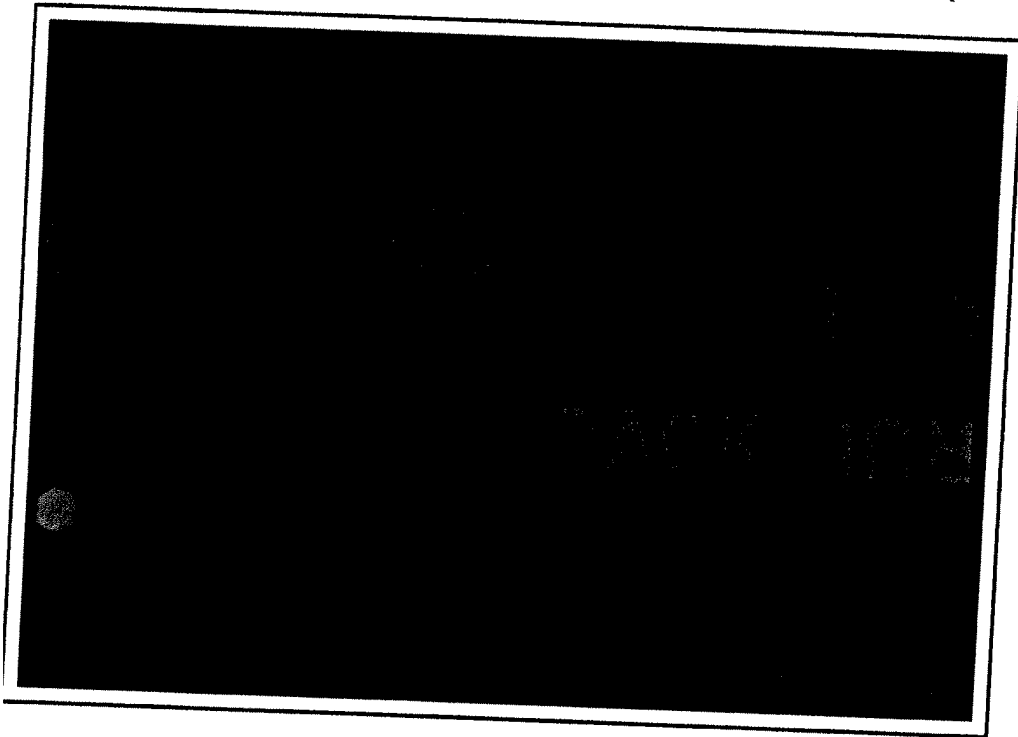
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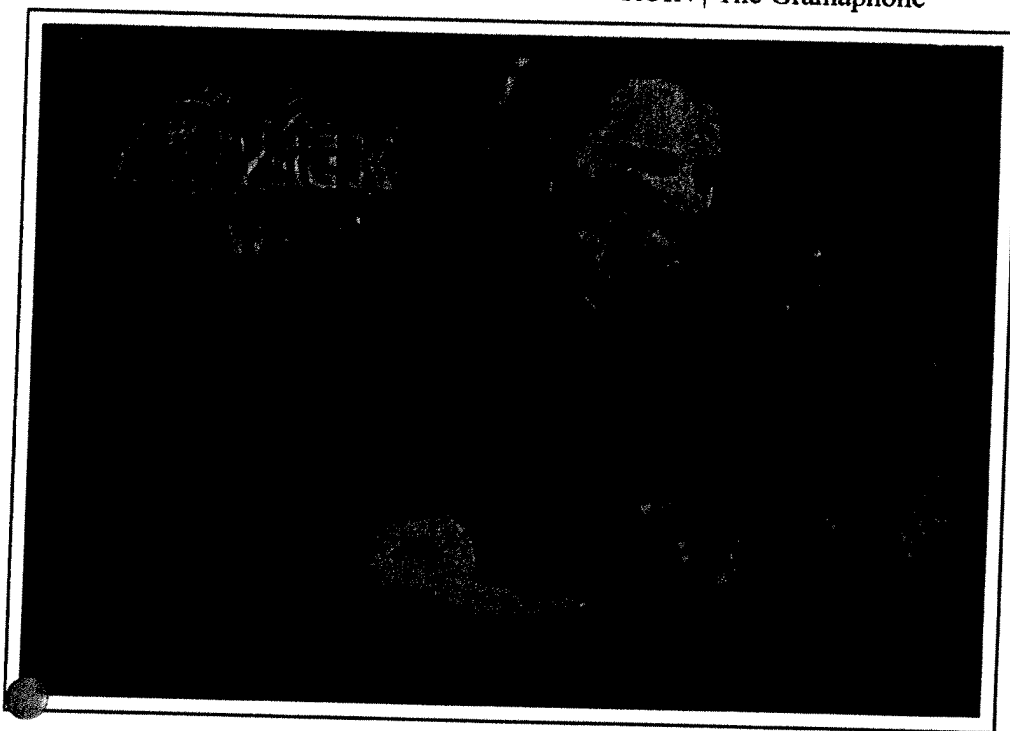


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Soltek Sessions presents CLUEKID & RACK N RUIN

Posted by Gramophone in Club nights, Events, News, Other on Tuesday, September 7th, 2010 | no responses yet





After the massive success of our Haiti Fundraiser back in April, SOLTEK SESSIONS returns on Friday 8th October for the next instalment of beats and bass at The Gramophone. And we're proud to present without a doubt our biggest and most diverse lineup to date..!

****THE NEXT PARTY****

SOLTEK SESSIONS presents CLUEKID & RACK N RUIN

The Gramophone,
60-62 Commercial Street, London E1 6LT
(Nearest Tube Aldgate East)

Friday 8th October 2010
21:30-03:30

£5 Advanced Tickets, £7 On The Door

Tickets Available from TicketWeb...

http://www.ticketweb.co.uk/user/?region=gb_london&query=detail&event=400308

ALL PINTS £3

Dubstep / DnB / 2 Step / Tech House

Lineup:

- CLUEKID (Soul Jazz, Disfigured Dubz)

Cluekid has been a prominent and well respected producer within the Dubstep arena for some years now and at the ripe old age of 22 has already produced some of the genre's biggest tracks to date. Cluekid has collaborated with Skream on the mighty "Sandsnake" which debuted on Skream's own imprint Disfigured Dubz, as well as with long time musical partner in crime Cotti with "Sensi Dub" and "Legacy". He's also had releases out on some of the scene's most renowned labels such as Earwax, Soul Jazz and 30 Recordings and with his new label Bullfrog Beats things don't seem to be slowing down one bit. Cluekid's dj skills are also much sought after, with gigs all over

<http://www.thegramophone.co.uk/2010/09/soltek-sessions-presents-cluekid-rack-n-ruin/>

28/10/2010

Europe and headlining tours as far away as Australia. Plenty of fresh dubplates and huge basslines make his sets unmissable!

<http://www.myspace.com/cluekid>

- RACK N RUIN (Black Butter Records, ATG)

This young London based producer has already harnessed the support of A list dj's such as Toddla T, Dj Zinc, Fake Blood, Shy FX, Breakage, Boy 8-Bit and many more with his latest releases; and his remix credits include established artists such as Nas & Damian Marley, Zero 7 and The Freestylers. His first release "Skitzo VIP" was chosen for the soundtrack to the Orange Rockcorps Ad campaign, bringing his fresh mind-bending sound to the masses. Skillfully combining elements of dubstep, garage, jungle, electro, techno and other genres in his tracks it's safe to say Rack N Ruin has successfully created a fresh sound he can call his own. With the enormous success of his recent "Soundclash EP" on Black Butter Records and various exciting future collaborations, as well as a busy djing schedule that boasts regular gigs all over the country and a tour of America to come at the end of the year there is clearly nothing but greatness to be had from this rising star. We're lucky to have Rack N Ruin blessing the decks for a one-off special DnB/Jungle set, this promises to be big!

<http://www.myspace.com/racknruinmusic>

Support comes from Soltek residents:

- DAFFADAM
- MEDLAM
- JORDAN AM

<http://www.myspace.com/soltekuk>

About Soltek:

SolTek is a bimonthly club night in London that provides an antidote to the over-priced, generic parties that we're all tiring of. At our events you can expect music with a strong emphasis on both quality and diversity, that spreads across many flourishing genres ranging from Drum & Bass, Dubstep to Tech House and Techno. Expect to hear innovative, underground beats from our up-and-coming resident and special guest djs. Held at well known East London venue The Gramophone, our parties offer a cheap and enjoyable Friday night out to any authentic and discerning music enthusiast!

Share this entry:



Leave a Reply

Name (required)

Wobble Squad UK | The Gramophone

The Gramophone" title "Bar, Restaurant, Lounge and Live Music venue - Spitalfields, East London" /

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Wobble Squad UK

Posted by Gramophone in Club nights, Deviation, Events, News, Wobble Squad on Wednesday, October 6th, 2010 | no responses yet



WOBBLE SQUAD

Dubstep, hiphop, house, drum & bass and grime with:

Vobblesquad UK
 Nicholas yeah? b2b Lenny still (dubfreaks)
 hook 1s
 ack le roc
 more

times: 9.30pm - 3.30am

<http://www.thegramophone.co.uk/2010/10/wobble-squad-uk-2/>

The Gramophone" title="Bar, Restaurant, Lounge and Live Music venue - Spitalfields, East London" />

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Deep Cover

Posted by Gramophone in Club nights, Deep Cover, Events on Friday, September 17th, 2010 | no responses yet

Deep Cover Sy Sez

Simon Boi + Blueboy

Gramophone

Saturday 9th October

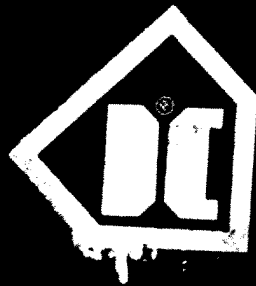
9pm – 3.30am

60-62 Commercial St.

Door £7

Badgeholders £3

deep-cover.co.uk



night of deep and soulful House featuring Sy Sez, Simon Boi and Blueboy, £7 on the door

[p://www.thegramophone.co.uk/2010/09/deep-cover/](http://www.thegramophone.co.uk/2010/09/deep-cover/)

28/10/2010

Appendix 2



TOWER HAMLETS

Licence / Registration

Certificate Number

14393

Postal Address

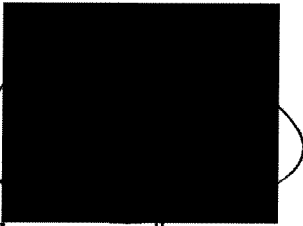
(Gramophone)
Ground Floor and Basement
60 - 62 Commercial Street
London
E1 6LT

Licensable Activities authorised by the licence

The sale by retail of alcohol
The provision of regulated entertainment
The provision of late night refreshment

See the attached licence for the licence conditions

Signed by


Jacqueline Randall
Team Leader Licensing

Date: 15th May 2007

FOR OFFICE USE

Receipt Number 22052 Fee Paid £23

Fee Req.

Date 23.7.10 Initial SC



Part A - Format of premises licence

Premises licence number

14393

Part 1 - Premises details

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

(Gramophone)
Ground Floor and Basement
60 - 62 Commercial Street

Post town

London

Post code

E1 6LT

Telephone number

020 7377 5332

Where the licence is time limited the dates

N/A

Licensable activities authorised by the licence

The sale by retail of alcohol
The provision of regulated entertainment
The provision of late night refreshment

The times the licence authorises the carrying out of licensable activities

Times

Alcohol and Regulated Entertainment

(Plays and films. Live music, recorded music, performance of dance and anything of a similar description. Provision of facilities for making music, provision of facilities for dancing and provision of facilities for entertainment of a similar description).

- Monday to Thursday, from 11.00 hours to 01.30 hours the following day
- Friday and Saturday, from 11.00 hours to 02.30 hours the following day
- Sunday, from 11.00 hours to 23:30 hours

Late Night Refreshment

- Monday to Thursday, from 23.00 hours to 01.30 hours the following day
- Friday and Saturday, from 23.00 hours to 02.30 hours the following day
- Sunday, from 23.00 hours to 23:30 hours

Non standard timings:

On the day prior to a Bank Holiday - Thirty minutes after the carrying out of licensable activities

The opening hours of the premises

- Monday to Thursday, from 11.00 hours to 02.00 hours the following day
- Friday and Saturday, from 11.00 hours to 03.00 hours the following day
- Sunday, from 11.00 hours to 12midnight.

Non standard timings

On the day prior to a Bank Holiday - Thirty minutes after the carrying out of licensable activities

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

On sales

Part 2

Name, (registered) address, telephone number and email (where relevant) of holder of premises licence

Gramrhy
60-62 Commercial Street
London
E1 6LT

Tel: 020 7377 5332

Email: gramaphone@gmail.com

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

N/A

Name, address and telephone number of designated premises supervisor where the premises licence authorises the supply of alcohol

Miss Kalliopi Papadimatos
153B Brick Lane
London
E1 6SB

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 No: 9772

Issuing Authority: Southwark Council

Annex 1 - Mandatory conditions

No supply of alcohol may be made under the premises licence-

- a) at a time where 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 supply of alcohol under the premises licence must be made or authorised by a person who holds a personal licence.

Where a premises licence includes a condition that at specified times one or more individuals must be at the premises to carry out a security activity, such individuals must be licensed with the Security Industry Authority.

This does not apply to premises within paragraph 8(3)(a) of Schedule 2 to the Private Security Industry Act 2001, (premises with premises licences authorising plays or films), or

in respect of premises in relation to-
any occasion mentioned in paragraph 8(3)(b) or (c) of Schedule 2 (premises being used exclusively by club with club premises certificate, under a temporary event notice authorising plays or films or under a gaming licence), or
any occasion within paragraph 8(3)(d) of Schedule 2 (occasions prescribed by regulations under that Act) unless the Licence specifically states otherwise.

Security activity means an activity to which paragraph 2(1)(a) of Schedule 2 of the Private Security Industry Act 2001 of that schedule applies, and Paragraph 8(5) of Schedule 2 (interpreting of references to an occasion) applies as it applies in relation to paragraph 8 of Schedule 2 of the Private Security Industry Act 2001

Times

Alcohol and Regulated Entertainment

(Plays and films. Live music, recorded music, performance of dance and anything of a similar description. Provision of facilities for making music, provision of facilities for dancing and provision of facilities for entertainment of a similar description).

- Monday to Thursday, from 11.00 hours to 01.30 hours the following day
- Friday and Saturday, from 11.00 hours to 02.30 hours the following day
- Sunday, from 11.00 hours to 23:30 hours

Late Night Refreshment

- Monday to Thursday, from 23.00 hours to 01.30 hours the following day
- Friday and Saturday, from 23.00 hours to 02.30 hours the following day
- Sunday, from 23.00 hours to 23:30 hours

Non standard timings:

On the day prior to a Bank Holiday - Thirty minutes after the carrying out of licensable activities

Effective from 6th April 2010

- (1) The responsible person shall take all reasonable steps to ensure that staff on relevant premises do not carry out, arrange or participate in any irresponsible promotions in relation to the premises.
- (2) 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 in a manner which carries a significant risk of leading or contributing to crime and disorder, prejudice to public safety, public nuisance, or harm to children—
 - (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 (other than any promotion or discount available to an individual in respect of alcohol for consumption at a table meal, as defined in section 159 of the Act);
 - (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;
 - (d) provision of free or discounted alcohol in relation to the viewing on the premises of a sporting event, where that provision is dependent on;
 - (i) the outcome of a race, competition or other event or process, or
 - (ii) the likelihood of anything occurring or not occurring;
 - (e) 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.

2. The responsible person shall ensure that no alcohol is dispensed directly by one person into the mouth of another (other than where that other person is unable to drink without assistance by reason of a disability).
3. The responsible person shall ensure that free tap water is provided on request to customers where it is reasonably available.

Effective from 10th October 2010:

- (1) The premises licence holder or club premises certificate holder shall ensure that an age verification policy applies to the premises in relation to the sale or supply of alcohol.
 - (2) The policy must require individuals who appear to the responsible person to be under 18 years of age (or such older age as may be specified in the policy) to produce on request, before being served alcohol, identification bearing their photograph, date of birth and a holographic mark.
4. The responsible person shall 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; and
 - (b) customers are made aware of the availability of these measures.

Annex 2 - Conditions consistent with the operating Schedule

Police Conditions

1. At least one personal licence holder shall remain on the premises at all times during licensed hours when the premises are open and trading.
2. There shall be an electronic search arch installed or an electric search wand used to search every customer entering the premises. Installation of either device shall be to the satisfaction of the police and Licensing Authority.

3. Where searching is carried out, notices should be prominently displayed explaining that:
 - Persons entering the premises will be searched
 - Agreement to search is a condition of entry
 - If persons do not consent, entry will be refused
 - Police may be called if drugs or weapons are found

4. Any drug/weapon seizures will be recorded in the incident book. The following details should be recorded:
 - Date/Time item found
 - Where found
 - Details of item
 - Seal number of property bag
 - Any action taken (e.g. person detained, police called)
 - Signature of person seizing
 - Signature of DPS or Manager
 - Details of person searched (if available)

5. The Designated Premises Supervisor (DPS) will ensure all staff are trained to use and maintain an incident book to the satisfaction of police. The incident book shall be properly maintained and it shall be produced to the police and Licensing Authority upon request. All ejections of customers are to be contemporaneously recorded in the incident book and drawn to the attention of the DPS who shall countersign the book.

6. Any incident of unlawful violence by, or on, customers of the club (whether inside or immediately outside the club) to be notified to police immediately.

7. The DPS shall take such reasonable steps as are necessary to ensure that intoxicating liquor purchased on the premises is not removed from the premises for consumption outside.

8. The maximum number of persons, including staff to be present in the licensed premises on each floor shall not exceed the number stated by the proper officer of the London Fire and Emergency Planning Authority.

9. Refreshment other than intoxicating liquor (including drinking water) shall be available during the whole of the permitted hours in all parts of the premises where intoxicating liquor is sold or supplied.

10. There shall be a winding down period in which:
 - Subdued music will be played
 - Lighting shall be turned up
 - A taxi service shall be available and announcements regarding service be made
 - Notices regarding the service shall be posted throughout the premises

- Door supervisors shall use reasonable endeavours to encourage customers to keep good order after they leave the premises.

11. CCTV with time and date recording facility to be maintained at the club in accordance with the reasonable requirements of a Metropolitan Police Crime Prevention Officer. Recording media to be retained for at least 30 days and to be readily available for inspection by the police or other statutory authority. At least two people will be trained to operate the recording equipment and be competent in its operation. At least one trained person shall be on premises at all times when the club is open and trading.

12. A minimum of 3 SIA registered door supervisors will be employed at the premises. At all times one of the SIA registered door supervisors must be female.

13. There shall be no irresponsible drinks promotions such as "two for one", all you can drink, at the premises and any drinks promotions shall adhere to industry accepted codes of best practice as to their advertisement and management.

14. Police will be made aware of any promotion event taking place at the premises. The DPS will complete a risk assessment form provided by the Police and will submit it to the licensing office at Bow Road Police Station at least 14 days before the event or as soon as reasonably practicable.

Environmental Protection Conditions

(1) ADDITIONAL MANAGERIAL MEASURES/CONTROLS TO BE INCLUDED IN THE APPLICATION IN ORDER TO PREVENT THE POSSIBILITY OF "PUBLIC NUISANCE" OCCURRING.

(a) The provision and installation of an approved "noise limiting device" to the amplified sound system (s) within the premise, which maximum noise levels are to be set and agreed beforehand with the Environmental Health Officer.

(b) Supervisors will be provided to all three entrances and exits to the premises in order to ensure adequate health & safety and effectively control access and egress to your premises. This will also prevent the possibility of "queuing" and maintain crowd control.

(c) The applicant will have arrangement with local taxi company to provide transport where necessary for patrons when they exit the premises late at night.

(d) Supervisors employed by the applicant will remind patrons on exiting the premises late at night to do so quietly and considerately thus ensuring proper stewardship is maintained.

(e) No early morning deliveries are to be provided to the premises by outside agencies or contractors. All such deliveries will be provided after 10am and in normal working hours.

(f) Empty glass bottles will be retained inside the premises and not taken outside the premises late at night for collection the following day thus minimising any noise nuisance being caused to adjoining residents. Patrons will not be permitted to take glass bottles or glasses outside the premises.

(g) Supervisors employed by the applicant will ensure that taxi drivers and patrons arriving by motor car or other transport will be reminded not to sound their car horns or slam doors thus preventing any undue noise nuisance occurring particularly when patrons exit the premises.

(h) The applicant to exhibit polite notices in prominent places within the premises reminding patrons when they exit the premises late at night to do so quietly and considerately. A verbal message will be provided before the premises close at the end of each working day.

(i) In order to assist in car parking for patrons, multi storey car parking is available in Whites Row nearby.

(j) Confectionary (lollipops) will be provided to patrons on exiting the premises late at night in order to prevent the possibility of loud speech causing a nuisance to residents adjoining.

Other Conditions

1. Entrance to basement floor to be restricted all the time to over 18 year olds
2. Trained staff and management to identify under 18 year olds and thereafter remove from the premises
3. No adult material displayed at all
4. Entrance to basement floor to be restricted all the time to over 18 year olds
5. Provision for amplified and non-amplified music. Exhibition of films and performances of a non-pornographic nature. Dance performances of a non-adult/non-pornographic nature.

Annex 3 - Conditions attached after a hearing by the licensing authority

N/A

Annex 4 - Plans

The plans are those submitted to the licensing authority on the following date:

26 January 2007



Part B - Premises licence summary

Premises licence number

14393

Premises details

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

(Gramophone)
Ground Floor and Basement
60 - 62 Commercial Street

Post town
London

Post code
E1 6LT

Telephone number
020 7377 5332

Where the
licence is time
limited the dates

N/A

Licensable
activities
authorised by
the licence

The sale by retail of alcohol
The provision of regulated entertainment
The provision of late night refreshment

The times the licence authorises the carrying out of licensable activities

Alcohol and Regulated Entertainment

(Plays and films. Live music, recorded music, performance of dance and anything of a similar description. Provision of facilities for making music, provision of facilities for dancing and provision of facilities for entertainment of a similar description).

- Monday to Thursday, from 11.00 hrs to 01.30 hrs the following day
- Friday and Saturday, from 11.00 hrs to 02.30 hrs the following day
- Sunday, from 11.00 hrs to 23:30 hrs

Late Night Refreshment

- Monday to Thursday, from 23.00 hrs to 01.30 hrs the following day
- Friday and Saturday, from 23.00 hrs to 02.30 hrs the following day
- Sunday, from 23.00 hrs to 23:30 hrs

Non standard timings:

On the day prior to a Bank Holiday - Thirty minutes after the carrying out of licensable activities

The opening hours of the premises

- Monday to Thursday, from 11.00 hrs to 02.00 hrs the following day
- Friday and Saturday, from 11.00 hrs to 03.00 hrs the following day
- Sunday, from 11.00 hrs to 12midnight.

Non standard timings

On the day prior to a Bank Holiday - Thirty minutes after the carrying out of licensable activities

Name, (registered) address of holder of premises licence

Gramrhy
60-62 Commercial Street
London
E1 6LT

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

On sales

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

N/A

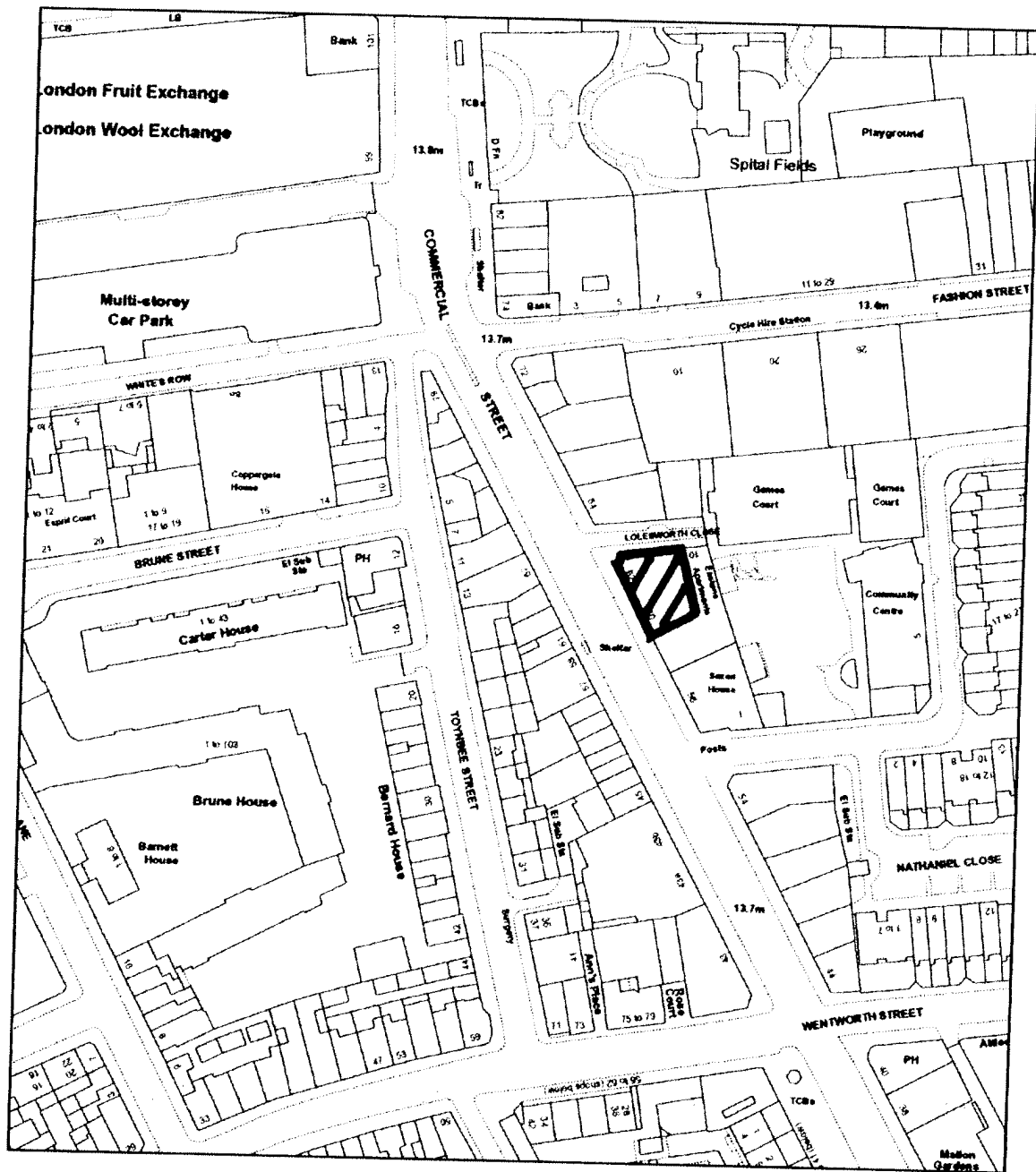
Name of designated premises supervisor where the premises licence authorises for the supply of alcohol

Miss Kalliopi Papadimatos

State whether access to the premises by children is restricted or prohibited

No

Appendix 3



60-62 Commercial Street



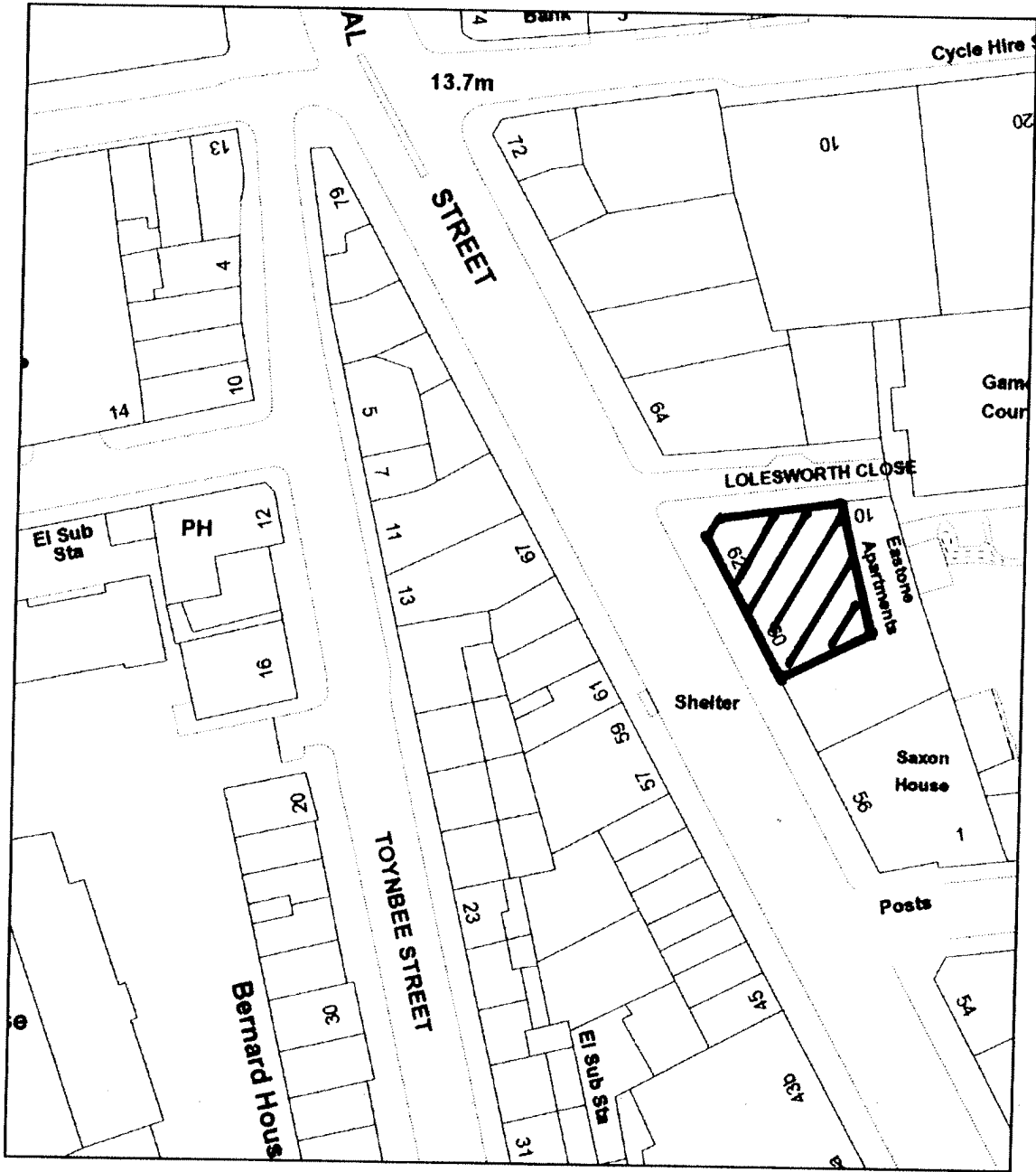
Scale 1:1335

10 0 10 20 30

Metres



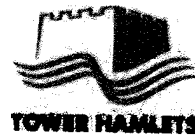
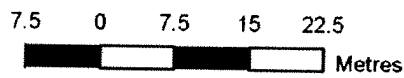
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60-62 Commercial Street



Scale 1:668



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Appendix 4

Guidance Issued by the Home Office under Section 182 of the Licensing Act 2003 concerning Planning and Building Control

PLANNING AND BUILDING CONTROL

- 13.64 The statement of licensing policy should indicate that planning, building control and licensing regimes will be properly separated to avoid duplication and inefficiency. Applications for premises licences for permanent commercial premises should normally be from businesses with planning consent for the property concerned. However, applications for licences may be made before any relevant planning permission has been sought or granted by the planning authority.
- 13.65 The planning and licensing regimes involve consideration of different (albeit related) matters. For instance, licensing considers public nuisance whereas planning considers amenity. As such licensing applications should not be a re-run of the planning application and should not cut across decisions taken by the local authority planning committee or following appeals against decisions taken by that committee. Licensing committees are not bound by decisions made by a planning committee, and vice versa.
- 13.66 The granting by the licensing committee of any variation of a licence which involves a material alteration to a building would not relieve the applicant of the need to apply for planning permission or building control where appropriate.
- 13.67 There are also circumstances when as a condition of planning permission, a terminal hour has been set for the use of premises for commercial purposes. Where these hours are different to the licensing hours, the applicant must observe the earlier closing time. Premises operating in breach of their planning permission would be liable to prosecution under planning law.
- 13.68 Proper integration should be assured by licensing committees, where appropriate, providing regular reports to the planning committee on the situation regarding licensed premises in the area, including the general impact of alcohol related crime and disorder. This would enable the planning committee to have regard to such matters when taking its decisions and avoid any unnecessary overlap. A planning authority may also make representations as a responsible authority as long as they relate to the licensing objectives.

Appendix 5



Working together for a safer London

TERRITORIAL POLICING

Ms Randall
LBTH Licensing
Mulberry Place (AH)
5 Clove Crescent
E14

HT - Tower Hamlets Borough

Licensing Office
Bethnal Green Police Station
12 Victoria Park Square
Bethnal Green
E2 9NZ

Telephone: 0208 217 6699

Facsimile:

Email: Alan.Cruickshank@met.police.uk
www.met.police.uk

Your ref:

Our ref:

16th November 2010

Dear Ms Randall

Re: Review of a premises licence
Gramophone,60 Commercial St,E1 6LT

I write with reference to the above review which was received in this office on the 5th November 2010.

Please accept this letter as notification that the police, as a responsible authority are supporting the review initiated by the LBTH Planning Authority in relation to the crime and disorder and public nuisance licensing objectives.

Commercial Street is a very busy area and has become increasingly so, being so close to the night-time economy of Brick Lane. This area puts pressure on police resources whether it is dealing with assaults, anti-social behaviour (ASB) or bag thefts.

The Licensing Unit has proposed a saturation policy for Brick Lane. Commercial Street has a number of older established pubs and restaurants. New applications have been applied for in Commercial Street and also opposite towards Middlesex St. I have expressed to a previous licensing committee my concerns that Commercial Street and its nearby streets, with its increased applications, are mirroring the problems that are now in evident in Brick Lane.

To ensure that assaults and ASB do not become prevalent in Commercial Street, I support the Planning Authorities and their wish that the planning hours are enforced.

In relation to Gramophone itself there has been the following incidents.

On the 22nd November 2009 at about 0103, police were called to outside the venue where a woman had collapsed. On police arrival the woman was found to be very drunk but was able to be taken home in a taxi by her brother.(CAD 627 / 22 Nov 2009 refers)

On the 19th December 2009 at about 0312, police were called to outside the venue where an "extremely intoxicated" male tried to get into a cab and he and another drunk began fighting with the driver. Despite this being captured on CCTV, on police arrival the victim did not wish to make any allegations. (CAD 1687 / 19 Dec 2009)

The Licensing Unit supports this review.

Alan Cruickshank PC 189HT

In conclusion, the Metropolitan Police Licensing Unit supports this review

Alan Cruickshank PC 189HT

Appendix 6

Guidance Issued by the Home Office under Section 182 of the Licensing Act 2003

POWERS OF A LICENSING AUTHORITY ON THE DETERMINATION OF A REVIEW

- 11.16 The 2003 Act provides a range of powers for the licensing authority on determining a review that it may exercise where it considers them necessary for the promotion of the licensing objectives.
- 11.17 The licensing authority may decide that no action is necessary if it finds that the review does not require it to take any steps necessary to promote the licensing objectives. In addition, there is nothing to prevent a licensing authority issuing an informal warning to the licence holder and/or to recommend improvement within a particular period of time. It is expected that licensing authorities will regard such warnings as an important mechanism for ensuring that the licensing objectives are effectively promoted and that warnings should be issued in writing to the holder of the licence. However, where responsible authorities like the police or environmental health officers have already issued warnings requiring improvement – either orally or in writing – that have failed as part of their own stepped approach to concerns, licensing authorities should not merely repeat that approach.
- 11.18 Where the licensing authority considers that action under its statutory powers are necessary, it may take any of the following steps:
- to modify the conditions of the premises licence (which includes adding new conditions or any alteration or omission of an existing condition), for example, by reducing the hours of opening or by requiring door supervisors at particular times;
- to exclude a licensable activity from the scope of the licence, for example, to exclude the performance of live music or playing of recorded music (where it is not within the incidental live and recorded music exemption);
 - to remove the designated premises supervisor, for example, because they consider that the problems are the result of poor management;
 - to suspend the licence for a period not exceeding three months;
 - to revoke the licence.
- 11.19 In deciding which of these powers to invoke, it is expected that licensing authorities should so far as possible seek to establish the cause or causes of the concerns which the representations identify. The remedial action taken should generally be directed at these causes and should always be no more than a necessary and proportionate response.

- 11.20 For example, licensing authorities should be alive to the possibility that the removal and replacement of the designated premises supervisor may be sufficient to remedy a problem where the cause of the identified problem directly relates to poor management decisions made by that individual.
- 11.21 Equally, it may emerge that poor management is a direct reflection of poor company practice or policy and the mere removal of the designated premises supervisor may be an inadequate response to the problems presented. Indeed, where subsequent review hearings are generated by representations, it should be rare merely to remove a succession of designated premises supervisors as this would be a clear indication of deeper problems which impact upon the licensing objectives.
- 11.22 Licensing authorities should also note that modifications of conditions and exclusions of licensable activities may be imposed either permanently or for a temporary period of up to three months. Temporary changes or suspension of the licence for up to three months could impact on the business holding the licence financially and would only be expected to be pursued as a necessary means of promoting the licensing objectives. So, for instance, a licence could be suspended for a weekend as a means of deterring the holder from allowing the problems that gave rise to the review to happen again. However, it will always be important that any detrimental financial impact that may result from a licensing authority's decision is necessary and proportionate to the promotion of the licensing objectives.

REVIEWS ARISING IN CONNECTION WITH CRIME

- 11.23 A number of reviews may arise in connection with crime that is not directly connected with licensable activities. For example, reviews may arise because of drugs problems at the premises or money laundering by criminal gangs or the sale of contraband or stolen goods there or the sale of firearms. Licensing authorities do not have the power to judge the criminality or otherwise of any issue. This is a matter for the courts of law. The role of the licensing authority when determining such a review is not therefore to establish the guilt or innocence of any individual but to ensure that the crime prevention objective is promoted. Reviews are part of the regulatory process introduced by the 2003 Act and they are not part of criminal law and procedure. Some reviews will arise after the conviction in the criminal courts of certain individuals but not all. In any case, it is for the licensing authority to determine whether the problems associated with the alleged crimes are taking place on the premises and affecting the promotion of the licensing objectives. Where a review follows a conviction, it would also not be for the licensing authority to attempt to go behind any finding of the courts, which should be treated as a matter of undisputed evidence before them.

- 11.24 Where the licensing authority is conducting a review on the ground that the premises have been used for criminal purposes, its role is solely to determine what steps should be taken in connection with the premises licence, for the promotion of the crime prevention objective. It is important to recognise that certain criminal activity or associated problems may be taking place or have taken place despite the best efforts of the licensee and the staff working at the premises and despite full compliance with the conditions attached to the licence. In such circumstances, the licensing authority is still empowered to take any necessary steps to remedy the problems. The licensing authority's duty is to take steps with a view to the promotion of the licensing objectives in the interests of the wider community and not those of the individual holder of the premises licence.
- 11.25 As explained above, it is not the role of a licensing authority to determine the guilt or innocence of individuals charged with licensing or other offences committed on licensed premises. There is therefore no reason why representations giving rise to a review of a premises licence need be delayed pending the outcome of any criminal proceedings. As stated above, at the conclusion of a review, it will be for the licensing authority to determine on the basis of the application for the review and any relevant representations made, what action needs to be taken for the promotion of the licensing objectives in respect of the licence in question, regardless of any subsequent judgment in the courts about the behaviour of individuals.
- 11.26 There is certain criminal activity that may arise in connection with licensed premises, which the Secretary of State considers should be treated particularly seriously. These are the use of the licensed premises:
- for the sale and distribution of Class A drugs and the laundering of the proceeds of drugs crime;
 - for the sale and distribution of illegal firearms;
 - for the evasion of copyright in respect of pirated or unlicensed films and music, which does considerable damage to the industries affected; for the purchase and consumption of alcohol by minors which impacts on the health, educational attainment, employment prospects and propensity for crime of young people;
 - for prostitution or the sale of unlawful pornography;
 - by organised groups of paedophiles to groom children;
 - as the base for the organisation of criminal activity, particularly by gangs;
 - for the organisation of racist activity or the promotion of racist attacks;
 - for unlawful gaming and gambling; and
 - for the sale of smuggled tobacco and alcohol.
- 11.27 It is envisaged that licensing authorities, the police and other law enforcement agencies, which are responsible authorities, will use the review procedures effectively to deter such activities and crime. Where reviews arise and the licensing authority determines that the crime

prevention objective is being undermined through the premises being used to further crimes, it is expected that revocation of the licence – even in the first instance – should be seriously considered. We would also encourage liaison with the local Crime and Disorder Reduction Partnership.

11.28 It should be noted that it is unlawful to discriminate or to refuse service on grounds of race or by displaying racially discriminatory signs on the premises. Representations made about such activity from responsible authorities or interested parties would be relevant to the promotion of the crime prevention objective and justifiably give rise to a review.

Appendix 7

Guidance Issued by the Home Office under Section 182 of the Licensing Act 2003

CONDITIONS RELATING TO THE PREVENTION OF PUBLIC NUISANCE

It should be noted that provisions of the Environmental Protection Act 1990, the Noise Act 1996 and the Clean Neighbourhoods and Environment Act 2005 provide some protection to the general public from the effects of noise nuisance. In addition, the provisions in Part 8 of the Licensing Act 2003 enable a senior police officer to close down instantly for up to 24 hours licensed premises and premises carrying on temporary permitted activities that are causing nuisance resulting from noise emanating from the premises. These matters should be considered before deciding whether or not conditions are necessary for the prevention of public nuisance.

Hours

The hours during which the premises are permitted to be open to the public or to members and their guests can be restricted by the conditions of a premises licence or a club premises certificate for the prevention of public nuisance. But this must be balanced by the potential impact on disorder which may result from arbitrarily fixed closing times. However, there is no general presumption in favour of lengthening licensing hours and the four licensing objectives should be paramount considerations at all times.

Restrictions could be necessary on the times when certain licensable activities take place even though the premises may be open to the public as such times. For example, the playing of recorded music after a certain time might be prohibited, even though other licensable activities are permitted to continue. Or the playing of recorded music might only be permitted after a certain time where conditions have been attached to the licence or certificate to ensure that any potential nuisance is satisfactorily prevented.

Restrictions might also be necessary on the parts of premises that might be used for certain licensable activities at certain times. For example, while the provision of regulated entertainment might be permitted while the premises is open to the public or members and their guests, regulated entertainment might not be permitted in garden areas of the premises after a certain time. In premises where existing legislation does not provide adequately for the prevention of public nuisance, consideration might be given to the following conditions.

Noise and vibration

In determining which conditions are necessary and appropriate, licensing authorities should be aware of the need to avoid unnecessary or disproportionate measures that could deter the holding of events that are valuable to the community, such as live music. Noise limiters, for example,

are very expensive to purchase and install and are likely to be a considerable burden for smaller venues. The following conditions may be considered:

- Noise or vibration does not emanate from the premises so as to cause a nuisance to nearby properties. This might be achieved by one or more of the following conditions:

a simple requirement to keep doors and windows at the premises closed;
limiting live music to a particular area of the building;
moving the location and direction of speakers away from external walls or walls that abut private premises;
installation of acoustic curtains;
fitting of rubber seals to doorways;
installation of rubber speaker mounts;
requiring the licensee to take measure to ensure that music will not be audible above background level at the nearest noise sensitive location;
require licensee to undertake routine monitoring to ensure external levels of music are not excessive and take appropriate action where necessary;
noise limiters on amplification equipment used at the premises (if other measures have been unsuccessful).

Prominent, clear and legible notices are displayed at all exits requesting the public to respect the needs of local residents and to leave the premises and the area quietly.

The use of explosives, pyrotechnics and fireworks of a similar nature which could cause disturbance in surrounding areas are restricted.

The placing of refuse – such as bottles – into receptacles outside the premises takes place at times that will minimise the disturbance to nearby properties.

Noxious smells

- Noxious smells from licensed premises are not permitted so as to cause a nuisance to nearby properties and the premises are properly vented.

Light pollution

- Flashing or particularly bright lights on or outside licensed premises do not cause a nuisance to nearby properties. Any such condition needs to be balanced against the benefits to the prevention of crime and disorder of bright lighting in certain places.

Other measures

Other measures previously mentioned in relation to the Prevention of Crime and Disorder may also be relevant as necessary to prevent public nuisance. These might include the provision of door supervisors, open containers not to be taken from the premises, and restrictions on drinking areas (see Part 1 for further detail).

Appendix 8

London Borough of Tower Hamlets Policy in relation to the Prevention of Public Nuisance

Licensing Policy

The policy recognises that noise nuisance can be an issue, especially if a premises is open late at night. (**See Sections 8.1 of the Licensing Policy**).

While all applications will be considered on their merits, consideration will be given to imposing stricter conditions in respect of noise control where premises are situated close to local residents. (**See Section 12.11**).

The Licensing Authority expects the applicant to have addressed all nuisance issues relating to the premises in their operating schedule and to have sought appropriate advice from the Council's Environmental Health Officers. (**See Section 8.2 of the Licensing Policy**).

The Licensing Authority will consider attaching conditions to prevent nuisance and these may include Conditions drawn from the Model Poll of Conditions relating to Crime and Disorder. (**See Appendix 2 Annex D of the Licensing Policy**). In particular Members may wish to consider (this list is not exhaustive):

- hours of opening (this needs to be balanced against potential disorder caused by artificially early closing times)
- Whether certain parts should close earlier than the rest (for example a "beer garden", or restricted in their use)
- Whether or not certain activities should have to close at an early hour, for example live music
- Conditions controlling noise or vibration (for example, noise limiters, keeping doors and windows closed).
- Prominent clear and legible notices at all exits requesting the public to respect the needs of local residents and leave the premises and area quietly
- Conditions controlling the use of explosives, pyrotechnics and fireworks
- Conditions controlling the placing of refuse
- Conditions controlling noxious smells
- Conditions controlling lighting (this needs to be balanced against potential crime prevention benefits)

Police Powers

Part 8 of the Licensing Act 2003 enables a senior police officer to close down a premises for up to 24 hrs. A premises causing a nuisance resulting from noise emanating from the premises.

Guidance Issued under Section 182 of the Licensing Act 2003

The Licensing Policy has adopted the recommended Pool of Conditions as permitted (13.20 and Annex D).

The prevention of public nuisance could include low-level nuisance, perhaps affecting a few people living locally as well as major disturbance affecting the whole community (2.33).

Licence conditions should not duplicate other legislation (1.16).

Necessary and appropriate conditions should normally focus on the most sensitive periods (2.36) and may address disturbance as customers enter or leave the premises but it is essential that conditions are focused on measures within the direct control of the licence holder (2.38).

Other Legislation

The Environmental Protection Act 1990, Part 111 gives Environmental Health Officers the power to deal with statutory nuisances.

The Anti-social Behaviour Act 2003, Sections 40 and 41 give Environmental Health Officers the power of closure up to 24 hours in certain circumstances.

Appendix 9

Guidance Issued by the Home Office under Section 182 of the Licensing Act 2003

Crime and Disorder Act 1998

- 1.28 All local authorities must fulfil their obligations under section 17 of the Crime and Disorder Act 1998 when carrying out their functions as licensing authorities under the 2003 Act.
- 1.29 Section 17 is aimed at giving the vital work of crime and disorder reduction a focus across the wide range of local services and putting it at the heart of local decision-making. It places a duty on certain key authorities, including local authorities and police and fire and rescue authorities to do all they reasonably can to prevent crime and disorder in their area.
- 1.30 The Government believes that licensing authorities should, as a matter of good practice, involve Crime and Disorder Reduction Partnerships (CDRPs) in decision-making in order to ensure that statements of licensing policy include effective strategies that take full account of crime and disorder implications.

Pool Conditions

Guidance Issued by the Home Office under Section 182 of the Licensing Act 2003

Annex D

Conditions relating to the prevention of crime and disorder

It should be noted in particular that it is unlawful under the 2003 Act:

- knowingly to sell or supply or attempt to sell or supply alcohol to a person who is drunk
- knowingly to allow disorderly conduct on licensed premises
- for the holder of a premises licence or a designated premises supervisor knowingly to keep or to allow to be kept on licensed premises any goods that have been imported without payment of duty or which have otherwise been unlawfully imported
- to allow the presence of children under 16 who are not accompanied by an adult between midnight and 5am at any premises licensed for the sale of alcohol for consumption on the premises, and at any time in premises used exclusively or primarily for the sale and consumption of alcohol.

Conditions enforcing these arrangements are therefore unnecessary.

CORE PRINCIPLES

1 When applicants are preparing their operating schedules or club operating schedules, responsible authorities are considering applications and licensing authorities are considering applications following the receipt of relevant representations, they should consider whether the measures set out below are necessary to promote the licensing objectives.

2. Any risk assessment to identify necessary measures should consider the individual circumstances of the premises (including local knowledge) and take into account a range of factors including:

- the nature and style of the venue;
- the activities being conducted there;
- the location; and
- the anticipated clientele.

Under no circumstances should licensing authorities regard these conditions as standard conditions to be automatically imposed in all cases.

1 Any individual preparing an operating schedule or club operating schedule is at liberty to volunteer any measure, such as those below, as a step they intend to take to promote the licensing objectives. When measures are incorporated into the licence or certificate as conditions, they become enforceable under the law and any breach could give rise to prosecution.

2 Licensing authorities should carefully consider conditions to ensure that they are not only necessary but realistic, practical and achievable, so that they are capable of being met. Failure to comply with any conditions attached to a licence or certificate is a criminal offence, which on conviction would be punishable by a fine of up to £20,000 or up to six months imprisonment or both. As such, it would be wholly inappropriate to impose conditions outside the control of those responsible for the running of the premises. It is also important that conditions which are imprecise or difficult to enforce should be avoided.

5. It should be borne in mind that club premises operate under codes of discipline to ensure the good order and behaviour of members and that conditions enforcing offences under the Act are unnecessary.

CONDITIONS RELATING TO THE PREVENTION OF CRIME AND DISORDER

Text/Radio pagers

Text and radio pagers connecting premises licence holders, designated premises supervisors, managers of premises and clubs to the local police can provide for rapid response by the police to situations of disorder which may be endangering the customers and staff on the premises.

Pagers provide two-way communication, allowing licence holders, managers, designated premises supervisors and clubs to report incidents to the police, and the police to warn those operating a large number of other premises of potential trouble-makers or individuals suspected of criminal behaviour who are about in a particular area. Pager systems can also be used by licence holders, door supervisors, managers, designated premises supervisors and clubs to warn each other of the presence in an area of such people.

The Secretary of State recommends that text or radio pagers should be considered for public houses, bars and nightclubs operating in city and town centre leisure areas with a high density of licensed premises. These conditions may also be appropriate and necessary in other areas.

It is recommended that a condition requiring the text/radio pager links to the police should include the following requirements:

- the text/pager equipment is kept in working order at all times;
 - the pager link is activated, made available to and monitored by the designated premises supervisor or a responsible member of staff at all times that the premises are open to the public;
 - any police instructions/directions are complied with whenever given;
- and
- all instances of crime or disorder are reported via the text/radio pager link by the designated premises supervisor or a responsible member of staff to an agreed police contact point.

Door supervisors

Conditions relating to the provision of door supervisors and security teams may be valuable in:

- preventing the admission and ensuring the departure from the premises of the drunk and disorderly, without causing further disorder;
- keeping out individuals excluded by court bans or by the licence holder;
- searching and excluding those suspected of carrying illegal drugs, or carrying offensive weapons; and

- maintaining orderly queuing outside venues. Where the presence of door supervisors conducting security activities is to be a condition of a licence, which means that they would have to be registered with the Security Industry Authority, conditions may also need to deal with:
 - the number of supervisors;
 - the displaying of name badges;
 - the carrying of proof of registration;
 - where, and at what times, they should be stationed on the premises;
 and
 - whether at least one female supervisor should be available (for example, if female customers are to be given body searches).

Door supervisors also have a role to play in ensuring public safety (see Part 2) and the prevention of public nuisance (see Part 4).

Bottle bans

Glass bottles may be used as weapons to inflict serious harm during incidents of disorder. A condition can prevent sales of drinks in glass bottles for consumption on the premises. This should be expressed in clear terms and include the following elements:

- no bottles containing beverages of any kind, whether open or sealed, shall be given to customers on the premises whether at the bar or by staff service away from the bar;
 - no customers carrying open or sealed bottles shall be admitted to the premises at any time that the premises are open to the public (note: this needs to be carefully worded where off-sales also take place);

In appropriate circumstances, the condition could include exceptions, for example, as follows:

- but bottles containing wine may be sold for consumption with a table meal by customers who are seated in an area set aside from the main bar area for the consumption of food.

Bottle bans may also be a relevant necessary measure to promote public safety (see Part 2).

Plastic containers and toughened glass

Glasses containing drinks may be used as weapons and in untoughened form, can cause very serious injuries. Where necessary, consideration should therefore be given to conditions requiring the use of safer alternatives which inflict less severe injuries. Location and style of the venue and the activities carried on there are particularly important in assessing whether a condition is necessary. For example, the use of glass containers on the terraces of some outdoor sports grounds may obviously be of concern, and similar concerns may also apply to indoor sports events such as boxing matches. Similarly, the use of plastic containers or toughened glass may be a necessary condition during the televising of live sporting events, such as international football matches, when there may be high states of excitement and emotion fuelled by alcohol.

The use of plastic or paper drinks containers and toughened glass may also be relevant as measures necessary to promote public safety (see Part 2).

Open containers not to be taken from the premises

Drinks purchased in licensed premises or clubs may be taken from those premises for consumption elsewhere. This is lawful where premises are licensed for the sale of alcohol for consumption off the premises. However, consideration should be given to a condition preventing customers from taking alcoholic and other drinks from the premises in open containers (eg glasses and opened bottles) for example, by requiring the use of bottle bins on the premises. This may again be necessary to prevent the use of these containers as offensive weapons in surrounding streets after individuals have left the premises.

Restrictions on taking open containers from the premises may also be relevant necessary measures to prevent public nuisance (see Part 4).

CCTV

The presence of CCTV cameras can be an important means of deterring and detecting crime at and immediately outside licensed premises. Conditions should not just consider a requirement to have CCTV on the premises, but also the precise sitting of each camera, the requirement to maintain cameras in working order, and to retain recordings for an appropriate period of time.

The police should provide individuals conducting risk assessments when preparing operating schedules with advice on the use of CCTV to prevent crime.

Restrictions on drinking areas

It may be necessary to restrict the areas where alcoholic drinks may be consumed in premises after they have been purchased from the bar. An example would be at a sports ground where the police consider it necessary to prevent the consumption of alcohol on the terracing during particular sports events. Conditions should not only specify these areas, but indicate the circumstances in which the ban would apply and times at which it should be enforced.

Restrictions on drinking areas may also be relevant necessary measures to prevent public nuisance (see Part 4).

Capacity limits

Capacity limits are most commonly made a condition of a licence on public safety grounds (see Part 2), but should also be considered for licensed premises or clubs where overcrowding may lead to disorder and violence. If

such a condition is considered necessary, door supervisors may be needed to ensure that the numbers are appropriately controlled (see above).

Proof of age cards

It is unlawful for children under 18 to attempt to buy alcohol just as it is unlawful to sell or supply alcohol to them. To prevent these crimes, it may be necessary for certain licensed premises to require the production of "proof of age" before sales are made. The Secretary of State strongly supports the PASS accreditation system which aims to approve and accredit various proof of age schemes that are in existence. This ensures that such schemes maintain high standards, particularly in the area of integrity and security. While conditions may refer directly to PASS accredited proof of age cards, they should also allow for the production of other proof, such as photo-driving licences, student cards and passports.

Since many adults in England and Wales do not currently carry any proof of age, the wording of any condition will require careful thought. For example, many premises have adopted the "Challenge 21" or other similar initiatives. Under the "Challenge 21" initiative those premises selling or supplying alcohol require sight of evidence of age from any person appearing to be under the age of 21 and who is attempting to buy alcohol. Making this a licensing condition would ensure that most minors – even those looking older – would need to produce appropriate proof of age before making a purchase.

Proof of age may also be relevant and necessary to protect children from harm (see Part 5).

Crime prevention notices

It may be necessary at some premises for notices to be displayed which warn customers of the prevalence of crime which may target them. Some premises may be reluctant to volunteer the display of such notices for commercial reasons. For example, in certain areas, a condition attached to a premises licence or club premises certificate might require the display of notices at the premises which warn customers about the need to be aware of pickpockets or bag snatchers, and to guard their property. Similarly, it may be necessary for notices to be displayed which advise customers not to leave bags unattended because of concerns about terrorism. Consideration could be given to a condition requiring a notice to display the name of a contact for customers if they wish to report concerns.

Drinks promotions

Licensing authorities should not attach standardised blanket conditions promoting fixed prices for alcoholic drinks to premises licences or club premises certificates in an area as this is likely to breach competition law. It is also likely to be unlawful for licensing authorities or police officers to promote voluntary arrangements of this kind as this can risk creating cartels.

However, conditions specifically designed to address irresponsible drinks promotions or discounting at individual premises may be permissible provided they are necessary for the promotion of the licensing objectives. Licensing authorities should be aware that there may often be a very fine line between responsible and irresponsible promotions. It is therefore vital that they consider these matters objectively in the context of the licensing objectives and before pursuing any form of restrictions at all, take their own legal advice.

Signage

It may be necessary for the normal hours at which licensable activities are permitted to take place under the terms of the premises licence or club premises certificate to be displayed on or immediately outside the premises so that it is clear if breaches of these terms are taking place.

Similarly, it may be necessary for any restrictions on the admission of children to be displayed on or immediately outside the premises to deter those who might seek admission in breach of those conditions.

Large capacity venues used exclusively or primarily for the “vertical” consumption of alcohol (HVVDs)

Large capacity “vertical drinking” premises, sometimes called High Volume Vertical Drinking establishments (HVVDs), are premises which have exceptionally high capacities, used primarily or exclusively for the sale and consumption of alcohol, and little or no seating for patrons.

Where necessary and appropriate, conditions can be attached to licences for these premises which require adherence to:

- a prescribed capacity;
- an appropriate ratio of tables and chairs to customers based on the capacity; and
- the presence of security staff holding the appropriate SIA licence or exemption (see paragraphs 10.58-10.64) to control entry for the purpose of compliance with the capacity limit.

Appendix 10

Licensing Policy Adopted by the London Borough of Tower Hamlets

- 5.1 Licensed premises, especially those offering late night/early morning entertainment, alcohol and refreshment for large numbers of people, can be a source of crime and disorder problems.
- 5.4 In addition to the requirements for the Licensing Authority to promote the licensing objectives, it also has a duty under Section 17 of the Crime and Disorder Act 1998 to do all it reasonable can to prevent crime and disorder in the Borough.