

DEVELOPMENT COMMITTEE

Wednesday 27th June 2007 at 7.30 pm

UPDATE REPORT OF HEAD OF DEVELOPMENT DECISIONS

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6.1	PA/06/00003	30 Alie Street & 6a North Tenter Street, London, E1 8DA.	Change of use of ground floor and basement from a restaurant to a 'nightclub'/striptease establishment with bar (Sui Generis) - PA/06/00003.
7.1	PA/06/02276	17-19 Whitechapel Road, E1 1DU	Certificate of Lawfulness for existing use of ground floor as a Stripping Bar (Sui Generis)
7.2	PA/06/01403	Second Floor, 18-22 Damien Street, London, E1 2HX	Change of Use of second floor from music studios (Use Class B1) to educational institute (Use Class D1) including internal alterations.
7.3	PA/07/1110	Billingsgate Market, Trafalgar Way, E14 5ST	Temporary use for 1 year as a general retail market on Sundays.

LONDON BOROUGH OF TOWER HAMLETS

Agenda Item number:	6.1
Reference numbers:	PA/06/00003
Location:	30 Alie Street & 6a North Tenter Street, London, E1 8DA
Proposal:	Change of use of ground floor and basement from a restaurant to a 'nightclub'/striptease establishment with bar (Sui Generis) - PA/06/00003.

1. BACKGROUND

- 1.1 Two late objection letters were received on 20th June 2007 and 22nd June 2007. The issues raised in the objection letters related to the following:
- a) The view of officers that the area is predominantly commercial is out of date – there is already a significant amount of residential use in the immediate neighbourhood
 - b) It is unacceptable to allow a striptease establishment next to a school and close to residential properties
 - c) Parking issues
 - d) Proposed hours of operation are unacceptable
 - e) Proposal would result in an increase in prostitution and drunk and disorderly behaviour by clientele.
 - f) That the democratic procedures followed by the committee are unfair
- 1.2 The planning case officer has noted these objection letters. Points a) to e) have been addressed in the attached committee report. With regards to point f), the procedures have already been agreed in the Councils constitution.

2. RECOMMENDATION

- 2.1 Officers' recommendation for the planning application (PA/06/00003) for a change of use of ground floor and basement from a restaurant to a 'nightclub'/striptease establishment with bar (Sui Generis) remains unchanged.

LONDON BOROUGH OF TOWER HAMLETS

Agenda Item number:	7.1
Reference numbers:	PA/06/02276
Location:	17-19 Whitechapel Road, E1 1DU
Proposal:	Certificate of Lawfulness for existing use of ground floor as a Stripping Bar (Sui Generis)

1. BACKGROUND

1.1 Following the publication of the officers report, a letter was received dated the 20th June 2007 from a firm of solicitors representing the neighbouring premises. In summary the following issues have been raised:

- a) That the burden of proof is on the applicant to demonstrate that the use is lawful on the balance of probabilities, and not on the Local Planning Authority or the objectors.
- b) Whether the application has been dealt with in a proper manner given the planning departments willingness to obtain its own evidence, its actions in ensuring the application for a certificate was lodged and subsequently amended; and the intervention of the planning officer to defer the original planning application.
- c) That the evidence is not available to members and third parties.
- d) That information on the file was not made available to third parties.
- e) That the application is wrongly described therefore the decision would be unlawful.
- f) That the officers advice that the first floor can also be used as a stripping bar by virtue of the planning unit concept is incorrect.
- g) That the evidence previous submitted by them demonstrates the use of the ground floor for a stripping bar has not been continuous over the last ten year period.
- h) That the evidence of the consumer services officer is that she only witnessed the stripping activity taking place on the very first of her visits and this is insufficient evidence to justify the grant of a certificate and that the evidence of David Hall does not clarify how many times he visited the premises and saw striptease activities taking place.

1.2 In response to the above issues, the planning case officer comments as follows:

- a) It is perfectly proper for a Local Planning Authority to seek out evidence to clarify such an application if it suspects that applicants evidence is insufficient. Government advice in Circular 10/97 advises that If the LPA have no evidence of their own, or from others, to contradict or otherwise make the applicant's version of events less than probable, there is no good reason to refuse the application. In this instance, in searching to find evidence of its own officers found evidence that supported the application and therefore had to make an assessment on the balance of probability relying on that evidence.

Whilst the onus of proof in a LDC application is firmly on the applicant, the LPA should always co-operate with an applicant seeking information they may hold about the planning status of land, by making records readily available. It is true that they need not go to great lengths to show that the use is lawful, however, retrieving

information held by officers that work closely with the department is not considered to be 'great lengths'.

- b) The application has been dealt with within planning legislation and government advice and guidance. It is perfectly proper to guide an applicant who is unfamiliar with the planning system and how it operates on how to submit planning applications. This is a normal service offered by most planning departments. The intervention of the planning officer at the development committee is proper and within the constraints of Councils constitution
- c) Planning files are public documents and are available for inspection at any time. The department does not routinely copy information from the files to third parties.
- d) As above
- e) The application description was amended by a fax sent to the department on the 2 February 2007.
- f) The officers advice contained in paragraphs 7.5 to 7.10 of the committee reports stands. Officers disagree with the authors interpretation of the planning unit.
- g) This issue is covered in the report. It is the opinion of the officers that the evidence submitted to support a refusal of the certificate is insufficient as it relies on first hand knowledge of a third party who has not confirmed how often he was at the premises or that he has made continuous visits to the premises. Whilst the documentary evidence in the form of directories and websites may be a description of what was going on at the time, it does not evidence the activity prior to the publications.
- h) This is in fact incorrect. The evidence of both officers indicates they have only ever witnessed stripping activities taking place when they have visited the premises at least twice a year.

2. RECOMMENDATION

- 2.1 Officers' recommendation for the application (PA/06/02276) for a Certificate of Lawfulness for existing use of ground floor as a Stripping Bar (Sui Generis) remains unchanged.

LONDON BOROUGH OF TOWER HAMLETS

Agenda Item number:	7.2
Reference number:	PA/06/01403
Location:	Second Floor, 18-22 Damien Street, London, E1 2HX
Proposal:	Change of Use of second floor from music studios (Use Class B1) to educational institute (Use Class D1) including internal alterations.

1. BACKGROUND

- 1.1 This update report has been prepared following the receipt of further letters of representation and additional information upon the re-advertisement of the application.

2. ADDITIONAL REPRESENTATIONS

- 2.1 Since publication of the report to committee under agenda item 7.2, the Council's Strategic Planning department have provided comments regarding the proposal. These comments are detailed below.

Additional Letters of Representation

2.2 In Objection

One additional letter of objection has been received, objecting on the grounds, inter alia, that the proposal does not accord with the provisions of the Tower Hamlets Unitary Development Plan, and the closure of the studios would result in the loss of employment and much sought after, high quality music studios.

2.3 In Support

Eight additional letters of support have been received, including a letter from the Muslim Council of Britain. These letters support the application on the grounds, inter alia, that:

- The proposed change of use adds value to the existing services available to the residents in this deprived area
- There is a lack of space for the users of the facilities
- The music industry glorifies anti-social problems
- There is a lack of private education facilities within the area
- The music studios create noise and disturbance to users of the facilities
- Esha'atul Islam provides a social and cultural advice facility where all members of the community are supported through their difficulties, as well as providing specialist education
- If the school cannot expand it may force parents out of the borough in search of alternative educational facilities
- The application complies with a number of the Educational, Employment and Social and Community Facility policies in the Unitary Development Plan 1998

- 2.4 The above issues have been addressed within the Material Planning Considerations section of the officer report to committee of 2nd May 2007.

- 2.5 With regard to the supporting comments based upon the proposal satisfying a

number of the UDP policies relating to educational, employment and social and community facilities, it should be noted that the ground's for the officers' recommendation for refusal were not that the proposed use is unworthy and contrary to all policies; rather that the loss of the existing use could not be justified as it was a valuable facility and the only one of its kind in the Borough.

2.6 Representations received regarding the consultation process

2.7 One letter of complaint has been received since the update report was prepared. In this the writer complains regarding the re-advertisement consultation process. This is not a material planning consideration and the letter has been passed to the Monitoring Officer.

2.8 Additional Information

2.9 The owner of the music studios, Mr Brainerd, has provided additional information, which states that there is place available in September 2007 for an additional 11 year old student at a fee of £1,900 per year.

2.10 Mr Brainerd also provides details of the number of users of the music studios for the month of May 2007. This, in summary, details that 253 individuals used the facilities available during last month.

3. RECOMMENDATION

It is recommended that the application be refused for the reasons detailed within the report to committee of the 18th April 2007 and the update report to this committee meeting.

LONDON BOROUGH OF TOWER HAMLETS

Agenda Item number:	7.3
Reference number:	PA/07/1110
Location:	Billingsgate Market, Trafalgar Way, E14 5ST
Proposal:	Temporary use for 1 year as a general retail market on Sundays.

1. BACKGROUND

- 1.1 Since the publication of the report to committee, an additional representation from Trading Standards has been received. This is in addition to their original representation received 8th May 2007.
- 1.2 The additional representation raised concern with regard to the hours operation. This issue has been discussed and addressed within the published report.
- 1.3 It has been confirmed that Tower Hamlets own the application site. Therefore the correct ownership certificate was signed and notice served on Tower Hamlets 25th June 2007. The decision will be subject to, and no decision will be sent out until the 21 day notification period has expired.

2. RECOMMENDATION

- 2.1 My recommendation to grant remains unchanged subject to the Head of Development Decisions be delegated the power to issue the decision following the expiry of the 21 day notification period .