

Additional Submissions

From

Applicant

IN THE MATTER OF:

A PROPOSED HUB BY PREMIER INN, SILWEX HOUSE, QUAKER STREET, LONDON E1 6FN

HEARING: 28 FEBRUARY 2017

WHITBREAD GROUP PLC

APPLICANT

SKELETON ARGUMENT ON BEHALF OF THE APPLICANT

1. This is an application for a new Premises Licence pursuant to Section 17 of the Licensing Act 2003 for a proposed 246 bed hub by Premier Inn at the above location.
2. A hearing is required only as uncompromised representations have been received from four local residents.
3. The applicant is Whitbread Group Plc which operates about some 750 licensed premises nationwide. These comprise either stand alone Premier Inn Hotels (of which there are some 330) or Premier Inn Hotels combined with a pub restaurant operation (of which there are some 420). In this case, a stand-alone hotel is proposed of which there are already a number operating within the central London area without apparent difficulty.
4. These include the open and trading hub by Premier Inn, St. Martin's Lane, London, the opening and trading hub by Premier Inn, Dacre Street and the licensed but still under development hub by Premier Inn, Tothill Street, London. At Appendix 1 to this Skeleton are pictures of the food and beverage provision at Dacre Street which will be substantially replicated at this proposed location.

5. Additionally, the estate includes the hub by Premier Inn, London Spitalfields, 86 Brick Lane, Spitalfields, London E1 6RL which site is located proximate to this proposed development. The Brick Lane Premier Inn operates without difficulty and is referred to in the Committee Report at Appendix 4.
6. This development will represent a capitalised inward investment by Whitbread of some £30 million and will lead to the creation of some 40 jobs, the majority of which will sought to be recruited locally.
7. Whitbread are responsible and experienced operators of licensed premises (the majority in town or city centre locations) with robust systems in place for the exercise of due diligence to ensure their premises are properly and responsibly run in accordance with the law and to ensure the avoidance of the commission of regulatory offences and the possibility of public nuisance and / or crime and disorder in particular.
8. The nearest residents likely to be affected by the proposed development will be those residents who are staying in the proposed hub by Premier Inn itself. Whitbread offer a "good night guarantee" to such customers under which a customer is refunded the cost of their accommodation if their night is disturbed. The amenity of their customers, and particularly hotel residents, is a paramount concern and priority. As a consequence, any impact on those residing further away is minimised or even eradicated.
9. As a development site, these premises have yet to be developed but upon completion and before opening, a Designated Premises Supervisor will be appointed, a Senior Manager of the premises with appropriate qualifications and all staff will be trained as part of Whitbread's national development programme.
10. What is proposed here will be a Hotel facility with a limited food and beverage offering at ground floor level. There will be waiter / waitress service to tables. Access to the food and beverage facility will be through the main Hotel reception at ground floor level. The reception area is manned 24 hours. No off-sales are intended from the licensed part of these premises save for consumption

by residents in their unlicensed bedrooms. An appropriate amendment to condition to the application has been offered.

11. The food and beverage facility is limited and provides approximately 70 covers within the dining area.
12. Mediation has taken place with the Environmental Health (Noise) and the Police. Additional conditions have been agreed with Environmental Health as repeated at point 8.1 of the Committee Report and with the Police as repeated at paragraph 8.2. as evidenced in Appendix 10 and Appendix 11. No representations have been received from any other Responsible Authorities.
13. On the basis of these agreed conditions, the Police representation and Environmental Health representation have been compromised.
14. Outstanding representations have been received from Alan Williams (Appendix 6), Sian Phillips (Appendix 8) Glenn Leeder (Appendix 7) and Pat Jones (Appendix 9). The principal objection of Glenn Leeder, Sian Phillips and Pat Jones appears to be related to anxieties concerning off-sales and possible exacerbation of issues relating to street drinking. As such, e-mails were forwarded to each of these residents confirming the restriction that off-sales are only to be permitted to the bedrooms and the application amended accordingly. As referred to in the Committee Report, this adjustment resolved one resident which is not included within the Report. Mr. Leeder has sought additional information on management systems which has been provided. No response has been received from Ms. Phillips. The representation by Mr. Williams (Appendix 6) is not only to off-sales but also requests a terminal hour of 22.30. The restriction on off-sales has been confirmed to Mr. Williams. In respect of the hours, the Committee's attention is drawn to the hours of other licensed venues in the area and in particular to that of the hub by Premier Inn. The application seeks a terminal hour for the licensable activity of the sale of alcohol of 23.00 daily only which is less than that awarded to the Brick Lane hub by Premier Inn of 23.30.

The Licensing Objectives.

15. Central to the statutory regime for licensing are the four licensing objectives which are the only relevant areas for consideration in licensing applications. They are as follows:

- Prevention of crime and disorder.
- Public safety
- Prevention of public nuisance.
- Protection of children from harm.

The Application Process

16. Section 17 sets out the procedure for making a Premises Licence Application and Section 18 sets out the provisions for determination of that application where representations have been made by the Responsible Authorities or other persons.

17. Section 18 provides that where an application for a new Licence is properly made, following receipt of relevant representations, the Licensing Authority must hold a hearing following which it may, if it thinks it is necessary, take one or more of the steps set out in Section 18(4) as follows :

(a) to grant the Licence subject to :-

- (i) the conditions mentioned in sub-section 2(a) modified to the extent the Authority considers appropriate for the promotion of the licensing objectives; and
- (ii) any condition must under Section 19, 20 or 21 be included on the Licence.

(b) to exclude from the scope of the Licence any of the licensing activities to which the application relates.

(c) To refuse to specify a person on the Licence as Premises Supervisor.

(d) To reject the application.

Conditions

18. The general principles which govern the imposition of conditions upon Premises Licences may be summarised under 4 heads :-

- (1) A condition may only be attached to a Licence if it is appropriate for the promotion of one or more of the licensing objectives.
- (2) A condition must not duplicate other statutory provisions.
- (3) The conditions must be proportionate.
- (4) In order to give rise to criminal liability a condition must be framed so as to give precision and clarity for definition in the prescribed Act.

19. Relevant extracts from the Guidance are as follows :-

- (1) Failure to comply with any condition attached to a Licence or Certificate is a criminal offence, which on conviction, is punishable by an unlimited fine or up to 6 months imprisonment. The Courts have made it clear that it is particularly important that the conditions which are imprecise or difficult for a licence holder to observe should be avoided (paragraph 10(2)).
- (2) The Licensing Authority may not impose any conditions unless its discretion has been engaged following receipt of relevant representations and it is satisfied that as a result of a hearing (unless all parties agree that a hearing is not necessary) that it is appropriate to impose conditions that promote one or more of the four licensing objectives (10.8).
- (3) It is possible that in certain cases where there are other legislative provisions which are relevant and must be observed by the applicant, no additional conditions are appropriate to promote the licensing objectives (10.9).
- (4) The 2003 Act requires that licensing conditions should be tailored to the size, type, location and characteristics and activities taking place at the premises concerned. **Conditions should be determined on a case by case basis and standardised conditions which ignore these individual aspects should be avoided. Licensing Authorities and other Responsible Authorities should be alive to the indirect costs that can arise because of conditions Licensing Authorities should therefore ensure that any conditions they impose are only**

those which are appropriate for the promotion of the licensing objectives [Our emphasis) (10.10).

- (5) The determination of the licensing committee must be evidence based on what is before them (9.42 and Daniel Thwaites PLC v Wirral Borough MC [2008] EWHC 838)

The role of the Police

20. At paragraph 9.12 of the Guidance it is stated that in their role as a responsible authority, the police are an essential source of advice and information on the impact and potential impact of licensable activities, particularly on the crime and disorder objective. The police have a key role in managing the night-time economy and should have good working relationships with those operating in their local area. The police should be the licensing authority's main source of advice on matters relating to the promotion of the crime and disorder licensing objective, but may also be able to make relevant representations with regard to the other licensing objectives if they have evidence to support such representations. The licensing authority should accept all reasonable and proportionate representations made by the police unless the authority has evidence that to do so would not be appropriate for the promotion of the licensing objectives. However, it remains incumbent on the police to ensure that their representations can withstand the scrutiny to which they would be subject at a hearing.

It is of course the case that there is no outstanding Police representation to this application, conditions having been agreed to address any perceived concerns.

Residential Representations Received

21. As mentioned above, representations have been received from four local residents.
22. The residential representations received as identified appear to centre on a perceived concern that the use of these premises will lead to a potentially

detrimental effect on the residential amenity of those in the vicinity with a perceived risk that this will result in a rise in anti-social behaviour and public nuisance as a result of the food and beverage facility of the Hotel. No evidence is offered or is available to support any of these assertions.

23. The application limits the sale of alcohol to non-residents to the hours mentioned above. Off-sales are limited to residents wanting to take drinks from the licensed area into their unlicensed bedrooms with no intention that there should be any off-sales of alcohol for consumption outside of the premises themselves. As has previously been noted, the food and beverage operation (with a limited alcoholic offering) is at ground floor level. Non-residential use will be very limited and ancillary.
24. As mentioned, the reception area is manned 24 hours a day. The main entrance will be open 07.00 – 23.00 daily. After 23.00 access to the Hotel will be via room key or buzzer only (in respect of which reception staff are required to verify the identity of the resident seeking entrance). After 23.00, any requests for sales of alcohol will be through the reception area and appropriate checks will be in place to ensure that they are resident and that any off-sales are to the bedroom only.
25. The off-sales facility is required by Whitbread for the benefit of its residents. The use of the facility is far from excessive.
26. As such, although the local residents who have opposed the application have understandable anxieties, it is the view of the applicant that these anxieties are unfounded. The sales of alcohol late at night are likely to be minimal and associated with the food provision of the Hotel, any off-sales will be to bedrooms only and it is not credible that this will exacerbate issues of anti-social behaviour in the area.
27. The immediate geography of this proposed development is relevant.
28. Analysis of Hotel person movement shows that for similar operations, the Hotel related movements have a characteristic profile whereby guest activity is higher during the morning period as guests generally leave the Hotel and during the late

afternoon and early evening period when guests arrive for check in. The Hotel activity reduces over the evening and late evening period to a minimal level. As an indication, there is a noticeable reduction in Hotel activity during the late evening comprising in the region of 34 two-way person movements between 10.00pm and 11.00pm with just 12 two-way person movements between 11.00pm and midnight. This level of activity equates to 6% and 2% respectively of all observed person movements for similar developments.

Tower Hamlets Licensing Policy

29. The Statement of the Licensing Policy adopted by Tower Hamlet Council is relevant :-

- **Hours.** The hours applied for within this application are within the core hours as adopted by the Council Policy (paragraph 15.8) Monday – Saturday being a terminal hour of 23.00 only. Sunday seeks for consistency 23.00 and is in line with other Licences granted by the Council within the vicinity. The additional 30 minutes on a Sunday is not likely to exacerbate issues of saturation or adversely affect the licensing objectives.
- **Cumulative Impact.** The premises fall within the Brick Lane Cumulative Impact area. The Council identify that the majority of late night licensed premises are concentrated within one area and had therefore adopted the Policy. It is submitted that the Applicant's premises are not a late night venue with a terminal hour of 23.00 to the public and will not exacerbate existing issues of crime and disorder and anti-social behaviour within the Borough. The facility is materially a food and beverage facility associated with the Hotel. The Policy notes (8.4) that to rebut the presumption, the Applicant is expected to show that the operation of the premises will not add to the cumulative impact already being experienced. The Applicant submits that due to the nature of its proposal, it will not so exacerbate the position.

30. In conclusion, it is the Applicant's case that the proposed food and beverage offering here as an ancillary and incidental to the proposed Hotel use is not the

type of premises at which the Cumulative Impact Policy is primarily directed, further emphasised by the fact that :-

- a. This is principally a Hotel development.
- b. The food and beverage facility with ancillary "bar" is located at ground floor level, accessed only through the Hotel reception which is manned 24 hours a day.

31. In summary:

- a. The applicant is a well known and respected operator of Hotel style premises all of which are licensed on a similar basis.
- b. The amenity of their own residents is of paramount importance and the management of the premises will be designed to ensure minimum impact upon those residents and indeed any other residents within the neighbourhood.
- c. No evidence is or can be put forward specific to this proposed development that problems and disturbance will indeed occur.
- d. No evidence is or can be advanced or is otherwise available that Whitbread are not a responsible operator or that they do not have in place effective and credible due diligence policies to ensure the proper management of their hotel premises.
- e. There is no evidence available to suggest that there is or will be a significant problem of crime and disorder or public nuisance in this area arising from this application sufficient to justify either the refusal of the Licence, the imposition of additional conditions not otherwise agreed or to further curtail the hours of operation to a time earlier than that proposed for non-residents (as above) or that the development of a hub by Premier Inn at this location will add to or aggravate any perceived problems which may exist.
- f. All concerns of the Responsible Authorities have been addressed and there are no outstanding Responsible Authority objections to this application.

IN THE MATTER OF:

A PROPOSED HUB BY PREMIER INN, SILWEX HOUSE, QUAKER STREET, LONDON E1 6FN

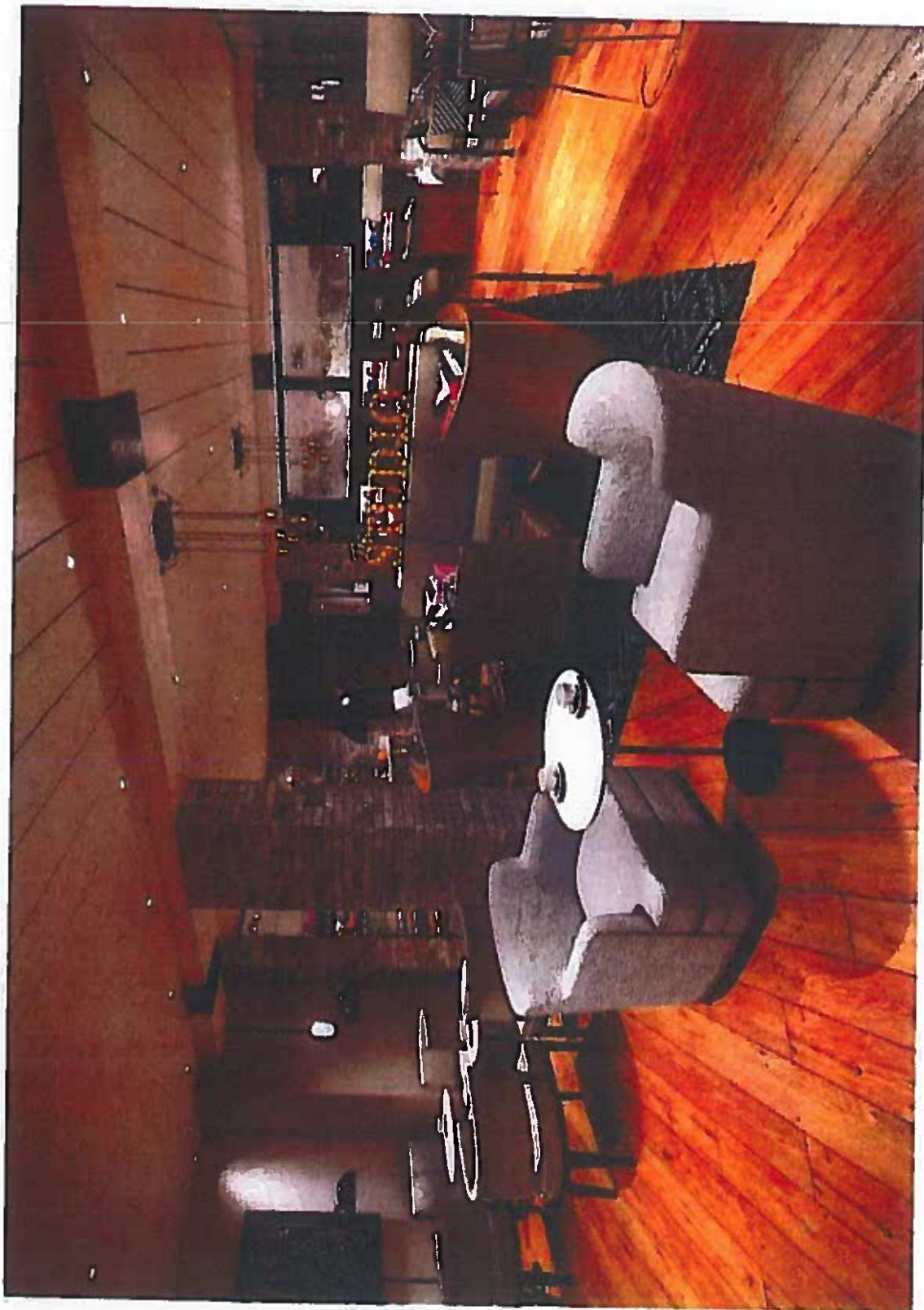
HEARING: 28 FEBRUARY 2017

WHITBREAD GROUP PLC

APPLICANT

SKELETON ARGUMENT ON BEHALF OF THE APPLICANT

APPENDIX 1

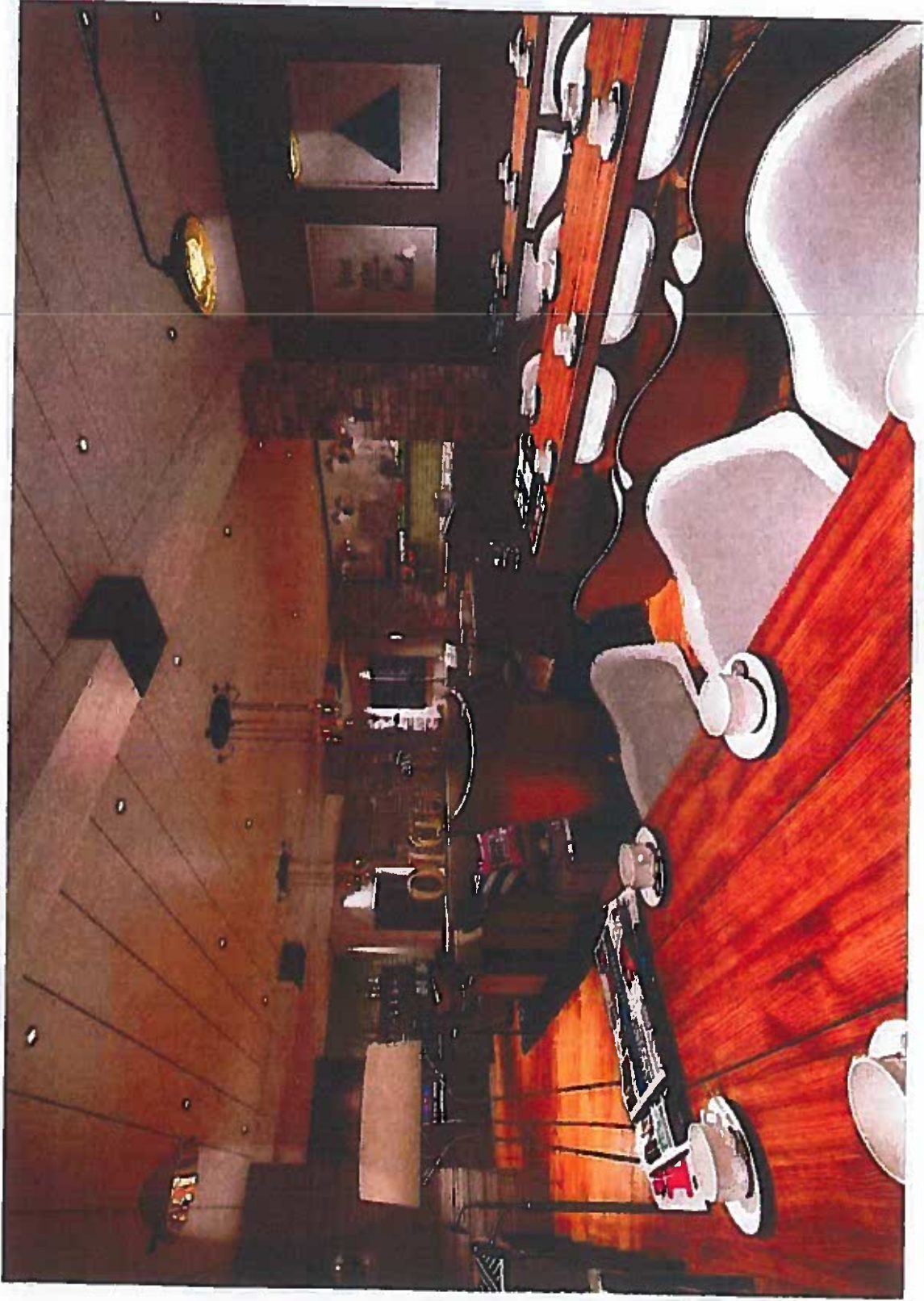


hub: Dacre Street
View from reception
February 2016



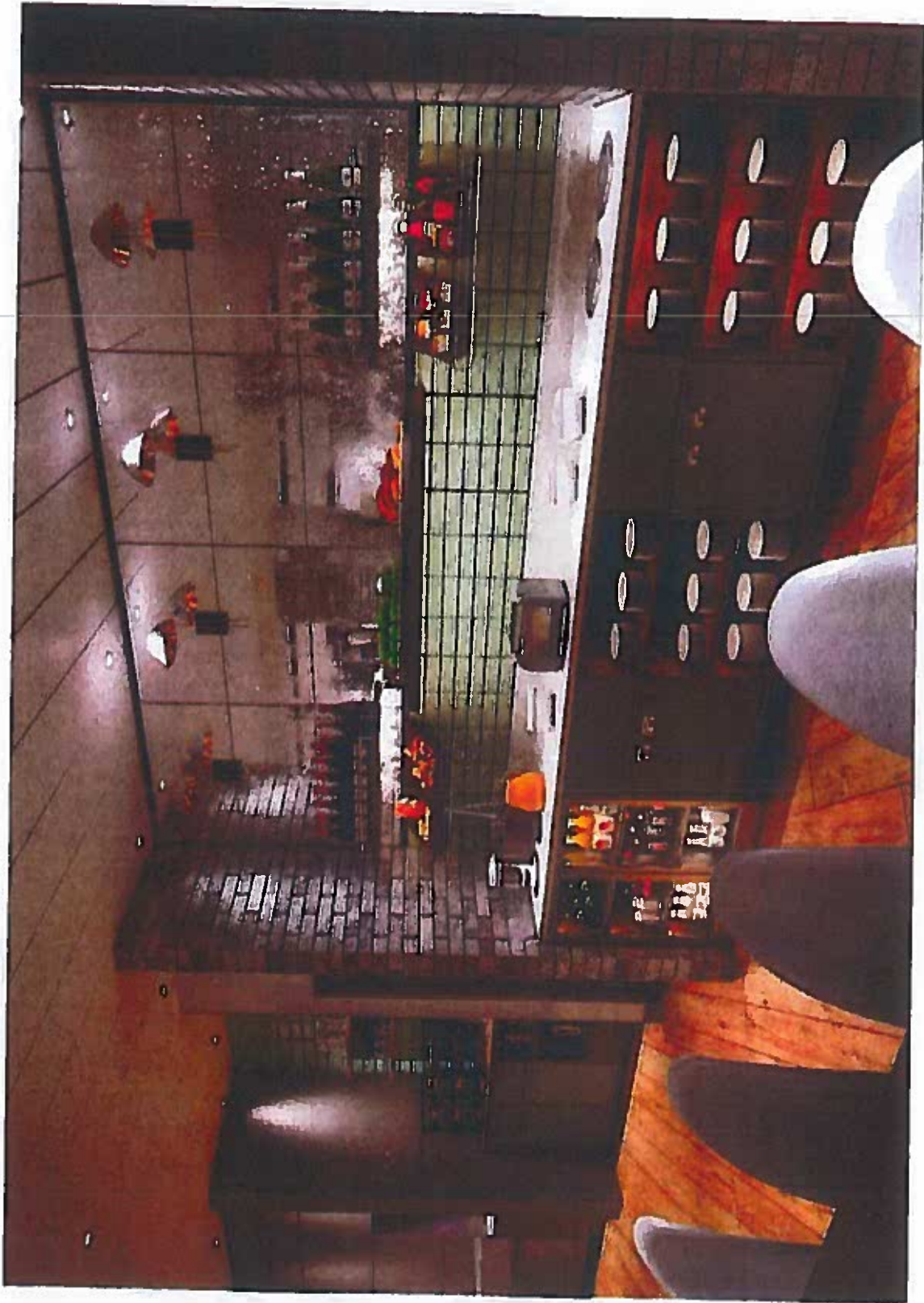
Public: Dacre Street
View from buffet counter
February 2016





hub: Decre Street
View from work area
February 2018





Hub: Dacre Street
Option 2- View to buffet counter
February 2016

