



Meeting of the

LICENSING SUB COMMITTEE

Thursday, 23 October 2008 at 6.30 p.m.

A G E N D A

VENUE

Room M72, The Town Hall, Mulberry Place, 5 Clove Crescent, London,
E14 2BG

Members:	Ward Represented
Chair: Councillor Carli Harper-Penman	Bethnal Green South
Councillor Alexander Heslop	Bow East
Councillor Waiseul Islam	Whitechapel

If you require any further information relating to this meeting, would like to request a large print, Braille or audio version of this document, or would like to discuss access arrangements or any other special requirements, please contact:

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LONDON BOROUGH OF TOWER HAMLETS

LICENSING SUB COMMITTEE

Thursday, 23 October 2008

6.30 p.m.

1. APOLOGIES FOR ABSENCE

To receive any apologies for absence.

2. DECLARATIONS OF INTEREST (Pages 1 - 2)

To note any declarations of interest made by Members, including those restricting Members from voting on the questions detailed in Section 106 of the Local Government Finance Act, 1992. See attached note from the Chief Executive.

	PAGE NUMBER	WARD(S) AFFECTED
3. RULES OF PROCEDURE	3 - 14	
To note the rules of procedure which are attached for information.		
4. ITEMS FOR CONSIDERATION		
4 .1 Application to Review the Premises Licence: The Poet, 82-84 Middlesex Street, London E1 7EZ (LSC039/809)	15 - 112	Spitalfields & Banglatown

Agenda Item 2

DECLARATIONS OF INTERESTS - NOTE FROM THE CHIEF EXECUTIVE

This note is guidance only. Members should consult the Council's Code of Conduct for further details. Note: Only Members can decide if they have an interest therefore they must make their own decision. If in doubt as to the nature of an interest it is advisable to seek advice **prior** to attending at a meeting.

Declaration of interests for Members

Where Members have a personal interest in any business of the authority as described in paragraph 4 of the Council's Code of Conduct (contained in part 5 of the Council's Constitution) then s/he must disclose this personal interest as in accordance with paragraph 5 of the Code. Members must disclose the existence and nature of the interest at the start of the meeting and certainly no later than the commencement of the item or where the interest becomes apparent.

You have a **personal interest** in any business of your authority where it relates to or is likely to affect:

- (a) An interest that you must **register**
- (b) An interest that is not on the register, but where the well-being or financial position of you, members of your family, or people with whom you have a close association, is likely to be affected by the business of your authority more than it would affect the majority of inhabitants of the ward affected by the decision.

Where a personal interest is declared a Member may stay and take part in the debate and decision on that item.

What constitutes a prejudicial interest? - Please refer to paragraph 6 of the adopted Code of Conduct.

Your personal interest will also be a prejudicial interest in a matter if (a), (b) and either (c) or (d) below apply:-

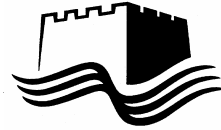
- (a) A member of the public, who knows the relevant facts, would reasonably think that your personal interests are so significant that it is likely to prejudice your judgment of the public interests; AND
- (b) The matter does not fall within one of the exempt categories of decision listed in paragraph 6.2 of the Code; AND EITHER
- (c) The matter affects your financial position or the financial interest of a body with which you are associated; or
- (d) The matter relates to the determination of a licensing or regulatory application

The key points to remember if you have a prejudicial interest in a matter being discussed at a meeting:-

- i. You must declare that you have a prejudicial interest, and the nature of that interest, as soon as that interest becomes apparent to you; and
- ii. You must leave the room for the duration of consideration and decision on the item and not seek to influence the debate or decision unless (iv) below applies; and

- iii. You must not seek to improperly influence a decision in which you have a prejudicial interest.
- iv. If Members of the public are allowed to speak or make representations at the meeting, give evidence or answer questions about the matter, by statutory right or otherwise (e.g. planning or licensing committees), you can declare your prejudicial interest but make representations. However, you must immediately leave the room once you have finished your representations and answered questions (if any). You cannot remain in the meeting or in the public gallery during the debate or decision on the matter.

TOWER HAMLETS



LICENSING COMMITTEE

**RULES OF PROCEDURE
GOVERNING APPLICATIONS FOR
PREMISES LICENCES
AND OTHER PERMISSIONS
UNDER THE LICENSING ACT 2003**

1. Interpretation

- 1.1 These Procedures describe the way in which hearings will be conducted under the Licensing Act 2003, as set out in the Licensing Act 2003 (Hearings) Regulations 2005 (as amended). The Procedures take into account the Licensing Act (Premises Licences and Club Premises Certificates) Regulations 2005. The Procedures also include the time limits within which a hearing must commence (see Appendix A) and will be used by the Licensing Committee and Licensing Sub-Committee when conducting hearings.
- 1.2 The Hearings Regulations provide (Regulation 21) that a Licensing Authority shall, subject to the provisions of those Regulations, determine for itself the procedure to be followed at a hearing.
- 1.3 These Procedures, therefore, set out the way in which Licensing Sub-Committee Meetings will be conducted under the Licensing Act 2003, following the requirements of the Hearings Regulations. Wherever appropriate they have included the procedures followed successfully when determining licence applications under previous legislation.
- 1.4 Proceedings will not be rendered void only as the result of failure to comply with any provision of the Hearings Regulations (Regulation 31).

2. Composition of Sub-Committee

- 2.1 The Sub-Committee will consist of no less than three members and no business shall be transacted unless at least three members of the Licensing Committee are present and able to form a properly constituted Licensing Sub-Committee. In such cases the Chair shall have a second or casting vote. The Councillor for the ward in which the applicant's premises are situated, or where either the applicant or the objector resides, shall not normally form part of the Sub-Committee for that item on the agenda.

3. Timescales

- 3.1 Most hearings must take place within 20 working days from the last date for representations to be made with the following exceptions:

Within 10 working days from the last date for the police to object to:

- conversion of an existing licence;
 - conversion of an existing club certificate;
 - an application for a personal licence by an existing justices licence holder;
- and

Within 10 working days from the date the Licensing Authority receives the notice for a review of the premises licence following a closure order.

Within 7 working days from the last date for the police to object to:

- a temporary event notice.

Within 5 working days from the last date for the police to object to:

- an interim authority notice (Note: the police must give notice of their objection within 48 hours of being given a copy of the notice).

Note: Where a hearing is likely to take longer than one day, the Authority must arrange for the hearing to take place on consecutive days.

3.2 **Timescale for notice of hearings to be given**

In most cases, the Authority shall give notice of a hearing no later than 10 working days before the first day on which the hearing is to be held. The following are exceptions to that rule:

At least five working days notice must be given to the parties of the date of a hearing for determination of:

- conversion of an existing licence
- conversion of an existing club certificate
- application for a personal licence by the holder of a justices licence
- review of a premises licence following a closure order

At least two days notice must be given to the parties to a hearing for determination of:

- police objection to an interim authority notice
- police objection to a temporary event notice

3.3 **Persons who must be notified of a hearing**

The persons who must be notified of a hearing are set out below as a summary:

- any applicant for any licence or certificate or a temporary event notice.
- any person who has made relevant representations about an application for a licence or for review of a licence (note for any representations deemed frivolous, vexatious or repetitious under Section 18(7)(c) or similar sections of the Licensing Act 2003 the objector must be notified of the Authority's decision as soon as possible and in any event before any hearing).
- Any police officer who has given notice of objection to:
 - a person specified as a Designated Premises Supervisor
 - an interim authority

- transfer of a premises licence
 - a temporary event notice
 - a personal licence
- Any holder of a premises licence or club premises certificate where:
- application is made for review

Note: Anyone given notice of a hearing is a party and that is how that expression is used in these Rules of Procedure.

3.4 Information to be provided in a notice of hearing

The information that must be included in a notice of hearing includes:

- The procedure to be followed at the hearing;
- The right of the party to attend and to be assisted or represented by any person whether legally qualified or not;
- The ability to give further information in support of their application where the Authority has sought clarification;
- The right to question any other party if given permission by the Authority;
- The right to address the Authority;
- Notice of any particular points on which the Authority will want clarification at the hearing;
- The consequences if a party does not attend or is not represented at the hearing;
- For certain hearings particular documents must accompany the notice which is sent to parties informing them of the hearing. Reference must be made to Schedule 3 of the Hearings Regulations for this purpose.

3.5 Failure of Parties to Attend the Hearing

If a party has informed the Authority that they will not be attending or be represented at the hearing, it may proceed in their absence.

If a party does not give notice that they will not be attending but fails to attend and is not represented, the Authority may either:

- a) adjourn the hearing if it considers it to be necessary in the public interest or
- b) hold the hearing in the party's absence

If the Authority holds the hearing in the absence of a party, it will consider at the hearing the application, representation or notice given by the party.

If the Authority adjourns the hearing to a specified date it must forthwith the parties of the date, time and place to which the hearing has been adjourned.

Note: Transition hearings cannot be adjourned to a date beyond the date that which causes an application to be deemed as determined by default.

4. Procedure at the Hearing

4.1 The usual order of proceedings will be as set out below. The Sub-Committee will allow the parties an equal maximum time period in which to give further information in support of their application, representation or response. Where the Authority has given notice that it will seek clarification on that point at the hearing or where permission has been given to call any further persons to give supporting evidence, the Sub-Committee may allow the parties to question any other party and to address the Licensing Sub-Committee. The Sub-Committee will seek, in all cases, to avoid repetition of points (whether included in written material or otherwise), irrelevancy, or any abuse of the procedure.

At the beginning of the hearing the procedure to be followed will be explained to the parties. The hearing will, so far as is possible, take the form of a discussion, led by the Sub-Committee. Cross-examination will not be permitted unless the Sub-Committee considers it necessary.

- i) The Chair will begin by explaining how the proceedings will be conducted, and indicate any time limits that may apply to the parties to the application.
- ii) The report will be briefly introduced by an Officer of the Licensing Section summarising the application.
- iii) The Sub-Committee will then consider any requests by a party for any other person to be heard at the hearing in accordance with the Regulations. Permission will not be unreasonably withheld provided proper notice has been given.
- iv) A summary of the nature and extent of the application by the applicant or their representative. This should be brief, avoid repetition of material already available to the Committee in the Officer's report or otherwise, and include any reasons why an exception should be made to the Council's Licensing Policy, where appropriate. The submission may be followed by the evidence of any person who has been given permission by the Committee to give supporting evidence on behalf of the applicant.
- v) A summary of the reasons for making representations about the application by any interested party. This should be brief and avoid any repetition of information already made available to the Committee either in the Officer's report or otherwise. That will be followed by the evidence of any person who has been given permission by the Panel to give supporting evidence on behalf of the objectors.
- vi) A summary of the reasons for making representations by or on behalf of any Responsible Authority. This should be brief and avoid any repetition of information already made available to the Licensing Sub-Committee

either in the Officer's report or otherwise. That will be followed by the evidence of any person who has been given permission by the Panel to give supporting evidence on behalf of the Responsible Authority.

- vii) Members of the Sub-Committee may ask any questions of any party or other person appearing at the hearing.

4.2 The following requirements of the Hearing Regulations will also be followed by the Licensing Sub-Committee:

- a) The Sub-Committee will be guided by legal principles in determining whether evidence is relevant and fairly admissible. In particular, hearsay evidence may be admitted before the Sub-Committee but consideration will always be given to the degree of weight, if any, to be attached to such evidence in all the relevant circumstances.
- b) The Sub-Committee may impose a time limit on the oral representations to be made by any party. In considering whether to do so, and in considering the length of any such time limit, the Sub-Committee will take into account the importance of ensuring that all parties receive a fair hearing, and the importance of ensuring that all applications are determined expeditiously and without undue delay.
- c) In considering the time limits referred to in (b) above, regard must be had to the requirement to allow each party an equal amount of time.

4.3 When considering any representations or notice made by a party, the Authority may take into account documentary or other information produced by a party in support of their application, representation or notice, either:

- a) before the hearing, or
- b) with the consent of all other parties, by the Sub-Committee at the hearing

The Authority will disregard any information given by a party, or any other person appearing at the hearing, which is not relevant to:

- a) their application, representation or notice; and
- b) the promotion of the licensing objectives or the crime prevention objective where notice has been given by the police.

4.4 All hearings shall take place in public save that:

- a) The Licensing Sub-Committee may exclude the public from all or part of a hearing where it considers that, on balance, it is in the public interest to do so.
- b) The parties and any person representing them may be excluded in the same way as another member of the public

c) The Licensing Sub-Committee may require any person attending the hearing who in their opinion is behaving in a disruptive manner to leave the hearing and may:

- refuse to permit the person to return; or
- allow them to return only on such conditions as the authority may specify.

4.5 Any person so excluded may, before the end of the hearing, submit to the Authority in writing, any information which, they would have been entitled to give orally had they not been required to leave. Where there are a number of items on the agenda, the adjournment of that item for a short period, whilst another item is heard, may allow this process to be carried out effectively.

5. Determination of Application – Time Limits

5.1 The Licensing Sub-Committee must make its determination at the conclusion of the hearing where the application is for:

- a) Conversion or variation of an existing licence during transition
- b) Conversion or variation of an existing club certificate during transition
- c) A review of a premises licence following a closure order
- d) A personal licence by the holder of a justices licence
- e) A counter notice following police objection to a temporary event notice

5.2 In any other case the Authority must make its determination within the period of five working days, beginning with the day, or the last day, on which the hearing was held.

5.3 Where a hearing has been dispensed with because all of the parties have agreed that a hearing is unnecessary (and the Authority has agreed, giving notice to the parties in writing), then the Authority must make its determination within 10 working days beginning with the day the authority gives such notices to the parties. The Team Leader (Licensing) shall be authorised to make the determination on behalf of the Authority.

6. Record of Proceedings

6.1 The Authority must arrange for a record to be taken of the hearing in a permanent and intelligible form and for that record to be kept for six years from the date of determination. Where an appeal is brought against a determination by the Authority, the record must be kept for six years from the date of disposal of the appeal.

7. Irregularities

7.1 Proceedings will not be rendered void only as the result of failure to comply with any provision of the Hearings Regulations

7.2 Clerical mistakes in any document recording a determination of the Authority, or errors arising in such a document as the result of an accidental slip or omission, may be corrected by the Authority.

8. Notices

8.1 In accordance with the Regulations, any notices must be given in writing. Such a notice may be sent electronically, providing:

- a) it can be accessed by the recipient in a legible form;
- b) it is capable of being reproduced as a document for future reference;
- c) the recipient has agreed in advance to receive it in such form;
- d) a copy is sent in documentary form forthwith to the recipient.

9. Appeals

9.1 Either those who have made an application or those who have made representations on an application may appeal to the Magistrates Court.

Note: An appeal must be commenced within twenty one days beginning with the day on which the appellant was notified by the Licensing Authority of their decision.

APPENDIX A

Application Type	Period of Time within which Hearing to be Held (after reps have closed)	Notice Period of Hearing	Notice Sent To	Attendee Reply Form Back In
Section 18 (3)(a) (determination of application for premises licence)	20 working days	10 working days	Applicant; People who have made representations	5 working days
Section 35(3)(a) (determination of application to vary premises licence).	20 working days	10 working days	Applicant; People who have made representations	5 working days
Section 39(3)(a) (determination of application to vary premises licence to specify individual as premises supervisor).	20 working days	10 working days	Applicant (premises holder); Chief Officer of Police who has given notice; The proposed premises supervisor	5 working days
Section 44(5)(a) (determination of application for transfer of premises licence).	20 working days	10 working days	Applicant; Chief Officer of Police who has given Notice; The present holder of the premises licence	5 working days
Section 52(2) (determination of application for review of premises licence).	20 working days	10 working days	The holder of the premises licence of where application applies; People who have made representations; Applicant	5 working days
Section 120(7)(a) (determination of application for grant of personal licence).	20 working days	10 working days	Applicant; Chief Officer of Police who has given Notice	5 working days
Section 121(6)(a) (determination of application for the renewal of personal licence).	20 working days	10 working days	Applicant; Chief Officer of Police who has given Notice	5 working days
Section 124(4)(a) (convictions coming to light after grant or renewal of personal licence).	20 working days	10 working days	The holder of the licence; Chief Officer of Police who has given Notice	5 working days
Paragraph 26(3)(a) of Schedule 8 (determination of application by holder of a justices' licence for	10 working days	5 working days	Applicant; Chief Officer of Police who has given Notice	2 working days

grant of personal licence).	20 working days	10 working days	Applicant; People who have made representations	5 working days
Section 31(3)(a) (determination of application for a provisional statement).	5 working days	2 working days	The person who has given Notice; Chief Officer of Police who has given Notice	1 working day
Section 48(3)(a) (cancellation of interim authority notice following police objection).	20 working days	10 working days	Applicant (club); People who have made representations	5 working days
Section 72(3)(a) (determination of application for club premises certificate).	20 working days	10 working days	Applicant (club); People who have made representations	5 working days
Section 85(3) (determination of application to vary club premises certificate).	20 working days	10 working days	Club that holds club premises certificate; People who have made representations; Applicant	5 working days
Section 88(2) (determination of application for review of club premises certificate).	7 working days	2 working days	The premises user; Chief Officer who has given Notice	1 working day
Section 105(2)(a) (counter notice following police objection to temporary event notice)	10 working days	5 working days	The holder of the premises licence; People who have made representations	2 working days
Section 167(5)(a) (review of premises licence following closure order).	10 working days	5 working days	Applicant; Chief Officer of Police who has given Notice	2 working days
Paragraph 4(3)(a) of Schedule 8 (determination of application for conversion of existing licence).	10 working days	5 working days	Applicant (club) Chief Officer who has given Notice	2 working days
Paragraph 16(3)(a) of Schedule 8 (determination of application for conversion of existing club certificate).				

APPENDIX B

Regulation 8

Action Following receipt of notice of hearing	
1.	A party shall give to the authority within the period of time provided for in the following provisions of this regulation a notice stating:
(a)	whether he intends to attend or be represented at the hearing;
(b)	whether he considers a hearing to be unnecessary.
2.	In a case where a party wishes any other person (other than the person he intends to represent him at the hearing) to appear at the hearing, the notice referred to in paragraph (1) shall contain a request for permission for such other person to appear at the hearing accompanied by details of the name of that person and a brief description of the point or points on which that person may be able to assist the authority in relation to the application, representations or notice of the party making the request.
3.	In the case of a hearing under:
(a)	section 48(3)(a) (cancellation of interim authority notice following police objection), or
(b)	section 105(2)(a) (counter notice following police objection to temporary event notice),
	the party shall give the notice no later than one working day before the day or the first day on which the hearing is to be held.
4.	In the case of a hearing under:
(a)	section 167(5)(a) (review of premises licence following closure order),
(b)	paragraph 4(3)(a) of Schedule 8 (determination of application for conversion of existing licence),
(c)	paragraph 16(3)(a) of Schedule 8 (determination of application for conversion of existing club certificate), or
(d)	paragraph 26(3)(a) of Schedule 8 (determination of application by holder of justices' licence for grant of personal licence),
	the party shall give the notice no later than two working days before the day or the first day on which the hearing is to be held.
5.	In any other case, the party shall give the notice no later than five working days before the day or the first day on which the hearing is to be held.

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Agenda Item 4.1

Committee: Licensing Sub-Committee	Date:	Classification: UNRESTRICTED	Report No. LSC039/ 809	Agenda Item No.
Report of: Colin Perrins Head of Trading Standards and Environmental Health (Commercial)		Title: Licensing Act 2003		
Originating Officer: Mohshin Ali Licensing Officer		Application to Review the Premises Licence for The Poet, 82 – 84 Middlesex Street, London E1 7EZ		
		Ward affected: Spitalfields and Banglatown		

1.0 Summary

Name and	The Poet
Address of premises:	82 – 84 Middlesex Street London E1 7EZ
Licence under review:	Licensing Act 2003 <ul style="list-style-type: none"> ▪ Sale by retail of alcohol ▪ Regulated Entertainment
Representations:	Environmental Protection Local Residents

2.0 Recommendations

2.1 That the Licensing Committee considers the application for review and then adjudicates accordingly.

LOCAL GOVERNMENT 2000 (Section 97)
LIST OF "BACKGROUND PAPERS" USED IN THE DRAFTING OF THIS REPORT

Brief description of "background paper"

Tick if copy supplied for register

If not supplied, name and telephone number of holder

- Guidance Issued under Section 182 of the Licensing Act 2003
- Tower Hamlets Licensing Policy
- File

Mohshin Ali
020 7364 5498

- 3.0 Review Explained**
- 3.1 This is an application for a review of the premises licence for the Poet, 82 – 84 Middlesex Street, London E1 7EZ. The review was triggered by Environmental Protection.
- 3.2 The Licensing Act 2003 was described by the Government at the time as “light touch” but as Baroness Blackstone stated in the Lords at the time of the second reading (26 Nov 2002) “Local residents and businesses as well as expert bodies, will have the power to request that the licensing authority review existing licences where problems arise. Such a review could result in the modification of the licence, its suspension, or ultimately, revocation.”
- 3.3 The Department for Sport, Culture and Media Affairs has issued guidance under Section 182 of the Licensing Act 2003 in relation to reviews and that is contained in **Appendix 1**. It is available on the Government’s website, www.culture.gov.uk. It was substantially revised on the 28 June 2007.
- 3.4 In relation to its advice on representations in its revision of the 28 June 2007 the DCMS has also advised that “there is no requirement for an interested party or responsible authority to produce a recorded history of problems at a premises to support their representations.”
- 3.5 The DCMS has also issued guidance about the prevention of public nuisance and the pool of conditions which might be considered in relation to any identified problems is contained in **Appendix 2**.
- 3.6 The Council’s Licensing Policy in relation to Public Nuisance is contained in **Appendix 3**.
- 3.7 The DCMS has advised that in relation to reviews “It is important to recognise that the promotion of licensing objectives relies heavily on a partnership between licence holders, authorised persons, interested parties and responsible authorities in pursuit of common aims. It is therefore equally important that reviews are not used to drive a wedge between those groups in a way that would undermine the benefits of co-operation. It would be good practice for authorised persons and responsible authorities to give licence holders early warning of their concerns about problems identified at the premises concerned and of the need for improvement. It is expected that a failure to respond to such warnings would lead to a decision to request a review.”

- 3.8 The licensing authority itself cannot trigger a review; that can only be done by a responsible authority or an interested party (local resident or business).
- 3.9 This review was triggered by Environmental Protection (See **Appendix 4**). The review is also supported by local residents.
- 3.10 Please see **Appendix 5** for the representation of Adrian Rifkin and Denis Echard
- 3.11 Please see **Appendix 6** for the representation of Andrew Chisholm.
- 3.12 Please see **Appendix 7** for the representation of Dino Di Costa.
- 3.13 An interested party or a responsible authority can trigger a review at any time, but the grounds must be relevant to the licensing objectives. The form of the application, and the advertisement of the review are the subject of regulations (The Licensing Act 2003 (Premises Licences and Club Premises Certificate) Regulations 2005). In addition, the licensing authority has to satisfy itself of certain matters in relation to the Licensing Act 2003. The team leader of licensing Mr. John Edward Cruse is the delegated officer who deals with this on behalf of the licensing authority. All the matters stated in 3.14 were considered before any representations were accepted for inclusion in this report.
- 3.14 The Licensing Act 2003 requires that the Licensing Authority satisfies itself that it should not reject the grounds for a review because:
- The ground is not relevant to one or more of the licensing objectives
 - In the case of an application by a local resident that the application is frivolous, vexatious or repetitious.
- 3.15 The review was advertised by a blue poster, next to the premises, by the Licensing Section. This was periodically monitored by the Section to ensure it was on continuous display, and replaced as necessary. On this occasion, this notice was replaced number of times. It was also advertised at Mulberry Place, 5 Clove Crescent, London E14 2BG.
- 3.16 The party that triggers the review must notify the licence holder and responsible authorities. The review documents were sent to the licence holders at a later date and consequently the consultation period was increased to the 3rd September 2008.

- 3.17 The procedure for a review can be summarised as follows:
- A review is triggered by a responsible authority or interested party
 - Consultation is conducted for 28 full days
 - Other responsible authorities or interested parties may join in the review
 - Members conduct a hearing
 - Members make a determination
 - All the parties to the review have the right of appeal to the magistrates court (i.e. the licence holder, the person who triggered the review and those who have made a representation).

4.0 The Premises

4.1 The premises licence was issued on 21st October 2005. A copy of the current licence is contained in **Appendix 8** of Environmental Protection representation.

4.2 The premises are shown in maps contained in **Appendix 9**.

5.0 Representations

5.1 This hearing is required by the Licensing Act 2003, because relevant representations have been made by Environmental Protection local residents.

5.2 Only representations that relate to the following licensing objectives are relevant:

- the prevention of crime and disorder
- public safety
- the prevention of public nuisance
- the protection of children from harm

5.3 All the licensing objectives have been mentioned in the note of representations from interested parties. Essentially, in the view of the interested parties and the responsible authority the licensing objective the prevention of public nuisance is being undermined.

6.0 Licensing Officer Comments

- 6.1 The Governments advice in relation to reviews is contained in **Appendix 1**. Members must consider all the evidence and then decide from the following alternatives:
- Take no further action as they do not consider it proportionate to do so
 - Impose conditions (including altering existing permissions) that relate to problems which they consider have been identified and which are necessary and proportionate to ensure that the licensing objectives are met
 - Suspend the licence for a period
 - Revoke the licence completely
- 6.2 The licence should only be suspended or revoked if Members believe that alterations to the existing licence, including imposing new conditions does not have a reasonable prospect of ensuring that the licensing objectives are met.
- 6.3 Members should bear in mind that conditions may not be imposed for any purpose other than to meet the licensing objectives.
- 6.4 In all cases the Members should make their decision on the civil burden of proof that is “the balance of probability.”
- 6.5 In all cases Members should consider whether or not primary legislation is the appropriate method of regulation and should only consider licence conditions when the circumstances in their view are not already adequately covered elsewhere.

7.0 Legal Comments

- 7.1 The Council’s legal officer will give advice at the hearing.

8.0 Finance Comments

- 8.1 There are no financial implications in this report.

9.0 Appendices

- | | |
|-------------------|--|
| Appendix 1 | Guidance issued under Section 182 by the Department for Sport, Culture and Media Affairs for reviews |
| Appendix 2 | Guidance Issued by the Department for Culture Media and Sport under Section 182 of the Licensing Act 2003 concerning the Prevention of Public Nuisance |
| Appendix 3 | London Borough of Tower Hamlets Policy in relation to the prevention of Public Nuisance |
| Appendix 4 | Review of Environmental Protection |
| Appendix 5 | Representation of Adrian Rifkin and Denis Echard |
| Appendix 6 | Representation of Andrew Chisholm |
| Appendix 7 | Representation of Dino Di Costa |
| Appendix 8 | A copy of the current premises licence |
| Appendix 9 | Maps of the premises. |

Appendix 1

Guidance Issued by the Department for Culture Media and Sport under Section 182 of the Licensing Act 2003

POWERS OF A LICENSING AUTHORITY ON THE DETERMINATION OF A REVIEW

- 11.15 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.
- 11.16 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.
- 11.17 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.

- 11.18 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.
- 11.19 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.
- 11.20 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.
- 11.21 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

- 11.22 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.
- 11.23 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.
- 11.24 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.

11.25 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.

11.26 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.

11.27 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 2

Guidance Issued by the Department for Culture Media and Sport 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 at 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 3

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 4



This form should be completed and forwarded to:

London Borough of Tower Hamlets,
Licensing Section, Mulberry Place (AH), PO BOX 55739, 5 Clove Crescent, London E14 1BY

Application for the review of a premises licence or club premises certificate under the Licensing Act 2003

PLEASE READ THE FOLLOWING INSTRUCTIONS FIRST

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

I ... The Responsible Authority Environmental Health, London Borough of Tower Hamlets..... (Insert name of applicant) **apply for the review of a premises licence under section 51 / apply for the review of a club premises certificate under section 87 of the Licensing Act 2003 for the premises described in Part 1 below (delete as applicable)**

Part 1 – Premises or club premises details

Postal address of premises or club premises, or if none, ordnance survey map reference or description		
The Poet P.H. 82-84 Middlesex Street,		01 AUG 2008
Post town London	Post code (if known) E1 7EZ	LICENSING

Name of premises licence holder or club holding club premises certificate (if known)

**The Poet Bar Ltd
925 Finchley Road
London NW11 7PE**

Number of premises licence or club premises certificate (if known)

Part 2 - Applicant details

I am

Please tick yes

1) an interested party (please complete (A) or (B) below)

a) a person living in the vicinity of the premises

b) a body representing persons living in the vicinity of the premises

c) a person involved in business in the vicinity of the premises

d) a body representing persons involved in business in the vicinity of the premises

2) a responsible authority (please complete (C) below)

X

3) a member of the club to which this application relates (please complete (A) below)

(A) DETAILS OF INDIVIDUAL APPLICANT (fill in as applicable)

Mr

Mrs

Miss

Ms

Other title

(for example, Rev)

Surname

First names

I am 18 years old or over

Please tick yes

Current postal address if different from premises address

Post Town

Postcode

Daytime contact telephone number

E-mail address (optional)

(B) DETAILS OF OTHER APPLICANT

Mr Mrs Miss Ms Other title
(for example, Rev)

Surname	First names
<input type="text"/>	<input type="text"/>

I am 18 years old or over

Please tick yes

Current postal address if different from premises address

Post Town

Postcode

Daytime contact telephone number

E-mail address (optional)

(C) DETAILS OF RESPONSIBLE AUTHORITY APPLICANT

Name and address Environmental Health Mulberry Place[AH] P.O. Box 33739 5, Clove Crescent, London E14 1BYL
Telephone number (if any) 02073645008

E-mail (optional) ENVIRONMENTALHEALTH@TOWERHAMLETS.GOV.UK

This application to review relates to the following licensing objective(s)

Please tick one or more boxes

- 1) the prevention of crime and disorder
- 2) public safety
- 3) the prevention of public nuisance
- 4) the protection of children from harm

Please state the ground(s) for review (please read guidance note 1)

THE PREMISES HAVE BEEN OPERATING IN SUCH A FASHION THAT THE LICENSING OBJECTIVE 'PREVENTION OF PUBLIC NUISANCE' HAS BEEN COMPROMISED ON MANY OCCASIONS :

Due to a combination of the structural limitation of 'The premises' and the unwillingness or the inability of the License-holder and DPS to put the necessary managerial controls in place and to maintain them, the operation of this Licensed business has caused a considerable amount of noise disturbance to neighbouring residents due to the break-out of music-noise.

A very large number of complaints of noise-disturbance have been made to the Council's out-of-hours Noise Service, whose Officers have corroborated the validity of these complaints on many occasions.

This situation has been ongoing since 2005 and despite many warnings being issued to the License-holder and DPS, who have been given ample opportunity to address the problems, there has been a failure to bring about any lasting improvement in the situation.

The License which is currently operating in respect of these premises currently permits the playing of loud music, but sadly the sound insulation properties of the premises are just not adequate to prevent music-noise from disturbing neighbouring residential users.

As a result of the excessive level of music-noise being played at the premises and the failure of the management to address the problem, an Abatement Notice was served on those responsible for managing the premises in 2006; several contraventions have been witnessed by our Officers and a prosecution file is nearing completion which will be referred to our Legal Team shortly with an instruction to proceed for summonses to be issued and for a date for Hearing to be established.

It is my view that the limitations of the structure to prevent noise-break out prevent music at any significant level being played without compromising the Licensing Objective of 'Prevention of Public Nuisance'.

Further, it is clear that customers should not be allowed to occupy the paved area immediately outside of the premises for the same reason.

Please provide as much information as possible to support the application (please read guidance note 2)

1. The Poet Public House is situated in the ground-floor of a building at 82-84 Middlesex Street with residential apartments above.
2. The Premises License confirms that recorded music is permitted to be employed in the operation of this business.
3. Copy of the two Abatement Notice served [appendix 1 and 2]
4. Precis and chronology of events and significant actions with list of dates when music-noise has been audible in neighbouring residential premises.

Precis and Chronology:

1. The premises are located in an area that enjoys relatively low background noise-levels during night trading-hours.
2. There are apartments directly above the premises with poor sound insulation between them.
3. On 17/03/05 a complaint was received concerning noise-nuisance emanating from the premises affecting a local resident.
4. On 17/03/08 a complaint was received at 22:30 hours regarding loud music being played on the premises affecting local residents.
5. On 25/08/2005 a complaint was received from local residents at 22.15 due to loud music-noise being audible in the complainant's premises.
6. On 8/12/2005 at 23:00 a complaint of loud music-noise was received from a resident.
7. On 17/03/06 at 21.15 a further complaint of loud intrusive audible music was received by our service and Statutory Nuisance from noise was witnessed at 21.51. The licensee was approached and informed and she duly reduced the volume of the music.
8. On the 29/03/2006 a complaint was received at 23.30 due to loud music affecting a local resident at 00.50. An officer witnessed a further Statutory Nuisance from music-noise played in the Poet P.H the licensee was advised at 01.05.
9. On the 29/03/2006 an Abatement Notice was served under the provisions of the Environmental Protection Act 1990 on the two Licensees requiring them to prohibit further Nuisance from noise.
10. On the 20/06/2006 at 22:30, a complaint was received concerning noise disturbance being caused by customers seemingly of the Poet congregating outside the premises whilst drinking,
11. On 9/01/2007 a complaint of loud music-noise emanating from the Poet was received at 21.25.
12. On 5/2/07 at 22:25 following further complaint a Statutory Nuisance being caused by music noise escaping from the Poet was witnessed at 23:05. This was brought to the attention of Taray Smit who proclaimed to be the Designated Premises Supervisor.
13. A further noise complaint was received at 21:30 on 1st March 2007. The complainant was visited at 22:40 when the music was adjudged to constitute a Statutory Nuisance thus contravening the Abatement Notice previously served.
14. At 21:54 on 2/3/07 a complaint of loud music from Poet was received by the

Out of Hours Noise Service from a resident.

15. A complaint was received on 9th March 2007 at 22:11 from a resident affected by loud music being played at the Poet.
16. On 13/3/07 a further complaint was made by a resident. An Officer visited and confirmed that music being played in the Poet was audible in the complainant's bedroom at 21:35.
17. At 21:20 on 19/3/07, following receipt of a complaint, an officer visited the complainant and found that music being played in the Poet was audible in the complainant's home.
18. On 20/4/07 a complaint of a music noise was received by the noise service at 20:08. An officer visited the complainant at 21:35 and witnessed a further Statutory Nuisance.
19. On 27/4/07 a further Statutory Nuisance was witnessed by an officer at 22:20 following receipt of a complaint of loud music from the Poet.
20. A complaint of loud music from the Poet was received at 22:13 on 18th May 2007.
21. On 26/7/07 a complaint of loud music from the Poet was received. An Officer visited at 22:20 and confirmed that music being played in the Poet was clearly audible in the complainant's house. The officer confirms that a further Statutory Nuisance was being occasioned.
22. Following a complaint an officer visited the complainant's premises at 21:55 on 3rd August 2007 and confirmed that music played in the Poet was audible.
23. On 22/9/07 a complaint of loud music from the Poet was received by the Out of Hours Noise Service.
24. A further noise complaint was received on 29/9/07 at 20:45.
25. A further Statutory nuisance was witnessed at 21:15 on 29/9/07 by an Officer investigating a complaint of loud music-noise coming from the Poet.
26. On 29/2/08 a complaint of loud music from the Poet was received at 20:10. At 21:45 the Officer investigating witnessed a further Statutory Nuisance. This was brought to the attention of the manager Mr Sinai.
27. On the 8/5/08 following a complaint a further Statutory Nuisance was witnessed by the investigating officer.
28. A further noise complaint was received at 21:33 on 23/5/08.
29. On 23/5/08 a complaint was received from a resident due to noise being caused by "customers" of the Poet congregating on the pavement outside the premises.

We are aware that the holder of the Premises License has recently changed and recognise that this may bring about improvements in management, but feel that the structure of the Premises will not allow regulated entertainment to be employed without causing noise-disturbance to those living in contiguous premises. Further, due to the co-location of Pub with residential users and mindful of the low background noise-levels prevailing in this locality, it is our view that customers of the Poet should be prohibited from occupying the pavement outside the premises.

Have you made an application for review relating to this premises before

Please tick yes

If yes please state the date of that application

Day	Month	Year

If you have made representations before relating to this premises please state what they were and when you made them

Notes for Guidance

- 1 1. The ground(s) for review must be based on one of the licensing objectives.
- 2 2. Please list any additional information or details for example dates of problems which are included in the grounds for review if available.
- 3 3. The application form must be signed.
- 4 4. An applicant's agent (for example solicitor) may sign the form on their behalf provided that they have actual authority to do so.
- 5 5. This is the address which we shall use to correspond with you about this application.

**ABATEMENT NOTICE in respect of Statutory Nuisance
ISSUED BY THE LONDON BOROUGH OF TOWER HAMLETS**

**ENVIRONMENTAL PROTECTION ACT 1990 PART III SECTION 80
AS AMENDED BY THE NOISE AND STATUTORY NUISANCE ACT 1993, SECTION 3**

TO: Peter Patrick Dunne
OF: 27 Dryden Building, 37 Commercial Road, London E1 1LF

1. Notice

THIS IS A FORMAL NOTICE issued by the LONDON BOROUGH OF TOWER HAMLETS ('The Council') because it is satisfied that a statutory nuisance has been witnessed and is likely to recur at the premises known as

The Poet, 82 Middlesex Street, London E1 7EZ

within its area in that **excessive noise from loud amplified music has been witnessed.**

2. What You Are Required To Do

As the [person responsible for the nuisance or the [owner] [and/or] [occupier] of the premises you are required to [abate or restrict or prohibit] the [occurrence] [recurrence] of the nuisance by [executing the following works or taking the following steps] from the date upon which this Notice was served upon you:

Cease to commit or allow to be committed further noise nuisance as aforesaid from the aforementioned premises.

3. What Happens If You Fail To Comply

If without reasonable excuse you contravene or fail to comply with any requirement or prohibition of this Notice:

- 3.1 you will be guilty of a criminal offence and will be liable on summary conviction to a fine not exceeding level 5 on the standard scale, together with an additional fine for each day on which the offence continues after conviction; or
- 3.2 if the offence is committed on industrial, trade or business premises, you will be liable a summary conviction to a fine not exceeding £20,000;
- 3.3 in order to secure an abatement, prohibition or restriction of the nuisance, the Council may bring proceedings in the High Court and;
- 3.4 the Council reserve the right to execute the works specified in the Notice and recover from you any expenditure incurred.

4. Your Right Of Appeal

You may appeal to a Magistrates' Court against this Notice within 21 days, beginning with the date on which this Notice is served upon you.

5. Suspensions Of Notices

In the event of an appeal this Notice shall NOT be suspended until the appeal has been abandoned or decided by the Court as, in the opinion of the Council ~~{[the nuisance to which this Notice relates is [injurious to health] [likely to be of a limited duration such that suspension would render the Notice of no practical effect]}~~ [the expenditure which would be incurred by any person in carrying out works in compliance with this Notice before any appeal has been decided would not be disproportionate to the public benefit to be expected in that period from such compliance].

Dated: 29th March 2006

Signed: 
ENVIRONMENTAL HEALTH TECHNICAL OFFICER

This matter is being dealt with by **Paul Johnson** who can be contacted at: Environmental Health (Environmental Protection), Council Offices, Southern Grove, LONDON, E3 4PN.
Tel: 020 7364-5008 Fax: 020 7364-6831

CC The Poet, 82 Middlesex Street, London E1 7EZ

NOTES

The Statutory Nuisance (Appeals) Regulations 1995 :-

APPEALS UNDER SECTION 80 (3) of the 1990 ACT

- (1) The provisions of this regulation apply in relation to an appeal brought by any person under section 80(3) of the 1990 Act against an abatement notice served upon him by a local authority.
- (2) The grounds on which a person served with such a notice may appeal under section 80(3) are any one or more of the following grounds that are appropriate in the circumstances of the particular case-
 - (a) that the abatement notice is not justified by section 80 of the 1990 Act (summary proceedings for statutory nuisances);
 - (b) that there has been some informality, defect or error in, or in connection with, the abatement notice, or in, or in connection with, any copy of the abatement notice served under section 80A(3) (certain notices in respect of vehicles, machinery or equipment);
 - (c) that the authority have refused unreasonably to accept compliance with alternative requirements, or that the requirements of the abatement notices are otherwise unreasonable in character or extent, or are unnecessary;
 - (d) that the time, or, where more than one time is specified, any of the times, within which the requirements of the abatement notice are to be complied with is not reasonably sufficient for the purpose;
 - (e) where the nuisance to which the notice relates -
 - (i) is a nuisance falling within section 79(1)(a), (d), (e), (f) or (g) of the 1990 Act and arises on industrial, trade or business premises, or
 - (ii) is a nuisance falling within section 79(1)(b) of the 1990 Act and the smoke is emitted from a chimney, or
 - (iii) is a nuisance falling within section 79(1)(ga) of the 1990 Act and is noise emitted from or caused by a vehicle, machinery or equipment being used for industrial, trade or business purposes, that the best practicable means were used to prevent, or to counteract the effects of, the nuisance;
 - (f) that, in the case of a nuisance under section 79(1)(g) or (ga) of the 1990 Act (noise emitted from premises), the requirements imposed by the abatement notice by virtue of section 80(1)(a) of the Act are more onerous than the requirements for the time being in force, in relation to the noise to which the notice relates, of-
 - (i) any notice served under section 60 or 66 of the 1974 Act (control of noise on construction sites and from certain premises), or
 - (ii) any consent given under section 61 or 65 of the 1974 Act (consent for work on construction sites and consent for noise to exceed registered level in a noise abatement zone), or
 - (iii) any determination made under section 67 of the 1974 Act (noise control of new buildings);
 - (g) that, in the case of a nuisance under section 79(1)(ga) of the 1990 Act (noise emitted from or caused by vehicles, machinery or equipment), the requirements imposed by the abatement notice by virtue of section 80(1)(a) of the Act are more onerous than the requirements for the time being in force, in relation to the noise to which the notice relates, of any condition of a consent given under paragraph 1 of Schedule 2 to the 1993 Act (loudspeakers in streets or roads);
 - (h) that the abatement notice should have been served on some person instead of the appellant, being -
 - (i) the person responsible for the nuisance, or
 - (ii) the person responsible for the vehicle, machinery or equipment, or
 - (iii) in the case of a nuisance arising from any defect of a structural character, the owner of the premises, or
 - (iv) in the case where the person responsible for the nuisance cannot be found or the nuisance has not yet occurred, the owner or occupier of the premises;
 - (i) that the abatement notice might lawfully have been served on some person instead of the appellant, being -
 - (i) in the case where the appellant is the owner of the premises, the occupier of the premises, or
 - (ii) in the case where the appellant is the occupier of the premises, the owner of the premises, and that it would have been equitable for it to have been so served;
 - (j) that the abatement notice might lawfully have been served on some person in addition to the appellant, being -
 - (i) a person also responsible for the nuisance, or
 - (ii) a person who is also owner of the premises, or
 - (iii) a person who is also an occupier of the premises, or
 - (iv) a person who is also the person responsible for the vehicle, machinery or equipment, and that it would have been equitable for it to have been so served.
- (3) If and so far as an appeal is based on the ground of some informality, defect or error in, or in connection with, the abatement notice, or in, or in connection with, any copy of the notice served under section 80A(3), the court shall dismiss the appeal if it is satisfied that the informality, defect or error was not a material one.
- (4) Where the grounds upon which an appeal is brought include a ground specified in paragraph (2)(i) or (j) above, the appellant shall serve a copy of his notice of appeal on any other person referred to, and in the case of any appeal to which these regulations apply he may serve a copy of his notice of appeal on any other person having an estate or interest in the premises, vehicle, machinery or equipment in question.
- (5) On the hearing of an appeal the court may -
 - (a) quash the abatement notice to which the appeal relates, or
 - (b) vary the abatement notice in favour of the appellant in such manner as it thinks fit, or
 - (c) dismiss the appeal;
 and an abatement notice that is varied under sub-paragraph (b) above shall be final and shall otherwise have effect, as so varied, as if it had been so made by the local authority.

**ABATEMENT NOTICE in respect of Statutory Nuisance
ISSUED BY THE LONDON BOROUGH OF TOWER HAMLETS**

**ENVIRONMENTAL PROTECTION ACT 1990 PART III SECTION 80
AS AMENDED BY THE NOISE AND STATUTORY NUISANCE ACT 1993, SECTION 3**

TO: Simone Emma Andrews
OF: 27 12 Grace House, Vauxall Street, London SE11 5RW

1. Notice

THIS IS A FORMAL NOTICE issued by the LONDON BOROUGH OF TOWER HAMLETS ('The Council') because it is satisfied that a statutory nuisance has been witnessed and is likely to recur at the premises known as

The Poet, 82 Middlesex Street, London E1 7EZ

within its area in that **excessive noise from loud amplified music has been witnessed.**

2. What You Are Required To Do

As the [person responsible for the nuisance or the [owner] [and/or] [occupier] of the premises you are required to [abate or restrict or prohibit] the [occurrence] [recurrence] of the nuisance by [executing the following works or taking the following steps] from the date upon which this Notice was served upon you:

Cease to commit or allow to be committed further noise nuisance as aforesaid from the aforementioned premises.

3. What Happens If You Fail To Comply

If without reasonable excuse you contravene or fail to comply with any requirement or prohibition of this Notice:

- 3.1 you will be guilty of a criminal offence and will be liable on summary conviction to a fine not exceeding level 5 on the standard scale, together with an additional fine for each day on which the offence continues after conviction; or
- 3.2 if the offence is committed on industrial, trade or business premises, you will be liable a summary conviction to a fine not exceeding £20,000;
- 3.3 in order to secure an abatement, prohibition or restriction of the nuisance, the Council may bring proceedings in the High Court and;
- 3.4 the Council reserve the right to execute the works specified in the Notice and recover from you any expenditure incurred.

4. Your Right Of Appeal

You may appeal to a Magistrates' Court against this Notice within 21 days, beginning with the date on which this Notice is served upon you.

5. Suspensions Of Notices

In the event of an appeal this Notice shall NOT be suspended until the appeal has been abandoned or decided by the Court as, in the opinion of the Council {the nuisance to which this Notice relates is [injuriously to health] [likely to be of a limited duration such that suspension would render the Notice of no practical effect]} [the expenditure which would be incurred by any person in carrying out works in compliance with this Notice before any appeal has been decided would not be disproportionate to the public benefit to be expected in that period from such compliance].

Dated: 29th March 2006

Signed: 
ENVIRONMENTAL HEALTH TECHNICAL OFFICER

This matter is being dealt with by **Paul Johnson** who can be contacted at: Environmental Health (Environmental Protection), Council Offices, Southern Grove, LONDON, E3 4PN.
Tel: 020 7364-5008 Fax: 020 7364-6831

CC The Poet, 82 Middlesex Street, London E1 7EZ

NOTES

The Statutory Nuisance (Appeals) Regulations 1995 :-

APPEALS UNDER SECTION 80 (3) of the 1990 ACT

- (1) The provisions of this regulation apply in relation to an appeal brought by any person under section 80(3) of the 1990 Act against an abatement notice served upon him by a local authority.
- (2) The grounds on which a person served with such a notice may appeal under section 80(3) are any one or more of the following grounds that are appropriate in the circumstances of the particular case-
 - (a) that the abatement notice is not justified by section 80 of the 1990 Act (summary proceedings for statutory nuisances);
 - (b) that there has been some informality, defect or error in, or in connection with, the abatement notice, or in, or in connection with, any copy of the abatement notice served under section 80A(3) (certain notices in respect of vehicles, machinery or equipment);
 - (c) that the authority have refused unreasonably to accept compliance with alternative requirements, or that the requirements of the abatement notices are otherwise unreasonable in character or extent, or are the unnecessary;
 - (d) that the time, or, where more than one time is specified, any of the times, within which the requirements of the abatement notice are to be complied with is not reasonably sufficient for the purpose;
 - (e) where the nuisance to which the notice relates -
 - (i) is a nuisance falling within section 79(1)(a), (d), (e), (f) or (g) of the 1990 Act and arises on industrial, trade or business premises, or
 - (ii) is a nuisance falling within section 79(1)(b) of the 1990 Act and the smoke is emitted from a chimney, or
 - (iii) is a nuisance falling within section 79(1)(ga) of the 1990 Act and is noise emitted from or caused by a vehicle, machinery or equipment being used for industrial, trade or business purposes, that the best practicable means were used to prevent, or to counteract the effects of, the nuisance;
 - (f) that, in the case of a nuisance under section 79(1)(g) or (ga) of the 1990 Act (noise emitted from premises), the requirements imposed by the abatement notice by virtue of section 80(1)(a) of the Act are more onerous than the requirements for the time being in force, in relation to the noise to which the notice relates, of-
 - (i) any notice served under section 60 or 66 of the 1974 Act (control of noise on construction sites and from certain premises), or
 - (ii) any consent given under section 61 or 65 of the 1974 Act (consent for work on construction sites and consent for noise to exceed registered level in a noise abatement zone), or
 - (iii) any determination made under section 67 of the 1974 Act (noise control of new buildings);
 - (g) that, in the case of a nuisance under section 79(1)(ga) of the 1990 Act (noise emitted from or caused by vehicles, machinery or equipment), the requirements imposed by the abatement notice by virtue of section 80(1)(a) of the Act are more onerous than the requirements for the time being in force, in relation to the noise to which the notice relates, of any condition of a consent given under paragraph 1 of Schedule 2 to the 1993 Act (loudspeakers in streets or roads);
 - (h) that the abatement notice should have been served on some person instead of the appellant, being -
 - (i) the person responsible for the nuisance, or
 - (ii) the person responsible for the vehicle, machinery or equipment, or
 - (iii) in the case of a nuisance arising from any defect of a structural character, the owner of the premises, or
 - (iv) in the case where the person responsible for the nuisance cannot be found or the nuisance has not yet occurred, the owner or occupier of the premises;
 - (i) that the abatement notice might lawfully have been served on some person instead of the appellant, being -
 - (i) in the case where the appellant is the owner of the premises, the occupier of the premises, or
 - (ii) in the case where the appellant is the occupier of the premises, the owner of the premises, and that it would have been equitable for it to have been so served;
 - (j) that the abatement notice might lawfully have been served on some person in addition to the appellant, being -
 - (i) a person also responsible for the nuisance, or
 - (ii) a person who is also owner of the premises, or
 - (iii) a person who is also an occupier of the premises, or
 - (iv) a person who is also the person responsible for the vehicle, machinery or equipment, and that it would have been equitable for it to have been so served.
- (3) If and so far as an appeal is based on the ground of some informality, defect or error in, or in connection with, the abatement notice, or in, or in connection with, any copy of the notice served under section 80A(3), the court shall dismiss the appeal if it is satisfied that the informality, defect or error was not a material one.
- (4) Where the grounds upon which an appeal is brought include a ground specified in paragraph (2)(i) or (j) above, the appellant shall serve a copy of his notice of appeal on any other person referred to, and in the case of any appeal to which these regulations apply he may serve a copy of his notice of appeal on any other person having an estate or interest in the premises, vehicle, machinery or equipment in question.
- (5) On the hearing of an appeal the court may -
 - (a) quash the abatement notice to which the appeal relates, or
 - (b) vary the abatement notice in favour of the appellant in such manner as it thinks fit, or
 - (c) dismiss the appeal;
 and an abatement notice that is varied under sub-paragraph (b) above shall be final and shall otherwise have effect, as so varied, as if it had been so made by the local authority.

Appendix 5

John Cruse

From: A.R [gai_savoir@btinternet.com]
Sent: 17 August 2008 21:39
To: John Cruse
Cc: Iain Pendrigh; Andrew Chisholm
Subject: Poet Bar, Iain Pendrigh's report

Dear Mr Cruse

I was advised that you are in charge of the license review of the Poet Bar, but I would like to thank Iain for a copy of his report and submission. All the comments that he makes are accurate though all the instances of nuisance cited can naturally only represent a broader, ongoing nuisance. I am writing to you with our comments.

From our point of view is very timely. Despite the owner of the Poet having put up a sign to ask clients not to drink outside after nine pm the situation is hardly getting better than it has been over the last years, but especially since the implementation of the smoking ban. When I began the draft of this email this at 10pm on the 7 of August there was no peace at all inside out flat, with laughter, shouting and singing under the window. The night before, 6 August, was almost as bad until 11 pm and on 5 August the early evening noise was similar, while and the Friday before the drinkers did not disperse until well after 11.15, shouting and making phone calls under our bedroom window. On two occasions in the last ten days we have had to phone down to ask the staff at the Poet to control noise outside after this entirely voluntary deadline, to little effect. In fact the 9 pm deadline is without value as the clients' noise in the earlier hours of the evening can be very disturbing indeed. Even with windows closed on a summer evening around 7 pm it has sometimes been hard to hear ourselves speak in the flat, let alone do any writing or other work requiring concentration or even continue normal domestic activities undisturbed. This is a very resonant street corner.

Other incidents have included:

drinkers clustered outside the bar poking fun at guests of ours arriving on cycles around 8 pm and again when they departed near to 11, making offensive comments:

drinkers refusing to move when we try simply to use the pavement to go round to the refuse room in Cobb Street, expecting us or other pedestrians to step out into the street:

drinkers using our doorstep to smoke, shelter from the rain and make phone calls:

early evening drinkers using the pavement in front of Osborn house, now 'Oval' and so extending the area of disturbance:

One occasion when music was so loud that it could be clearly heard on the second floor where we live.

I have a number of jpegs to document most of this.

Simply put the presence of the clients of the Poet on the pavements of Middlesex and Cobb Streets has brought about a marked deterioration in the quality of life in our block in what has traditionally been a quiet area outside office hours. Mr and Mrs White of flat 6 will confirm that their three young children have been woken by the noise of shouting etc on a number of evenings. Although the current landlord has clearly made efforts to clean up after his clients in recent weeks, we have suffered Saturday mornings when the street is quite filthy, scattered with stubs, bottles and broken glass as well as bottles or glasses left on our doorstep. There is no guarantee whatsoever that any relative improvement will continue.

In view of the ongoing incompatibility of such an establishment with a prior residential development, we would be in favour of a revocation of the license. A second option, if legally possible, would be a restriction

on the license to prevent any outside drinking and to make the landlord responsible for disturbance caused by clients. In view of the future which will see an increasing density of a passing daytime population with new office blocks and student lodgings in the immediate vicinity we would prefer the first option.

Yours sincerely and with thanks,

Adrian Rifkin

Denis Echard

84 Middlesex Street - flat 3
London E1 7EZ
020 7247 2197

Appendix 6

**Flat 2
84 Middlesex St
London E1 7EZ**

Licensing Section
Mulberry Place (AH)
PO Box 55739
London E14 1BY

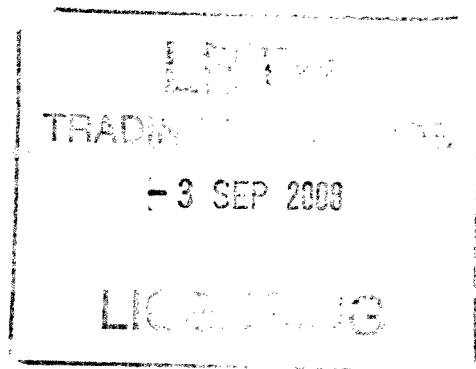
2 September 2008

Dear Sirs

REVIEW OF THE LICENCE OF THE POET PUB AT 82 MIDDLESEX STREET

I have been resident at the above address more or less continuously since the summer of 1998. During that time, a licence was granted for the Poet Pub at 82 Middlesex Street. Since the premises opened, there have been very numerous nuisances caused by the operation of the premises as a pub. At first, I attempted to co-operate with Peter Dunne, the original landlord. However, I found this to be completely ineffective. I spent a considerable amount of time talking to Mr Dunne about how to resolve numerous issues. It was all entirely wasted. Environmental Health has been very helpful in limiting the nuisance from the pub, but there is only so much they have been able to do because of the persistent willingness of the pub's operators to flout the rules. In addition, there are certain nuisances that they are not well equipped to tackle. Many of the nuisances are well documented and known to LBTH, but in addition I would list the following:

1. Occasional vibrations from dancing.
2. Persistent very loud disposal of bottles late at night, often at around 11.30pm and on certain occasions after midnight, and loud enough to wake me up.
3. Persistent noise from bar staff bidding each other goodnight in Cobb Street, usually at around 11.30pm but occasionally as late as 1.30am.
4. Deliveries being made as early as 4.30am, delivery vans slamming doors of the van and the pub, delivery vans playing loud music on the radio loud enough to wake me up.
5. The combined effect of 3., 4. and 5. above being that there is sometimes only a short period of the night during which it is possible to sleep uninterrupted.
6. Persistent noise and vibration from staff slamming the external refuse area door.



7. Persistent noise from lift motor, which is occasionally left running after deliveries have been made and which makes a loud noise in my flat. There is constantly the possibility that the motor could be left on all weekend when the pub is generally not open, and therefore there is nobody around to turn the motor off. This has not yet occurred, but were it to it would make sleeping in my flat impossible. It is a constant source of low level anxiety that this might occur.
8. Noise from furniture being moved early on Saturday mornings by cleaners.

I have put together a chronology of matters relevant to the licence review, and put the various matters in their legal context in a note of representations from interested parties. I attach these documents in the hope that they will be helpful to you in the review process. I also attach six photographs illustrating some of the problems the pub has caused, demonstrating that the pub does not enforce even its own low standard that drinkers should not be standing outside after 9pm and showing someone, whom I believe but cannot prove to be a pub employee, removing one of the notices in relation to the licence review.

The result of all of these matters is that I have consistently suffered a high level of nuisance from the pub over a period of several years. I'm fed up. In my view, it is simply not possible to run the Poet in a manner consistent with the licensing objective of prevention of public nuisance. I would ask how many more nuisances will LBTH tolerate? Whilst I acknowledge the good work done by Environmental Health to attempt to address some of these issues, I therefore urge you to revoke the licence.

In the event that you are not minded to revoke the licence, I support the views expressed in the Application for the review dated 1 August 2008 to the effect that there should not be licensed entertainment in the premises, and that customers should not be permitted to congregate outside the pub.

I would further urge you to take whatever measures you can to prevent other nuisances from recurring. The operating schedule could stipulate some or all of the following: no disposal of refuse after say 8pm or before 8am, staff are to leave quietly in the evenings, no deliveries to be made before 8am, glass and cigarette butts are to be cleaned up from the area outside the pub after the premises close each night, the lift motor to be isolated from the structure of the building so as to make its operation inaudible outside of the premises, and furniture not be moved as part of the cleaning of the pub outside 8am until 8pm.

I would be very grateful for the chance to attend the review session. Please could you write to me to let me know the time and date in due course?

Yours faithfully



Andrew Chisholm

IN THE REVIEW OF

THE POET PUBLIC HOUSE

Application for review made by LBTH environmental health

CHRONOLOGY OF EVENTS

2000	Premises applies for change of use, from retail, to licensed premises
24.05.00	Lease of premises granted to Poetry Bars Limited for 35 years. Director is Peter Dunne
2000-2005	Regular noise nuisance and public nuisance from the premises, leading to various complaints, and resulting in the local authority attaching conditions to the license (see Annex 3) imposing restrictions on the license for the premises to comply with various building works, as well as a noise limiter. These conditions were never complied with. The records relating to this time, and the details of annex 3 have been requested. However, it seems neither the records of the continuous problems and complaints, nor the details of conditions imposed have been retained by the local authority (they were requested but it appears they did not survive the licensing law changes). However, it is clear from the ongoing complaints about noise nuisance that the conditions were never complied with.
11.03.05	Poetry Bars Limited goes into liquidation (believed to be compulsory liquidation)
17.03.05	Environmental health (EH) record noise nuisance emanating from premises (2 complaints, one at 22.30 h)
25.08.05	EH record noise nuisance (loud music) from the premises at 22.15
21.10.05	Premises license No 10073 (revised license under new legislation) granted. Licensed premises holder is Mr Peter Dunne; designated premises supervisor is Ms Simone Andrews Note Annex 3 of that license– a series of works was to be carried out as a condition of the license, to address the issue of noise nuisance. There is no record that there has been full compliance to the satisfaction of the council. Thus the problems with noise nuisance from the premises predate 2005, contrary to what the review application states
8.12.05	EH record noise nuisance – loud music – from premises
17.03.06	EH record further complaint of loud, intrusive music from premises – at 21.51. Premises supervisor reduced the volume upon EH visiting
29.03.06	Loud music from the premises after 1 am which was witnessed by EH. Abatement notice served on Peter Dunne and Simone Andrews

20.06.06	EH record complaint of noise from Premises customers creating a noise disturbance by congregating outside the pub
13.09.06	Poetry Bars Ltd administration complete. Mr Dunne no longer involved in the premises in any capacity. Ms Andrews continues to run the premises
13.12.06	Poetry Bars Limited dissolved
9.01.07	EH record complaint of loud music and noise from the premises at 21.25
5.02.07	Taray Smit claims to be new designated premises supervisor. However, upon obtaining information from LBTH, it is clear that no application to transfer was ever made. It is known that Ms Andrews gave birth to a child at some time during this period, so it seems she could not have been responsible for the day-to-day running of the pub during that time. Mr Dunne had ceased his involvement when Poetry Bars Limited went into receivership. Mr Smit held himself out as the premises supervisor, but it is clear he never had the legal standing so to do. A further complaint of loud music and noise from the premises at 22.25 recorded, and witness still ongoing at 23.05.
1.03.07	Complaint of noise – loud music- from premises at 21.30 recorded by EH and witnessed still ongoing at 22.40.
2.03.07	Complaint of loud music from the premises recorded by EH at 21.54.
9.03.07	Complaint of loud music from the premises recorded by EH at 22.11.
13.03.07	Complaint of loud music from the premises 21.35, witnessed by EH
19.03.07	Complaint of loud music from premises at 21.20, witnessed by EH
20.04.07	Complaint of loud music and noise from premises recorded by EH at 20.08 h. This was witnessed as ongoing at 21.35 h
27.04.07	Complaint of loud music and noise from the premises recorded by EH. This witnessed as ongoing by EH officer attending at 22.20 h.
18.05.07	Complaint of loud music from premises recorded by EH at 22.13
1.07.07	Smoking ban comes into force
26.07.07	Complaint of loud music from premises recorded, and witnessed as ongoing by EH officer at 22.20
3 .08.07	Complaint of loud music from the premises recorded and verified by EH officer as ongoing at 21.55
22.09.07	Complaint of loud music and noise from the premises recorded by EH
29.09.07	Complaint of loud music and noise from the premises recorded by EH at 20.45. This was confirmed as still ongoing by an EH officer at 21.15
Dec 2007	Ms Andrews appears to leave the premises and ceases to work there or have any supervisory role
5.12.07	“The Poetry Bar Limited” is incorporated. Mr Assaf Sinai is director
29.02.08	Complaint of loud music recorded by EH at 20.10. This witnessed as still

	ongoing at 21.45 by EH officer. This was brought to the attention of the “manager” Mr Sinai. However, it should be noted that at this time, despite having apparently taken over the running of the bar more than 3 months previously and holding himself out as manager, Mr Sinai had still not ensured that he had fulfilled his legal obligations in respect of the licensing obligations. At this time it again appears that the premises were running without the required licensed supervision in place
8.05.08	Further noise nuisance from the premises recorded , and witnessed by visiting EH officer
23.05.08	Complaint recorded by EH about noise from customers congregating outside the premises
27.05.08	Premises license transferred from Mr Dunne to “The Poetry Bar Limited”. Designated premises supervisor is transferred from Ms Andrews to Mr Assaf. This means that for 5 months, the premises have been operating without the holder of the premises license or the premises license supervisor having any involvement
2.09.08	Simone Andrew refuses to say to Andrew Chisholm when she ceased to be involved with the Poet ‘out of loyalty’ to Assaf Sinai. Ms Andrew says that her new child is four months old, ie at about the time the licence was transferred to Mr Sinai
3.09.08	Deadline for submissions from interested parties

IN THE REVIEW OF

THE POET PUBLIC HOUSE

Application for review made by LBTH environmental health

NOTE OF REPRESENTATIONS FROM INTERESTED PARTIES

1. This a review of the premises licence in respect of the Poet Public House, at the request of the London Borough of Tower Hamlets Environmental Health Authority, by review application dated 1.08.08.
2. A chronology of events is attached, and Councillors are respectfully referred to this document for a clear and concise outline of the history of this matter
3. At the hearing of the review, the licensing authority can take one or more of the following steps (Licensing Act 2003 s 52 (4))
 - (a) modify the conditions of the licence;
 - (b) exclude a licensable activity from the scope of the licence;
 - (c) remove the designated premises supervisor;
 - (d) suspend the licence for a period not exceeding three months;
 - (e) revoke the licence;
4. The interested parties, comprising those residents who live in the residential part of the building above the premises, urge the panel of councillors to revoke the licence for the following reasons. These are made in accordance with the four licensing objectives and with reference to the borough's updated licensing policy.
 - i) Unacceptable and ongoing, persistent noise nuisance
 - ii) Unacceptable and repeated breaches of licensing law and regulations (so that objectives of preventing crime and disorder, public safety and the protection of children from harm is undermined)
 - iii) Unacceptable and continuing public nuisance that has escalated now that there is the added nuisance of people congregating outside the premises to smoke

The following comments are made in addition to those in the review document:

5. The review document states (at page 6) that the problem of noise has been ongoing since 2005. In fact the problems have been going on for far longer. Unfortunately, none of the complaints or details of the conditions placed on the licence in respect of these problems that pre-date the new licensing laws (2005) have been retained. However, evidence supporting the residents' contention that the premises have been a public nuisance since opening in around 2000 is provided by the restrictive condition imposed by Annex 3 of the current licence which was carried over from the old licence onto the licence issued under the 2005 legislation. The premises continue to be in breach of these conditions
6. The review document is correct to say there have been a very large number of complaints about the premises. The residents would also ask that the panel take into consideration the time span (8 years) over which this premises has continued to be a source of public nuisance. It cannot be right that residents should have to continue to endure public nuisance from a premises that over 8 years has never ceased to blight their homelife. This must be in contravention of the borough's licensing policy of making the area "a better place for living well"
7. The review document notes (page 7, points 1 and 2) that the premises are located in an area that should enjoy relatively low background noise levels, and that the premises have poor sound insulation. It should also be remembered in the broader context, that this is the location for the Petticoat Market on a Sunday morning (the trolleys are wheeled out on a Saturday). Thus it can be seen that once the Poet has finished playing music, throwing out bottles, and the last rowdy customers have dispersed, there may only be a few hours before the noise from the trolleys being wheeled out starts up on Saturdays, or delivery vans start to arrive during the week. Residents cannot be expected to put up with being kept awake much of the night, and then also deal with being woken up early the following morning.
8. The new problem, since the smoking ban, has simply increased the public nuisance, because people constantly congregate outside, making a noise,

leaving cigarette stubs, bottles and glasses on the pavement (a health hazard especially to the children residing in the building, as well as making the area unpleasant). If it is warm and the residents have their windows open, the cigarette smoke is unpleasant, and the noise, especially in the early evening, of rowdy people right below the windows makes it impossible to listen to the radio or relax

9. The review document notes that the premises licence has recently changed, and that this might bring about a change in management. On behalf of the residents, it is submitted that this is not a convincing argument against revocation of the licence for the following reasons:
 - i) In law, the licence attaches to the premises, not to a person or a management. Therefore, consideration about revocation should be with the performance of the premises in mind. The new law does not (and may not) attach any importance to the experience of the licencees when considering whether to grant a premises licence, so it should not suddenly start to consider these factors when considering whether to revoke a premises licence.
 - ii) These premises have created a nuisance since a licence was granted. There have been a number of changes of management but none have produced an acceptable outcome. There have been times when the running of the premises has appeared to be contrary to licensing law. This is also true of the current premises supervisor, who appears to have been running the premises for several months without the appropriate licence.
 - iii) Even if the panel does wish to consider the prospect of improvement under new management, the residents would submit that the current management is simply more of the same:
 - a) The noise nuisance continued after Mr Sinai took over (see chronology)
 - b) In breach of the lease of the premises, as well as in breach of the borough's licensing policy, Mr Sinai has taken to putting a large advertising board outside the property which create an obstruction of

the pavement and cause further congestion in an already restricted street

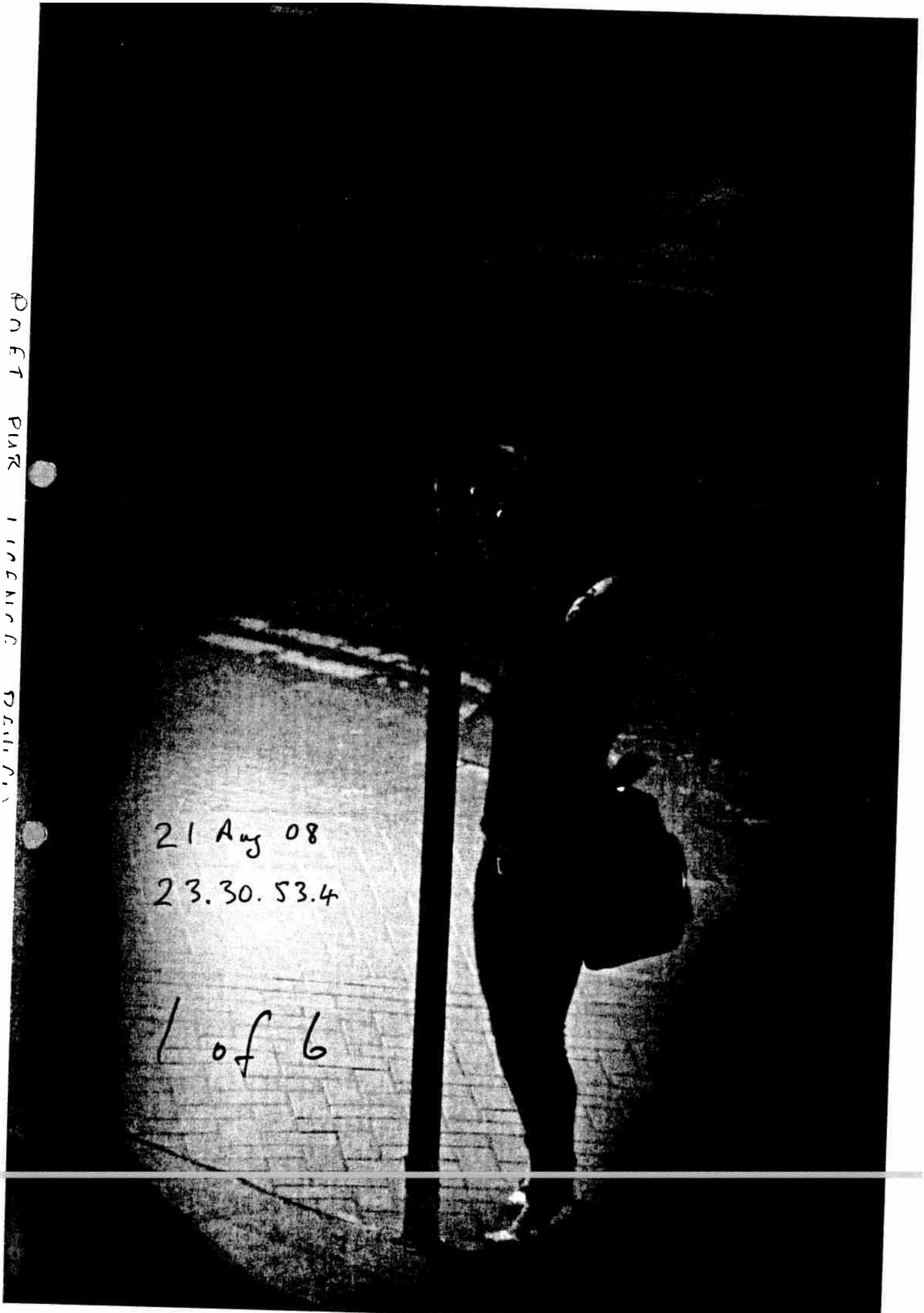
- c) Mr Sinai appears to have removed or encouraged his employees to remove, the Council's notices regarding the review of the licence. This is clearly a contravention of proper licensing policy and is likely also to be a criminal offence for interfering with local authority property.
 - d) Mr Sinai does not appear to have any previous experience of running a pub. He appears to have had a large number of previous ventures, none of which were in the bar or restaurant trade. He has had several companies for which he has failed to file accounts. Four of these companies have been struck off the companies register, and all but one appear to be behind with filing accounts and/or other required company documents.
 - e) The structure of the premises does not change with the management. The structure renders it unfit as a licenced premises. That has been borne out by the misery it has caused the residents above it for the past 8 years. It is quite clear to the residents that there has been no material change in the way the premises is run, in terms of making it less of a nuisance under the new management. Loud music has been played recently, and nothing seems to have been done to discourage people from drinking, smoking and being noisy outside, or to leave the premises quietly. Inadequate effort has been made to clean up the cigarette stubs, abandoned beer bottles, glasses and broken glass.
10. The residents would wish to address the panel at the review to develop the above issues raised, and respond to any other issues raised.

PHET PUR 1 INCHING DALLIN

21 Aug 08

23.30.53.4

1 of 6



FEATURING ADVANCE ALES

FEATURING ADVANCE ALES

PUB • BAR



297 6

22 Aug '08

19:56

PHOT DIRT 112 N. 112 N. 112 N.

Soil Aug-06 11:30 am

9 ft 6

PNEU DISE IN AIR



50 Aug 1981

DRAFT DIST. IN... DR...

Marlboro
Smoking kills

Appendix 7

Flat 1
84 Middlesex St
London E1 7EZ

Licensing Section
Mulberry Place (AH)
PO Box 55739
5 Clove Crescent
London E14 1BY

2 September 2008

Dear Sirs

POET PUB AT 82 MIDDLESEX STREET: Licence Review

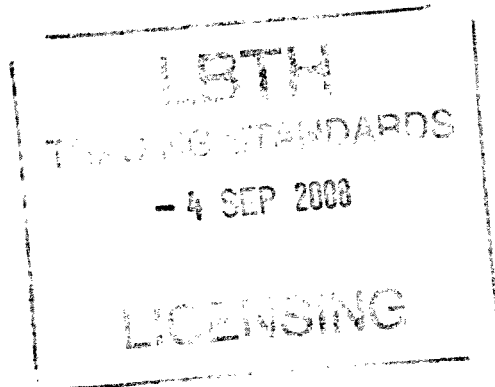
I am resident at the above address. I have often been disturbed by nuisance coming from the Poet Pub. In particular, music has often been audible in my flat and there is noise and cigarette smoke from drinkers standing outside the pub on a daily basis during the week. The pavement outside the pub is frequently strewn with cigarette butts and occasionally broken glass in the mornings. I understand that this is contrary to the licensing objective of avoiding public nuisance.

It seems to me that it would be almost impossible to run the Poet without causing a nuisance to local residents. I therefore ask you to consider revoking the pub's licence. If you don't feel able to do that, I support the application for review's position that no licensed entertainment should be allowed in the pub, and that the pub's customers should not be permitted to stand outside the premises.

Yours faithfully



Dino Di Costa



Appendix 8



TOWER HAMLETS

Licence / Registration

Certificate Number

12600

Postal Address

**(The Poet)
82 Middlesex Street
London
E1 7EZ**

Licensable Activities authorised by the licence

The sale by retail of alcohol
The provision of regulated entertainment

See the attached licence for the licence conditions

Signed by

John Cruse
Team Leader Licensing

fb

Date: 21st October 2005

FOR OFFICE USE

Receipt Number	1935-54 193535	Fee Paid	£23 £23	Fee Req.		Date	22 10 05	Initial	JS
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TOWER HAMLETS

LICENSING ACT 2003

Part A - Format of premises licence

Premises licence number

12600

Part 1 - Premises details

Postal address of premises.

**(The Poet)
82 Middlesex Street**

Post town London

Post code E1 7EZ

Telephone number 0207422 0000

Where the licence is time limited the dates

Not Applicable

Licensable activities authorised by the licence

The sale by retail of alcohol
The provision of regulated entertainment

The times the licence authorises the carrying out of licensable activities

Supply of Alcohol

Alcohol shall not be sold or supplied except during permitted hours:

Monday	11:00 hours until 23:00 hours
Tuesday	11:00 hours until 23:00 hours
Wednesday	11:00 hours until 23:00 hours
Thursday	11:00 hours until 23:00 hours
Friday	11:00 hours until 23:00 hours
Saturday	11:00 hours until 23:00 hours
Sunday	12:00 hours until 22:30 hours

Until Midnight bank Holiday Friday, Saturday and Sunday
New Years Eve from 23:00 hours until 11:00 New Years Day
St George's Day and St Patrick's Day until Midnight

Regulated Entertainment

Limited to two performers and recorded music.

Monday	11:00 hours until 23:00 hours
Tuesday	11:00 hours until 23:00 hours
Wednesday	11:00 hours until 23:00 hours
Thursday	11:00 hours until 23:00 hours
Friday	11:00 hours until 23:00 hours
Saturday	11:00 hours until 23:00 hours
Sunday	12:00 hours until 22:30 hours

On Christmas Day, 12 noon to 3 p.m. and 7 p.m. to 10.30 p.m.

The Opening Hours of the Premises

Monday	11:00 hours until 23:30 hours
Tuesday	11:00 hours until 23:30 hours
Wednesday	11:00 hours until 23:30 hours
Thursday	11:00 hours until 23:30 hours
Friday	11:00 hours until 23:30 hours
Saturday	11:00 hours until 23:30 hours
Sunday	12:00 hours until 23:00 hours

Until Midnight bank Holiday Friday, Saturday and Sunday
New Years Eve from 23:00 hours until 11:00 New Years Day

St George's Day and St Patrick's Day until Midnight

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

On and off sales

Part 2

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

The Poet Bar Ltd
925 Finchley Road
London
NW11 7PE

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

06445709

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

Assaf Sinai
26 Brook Avenue
Edgware
HA8 9XF

Personal licence number and issuing authority of personal licence held by designated premises supervisor where the premises licence authorises for the supply of alcohol

Personal Licence Number: 01SX/LN/199907984
Issuing Authority: London Borough of Barnet

Annex 1

- Mandatory conditions

1. 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
2. Every supply of alcohol under the premises licence must be made or authorised by a person who holds a personal licence

3. **On Sales**

Alcohol shall not be sold or supplied except during permitted hours.

In this condition, permitted hours means:

Monday	11:00 hours until 23:00 hours
Tuesday	11:00 hours until 23:00 hours
Wednesday	11:00 hours until 23:00 hours
Thursday	11:00 hours until 23:00 hours
Friday	11:00 hours until 23:00 hours
Saturday	11:00 hours until 23:00 hours
Sunday	12:00 hours until 22:30 hours

Until Midnight bank Holiday Friday, Saturday and Sunday ,New Years Eve from 23:00 hours until 11:00 New Years Day, St George's Day and St Patrick's Day until Midnight

The above restrictions do not prohibit: Note: However, New Years Eve is subject to the Regulatory Reform (Special Occasion Licensing) Order 2002. Which means that while that order is in effect the premises may remain open for the twelve hours between 11pm on New Years Eve and 11am on New Years Day.

- (a) during the first twenty minutes after the above hours the consumption of the alcohol on the premises;
 - (b) during the first twenty minutes after the above hours, the taking of the alcohol from the premises unless the alcohol is supplied or taken in an open vessel;
 - (c) consumption of the alcohol on the premises or the taking of sale or supply of alcohol to any person residing in the licensed premises;
 - (d) the ordering of alcohol to be consumed off the premises, or the despatch by the vendor of the alcohol so ordered;
 - (e) the supply of alcohol for consumption on the premises to any private friends of a person residing there who are bona fide entertained by him at his own expense, or the consumption of alcohol by persons so supplied; or
 - (f) the supply of alcohol for consumption on the premises to persons employed there for the purposes of the business carried on by the holder of the licence, or the consumption of liquor so supplied, if the liquor is supplied at the expense of their employer or of the person carrying on or in charge of the business on the premises.
4. Substantial Food and non-intoxicating Beverages (including drinking water) shall be equally available throughout the premises during the whole of the permitted hours
 5. The above restrictions do not prohibit:
 - (a) during the first twenty minutes after the above hours, the taking of the alcohol from the premises, unless the alcohol is supplied or taken in an open vessel;

(b) the ordering of alcohol to be consumed off the premises, or the despatch by the vendor of the alcohol so ordered;

6. No person under fourteen shall be in the bar of the licensed premises during the permitted hours unless one of the following applies:

(1) He is the child of the holder of the premises licence.

(2) He resides in the premises, but is not employed there.

(3) He is in the bar solely for the purpose of passing to or from some part of the premises which is not a bar and to or from which there is no other convenient means of access or egress.

7. The bar is in railway refreshment rooms or other premises constructed, fitted and intended to be used bona fide for any purpose to which the holding of the licence is ancillary. In this condition "bar" includes any place exclusively or mainly used for the consumption of intoxicating liquor. But an area is not a bar when it is usual for it to be, and it is, set apart for the service of table meals and alcohol is only sold or supplied to persons as an ancillary to their table meals.

8. Private Entertainment

The premises may be used for the following purpose, that is to say, dancing, music, or other entertainment of the like kind which-

a) is not a public entertainment but

b) is promoted for private gain

Annex 2 - Conditions consistent with the operating Schedule

1. Children under 16 to be accompanied by an adult

2. No alcohol sales to a person under the age of 18 years.

3. Persons who appear to be under 18 years of age will be asked for identification and only a new driving licence or passport will be accepted.

4. All Fire Fighting equipment to be checked annually

5. Exit routes are to be checked frequently during opening hours.

6. Zero tolerance for drugs on the premises and any person found in possession will be reported to the police

7. Glasses and bottles are to be collected frequently during opening hours

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

1. A series of works will be proposed by the LBTH Environment Health Department to address the issues of noise nuisance and these works will be completed to full compliance to the satisfaction of the Council.

2. Installation of a noise limiter to be carried out and be set at a level agreed by Environmental Health.

Annex 4 - Plans

The plans are those submitted to the licensing authority on the following date: 4th August 2005



Part B - Premises licence summary

Premises licence number

12600

Premises details

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

(The Poet)
82 Middlesex Street

Post town
London

Post code
E1 7EZ

Telephone number 0207 422 0000

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 times the licence authorises the carrying out of licensable activities

Monday	11:00 hours until 23:00 hours
Tuesday	11:00 hours until 23:00 hours
Wednesday	11:00 hours until 23:00 hours
Thursday	11:00 hours until 23:00 hours
Friday	11:00 hours until 23:00 hours
Saturday	11:00 hours until 23:00 hours
Sunday	12:00 hours until 22:30 hours

Until Midnight bank Holiday Friday, Saturday and Sunday ,New Years Eve from 23:00 hours until 11:00 New Years Day, St George's Day and St Patrick's Day until Midnight

The opening hours of the premises

As above

Name, (registered) address of holder of premises licence

The Poet Bar Ltd
925 Finchley Road
London
NW11 7PE

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

On and off Supplies

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

06445709

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

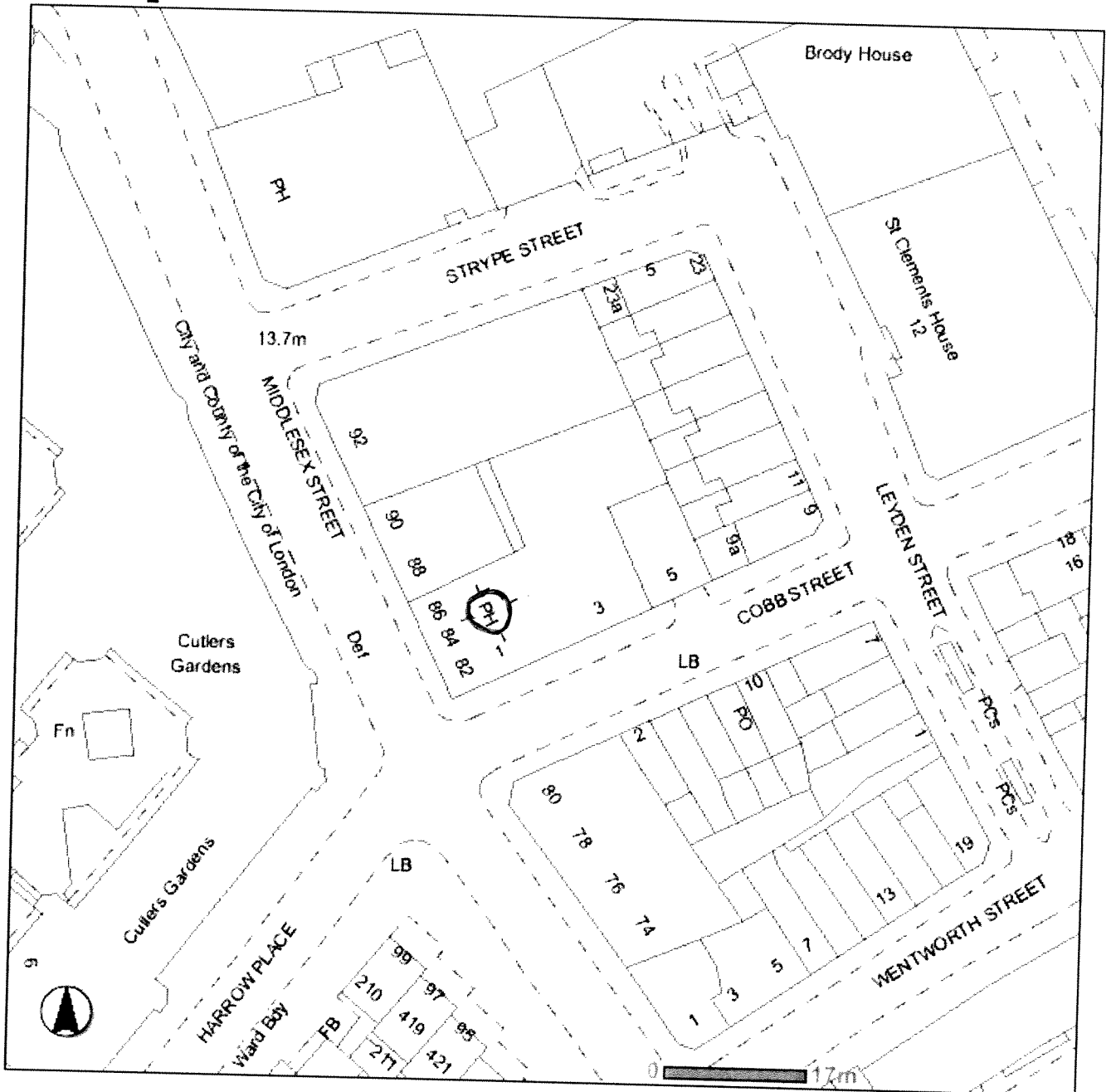
Assaf Sinai

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

No

Appendix 9

Map



Scale 1:750

Map of:

Poet

Notes:

82-84 Middlesex St

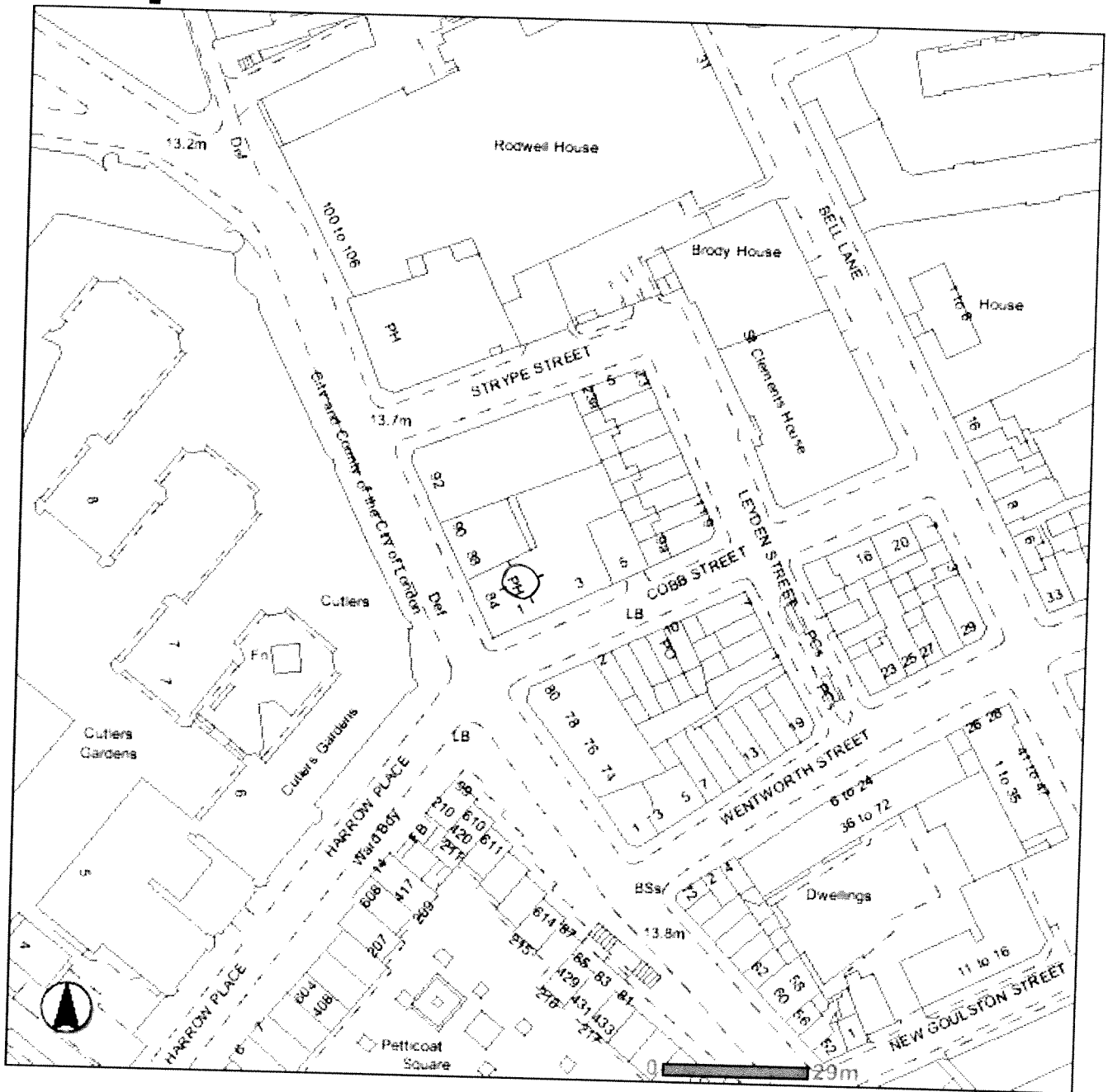
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Map



Scale 1:1250

Map of:

Poet

Notes:

82-84 Middlesex St

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**THE POET, 82 MIDDLESEX STREET, LONDON E1
NOISE ASSESSMENT CONCERNING LICENCE REVIEW**

**On behalf of:
The Poet Bar Ltd**

Report No. 30140.1v1
October 2008

THE POET, 82 MIDDLESEX STREET, LONDON E1
NOISE ASSESSMENT CONCERNING LICENCE REVIEW

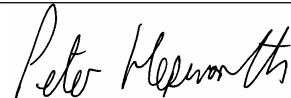
Report prepared by:
Hepworth Acoustics Ltd
Hamilton House
Mabledon Place
London
WC1H 9BB

On behalf of:
The Poet Bar Ltd
82 Middlesex Street
London
E1 7EZ

Report prepared by:
Duncan Newhall BSc (Hons) MIOA - Principal Acoustic Consultant



Report checked by:
Peter Hepworth BSc FIOA – Managing Director



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2.0 DESCRIPTION OF THE PREMISES	2
3.0 NOISE LEVEL SURVEYS AND RESULTS	3
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1.0 INTRODUCTION

- 1.1 Hepworth Acoustics Ltd has been commissioned by The Poet Bar Ltd to carry out a noise assessment of The Poet, 82 Middlesex Street, London E1 3EZ. The premises are located on the basement and ground floor levels of the four-storey building with residences above.
- 1.2 The client has instructed a noise impact assessment to be undertaken at the location of the nearest residences. It is understood that the premises have received noise complaints from local residents, which has resulted in the Local Authority, London Borough of Tower Hamlets (LBTH), calling the licence in for review.
- 1.3 This assessment has considered the most noise-sensitive time during the current operation of the premises.
- 1.4 The assessment has included:
- Daytime site inspection of the premises and environs to establish the location of the nearest residences;
 - Measurement of sample noise levels inside the premises during a Thursday night trading period;
 - Measurement of sample noise levels outside the premises to establish any areas of noise breakout;
 - Measurement of noise levels at locations representative of the nearest residential properties, with and without the premises trading; and
 - Outline recommendations for noise control measures where necessary.
- 1.5 Noise levels referred to in the text of this report have been rounded to the nearest decibel, as fractions of decibels are imperceptible. A description of noise units and noise characteristics is provided in Appendix I.

2.0 DESCRIPTION OF THE PREMISES

- 2.1 The premises include a ground floor bar with amplified music, with supporting areas in basement and ground floors.
- 2.2 The client has confirmed that the premises trade from 11:00-23:00 hours Monday to Friday, and is closed on Saturday and Sunday.
- 2.3 The main entrance is a double door set to Middlesex Street. There is a single door fire exit to Cobb Street, although this does not open directly into the customer area, as there is a further set of doors. It was observed during our survey that all doors were closed during normal trading hours, except to allow access to and from the premises.
- 2.4 There is not a designated external smoking area to the premises. However, customers do use the areas to the front and side of the building on Middlesex Street and Cobb Street near the main entrance.
- 2.5 The majority of properties in the immediate vicinity of the site are office or commercial premises, with several other licensed premises in the immediate area. Middlesex Street is a busy, well trafficked road during the evening period.
- 2.6 The nearest residence is located on the first floor of the premises building, at 84 Middlesex Street, having windows to both Middlesex Street and Cobb Street.

3.0 NOISE LEVEL SURVEYS AND RESULTS

- 3.1 A noise level survey was undertaken on Thursday 11th September, from approximately 21:30-00:10 hours. The client confirmed that a Thursday is typically the busiest trading time. The survey was carried out at these times to enable noise levels to be measured during and after the premises' trading hours.
- 3.2 The noise measurements were carried out at two locations representative of the nearest windows of the closest residence. Location 1 was on the pavement adjacent to the entrance to the residences 84 Middlesex Street, whilst Location 2 was on the pavement on Cobb Street, beneath residential windows. The approximate measurement positions are shown in Figure 1.
- 3.3 Noise measurements were recorded using a Bruel and Kjaer 2260 Type 1 sound level meter (serial no. 2520468). The meter was mounted on a tripod with the microphone approximately 1.5m above ground level and a windshield was fitted to the microphone at all times. The calibration of the meter was checked before and after the survey with no variation in level noted.
- 3.4 Additional noise measurements were carried out during normal trading inside the premises and at locations around the exterior of the site.
- 3.5 Weather conditions were dry with predominantly little or no wind, which represented good conditions for noise measurements.
- 3.6 Table 1 summarises the measured noise levels inside the premises during trading hours on Thursday 11th September.

Table 1: Measured noise levels in The Poet Bar

Location	Comments	Measurement Period		Noise Levels		
		Start	End	L _{Amax}	L _{Aeq,T}	L _{A90,T}
Inside – by the entrance	Amplified music/ customers/ pool playing	21:29	21:35	83	73	67
Inside – centre of premises, to the exterior elevation	Amplified music/ customers/ pool playing	21:35	21:40	89	71	65
Inside – to the rear of premises	Amplified music/ customers/ pool playing	21:41	21:46	85	73	65
Inside – centre of premises, to the bar	Amplified music/ customers/ pool playing	21:47	21:52	81	72	67

3.7 The ambient noise levels at Locations 1 and 2 representative of the nearest residential properties are shown graphically in Appendix II. Measured levels were due predominantly to road traffic, aircraft, pedestrians and occasional emergency vehicle sirens. Mechanical plant noise serving adjacent commercial premises was also noted to the rear of the site, but noise from this did not affect the measured levels at Locations 1 and 2.

3.8 The measured levels at Locations 1 and 2 are summarised in Table 2 below:

Table 2 – Summary of measured ambient noise levels (dB)

Location		Noise Levels			Comments
		L _{Amax}	L _{Aeq,5min}	L _{A90,5min}	
1 – Last hour of trading	Range	78-101 (78-85 with no siren)	59-80 (59-70 with no siren)	50-54 (50-54 with no siren)	Road traffic noise, aircraft, pedestrians, emergency sirens
	Mean	93 (82 with no siren)	73 (66 with no siren)	52 (52 with no siren)	
1 – Premises closed	Range	79-87	60-68	50-52	Road traffic noise, aircraft, pedestrians
	Mean	84	66	51	
2 – Last hour of trading	Range	70-78	55-61	48-49	Road traffic noise, aircraft, pedestrians
	Mean	75	58	48	
2 – Premises closed	Range	72-95 (72-78 with no siren)	57-72 (57-61 with no siren)	47-48 (47-48 with no siren)	Road traffic noise, aircraft, pedestrians, emergency sirens
	Mean	87 (75 with no siren)	66 (60 with no siren)	48 (48 with no siren)	

3.9 At Location 1, measured noise levels ranged between 59-80 dB L_{Aeq} and 50-54 dB L_{A90}, with L_{Amax} levels between 78-101 dB during trading hours. The highest recorded levels were due to an emergency vehicle siren. Without this source present, the measured ranges were 59-70 L_{Aeq}, 50-54 L_{A90} and 78-85 L_{Amax}.

- 3.10 After the premises had closed, the measured noise level range at location 1 was 60-68 dB L_{Aeq} , 50-52 dB L_{A90} and 79-87 dB L_{Amax} with premises closed.
- 3.11 At Location 2, measured noise levels ranged between 55-61 dB L_{Aeq} and 48-49 dB L_{A90} with L_{Amax} levels between 70-78 dB during trading hours. After the premises had closed, the measured noise levels at Location 2 were 57-72 dB L_{Aeq} , 47-48 L_{A90} and 72-95 dB L_{Amax} . As at Location 1, the highest measured levels were due to an emergency vehicle siren. Without this source included, the measured ranges were 57-61 L_{Aeq} , 47-48 L_{A90} and 72-78 L_{Amax} .

4.0 NOISE ASSESSMENT

- 4.1 During the survey there were relatively few customers at the premises, typically around 15 inside and no more than four customers were outside the premises at any time. The Manager confirmed that this is the typical situation after 21:00 hours, on a Thursday night.
- 4.2 Table 1 shows that measured noise levels within the premises are relatively low at 71-73 dB L_{Aeq} . Noise levels of this magnitude are typical of raised conversation level and amplified music noise was being played only at 'background' levels.
- 4.3 Table 2 above and the graphical representation in Appendix II show that the measured levels at Locations 1 and 2 are generally high, regardless of whether the Poet premises are trading or not. There is no significant reduction in noise levels following the closure of the premises at 23:00 hours.
- 4.4 Note that at Location 1, the measurement sample starting at 22:43 hours was dominated by a police siren, elevating the measured L_{Aeq} and L_{Amax} noise level for this period. A siren also occurred at Location 2, for the last measurement sample starting at 00:03 hours.
- 4.5 With the exception of these two events, L_{Amax} levels at both measurement locations were found to be relatively uniform and consistently high during the entire survey.
- 4.6 The measured background noise levels were practically constant throughout the entire survey at both locations, during and after trading hours.
- 4.7 The dominant noise source in the area was road traffic on Middlesex Street and Cobb Street. This source determined measured noise levels throughout the survey, both during and after trading hours at The Poet premises.
- 4.8 Pedestrians were also present, the numbers of which tended to remain constant throughout the entire survey. The noise contribution from pedestrians was difficult to quantify but it is

sufficient to note that pedestrian noise was not the dominant noise source in the area. Middlesex Street is a busy street and there are several other licensed venues in the immediate area. This ensures that the noise contribution from customers leaving The Poet premises is low.

- 4.9 Importantly, noise from music/customer noise break-out from within the premises was not audible at the measurement locations.
- 4.10 Measured noise levels, after the Poet ceased trading, remained high, with a mean value of 66 dB L_{Aeq} at Locations 1 and 2. BS 8233:1999 '*Sound insulation and noise reduction for buildings – code of practice*', recommends noise levels in bedrooms should be within the range 30-35 dB L_{Aeq} to ensure good/reasonable sleeping conditions. BS 8233: 1999 also states that an open window will typically provide around 10-15 dB attenuation (13 dB is assumed here). With an open window at the property, the noise level inside bedrooms will be around 53 dB, with no activity at The Poet. This is considerably in excess of the recommended range of 30-35 dB L_{Aeq} inside bedrooms and demonstrates that the area is one with generally high noise levels, regardless of whether the premises are trading or not.

5.0 SUMMARY AND CONCLUSIONS

- 5.1 A noise assessment has been undertaken of the Poet Bar at 82 Middlesex Street, Tower Hamlets, London E1, to assess noise impact at the nearest residences.
- 5.2 The nearest residences are located on the first floor of the same building as the Poet Bar, at 84 Middlesex Street.
- 5.3 The assessment has included measurements to assess existing noise levels at the nearest residences during a Thursday evening, both during and after trading hours.
- 5.4 Noise levels at the residences are generally high due to road traffic in the area and there is no noticeable reduction in noise levels when the premises are closed.
- 5.5 The existing ambient (L_{Aeq}), background (L_{A90}) and maximum (L_{Amax}) noise levels in the area are dominated by road traffic. The noise contribution from pedestrians is not the dominant source in the area and has minimal effect on the measured levels.
- 5.6 Noise from within the venue was not audible at the measurement locations.
- 5.7 Given the high noise levels in the area from road traffic, it has been demonstrated that there is no impact on residential amenity from the current operation of the Poet Bar premises.

Figure 1. Location of the Noise Measurement Position



Appendix I – Noise units and indices

a) Sound Pressure Level and the decibel (dB)

A sound wave is a small fluctuation of atmospheric pressure. The human ear responds to these variations in pressure, producing the sensation of hearing. The ear can detect a very wide range of pressure variations. In order to cope with this wide range of pressure variations, a logarithmic scale is used to convert the values into manageable numbers. Although it might seem unusual to use a logarithmic scale to measure a physical phenomenon, it has been found that human hearing also responds to sound in an approximately logarithmic fashion. The dB (decibel) is the logarithmic unit used to describe sound (or noise) levels. The usual range of sound pressure levels is from 0 dB (threshold of hearing) to 120 dB (threshold of pain).

b) Frequency and hertz (Hz)

As well as the loudness of a sound, the frequency content of a sound is also very important. Frequency is a measure of the rate of fluctuation of a sound wave. The unit used is cycles per second, or hertz (Hz). Sometimes large frequency values are written as kilohertz (kHz), where 1 kHz = 1000 Hz.

Young people with normal hearing can hear frequencies in the range 20 Hz to 20,000 Hz. However, the upper frequency limit gradually reduces as a person gets older.

c) Glossary of Terms

When a noise level is constant and does not fluctuate over time, it can be described adequately by measuring the dB(A) level. However, when the noise level varies with time, the measured dB(A) level will vary as well. In this case it is therefore not possible to represent the noise climate with a simple dB(A) value. In order to describe noise where the level is continuously

varying, a number of other indices, including statistical parameters, are used. The indices used in this report are described below.

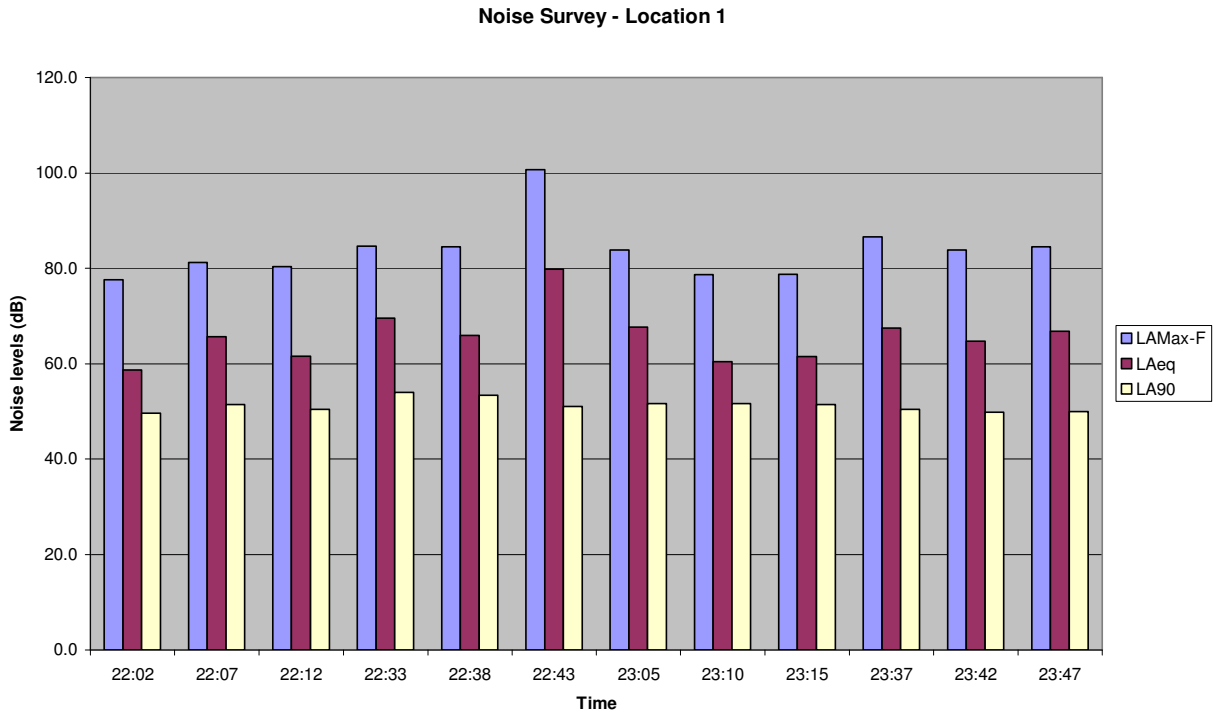
L_{Aeq} This is the A-weighted 'equivalent continuous noise level' which is an average of the total sound energy measured over a specified time period. In other words, L_{Aeq} is the level of a continuous noise which has the same total (A-weighted) energy as the real fluctuating noise, measured over the same time period. It is increasingly being used as the preferred parameter for all forms of environmental noise.

L_{Amax} This is the maximum A-weighted noise level that was recorded during the monitoring period.

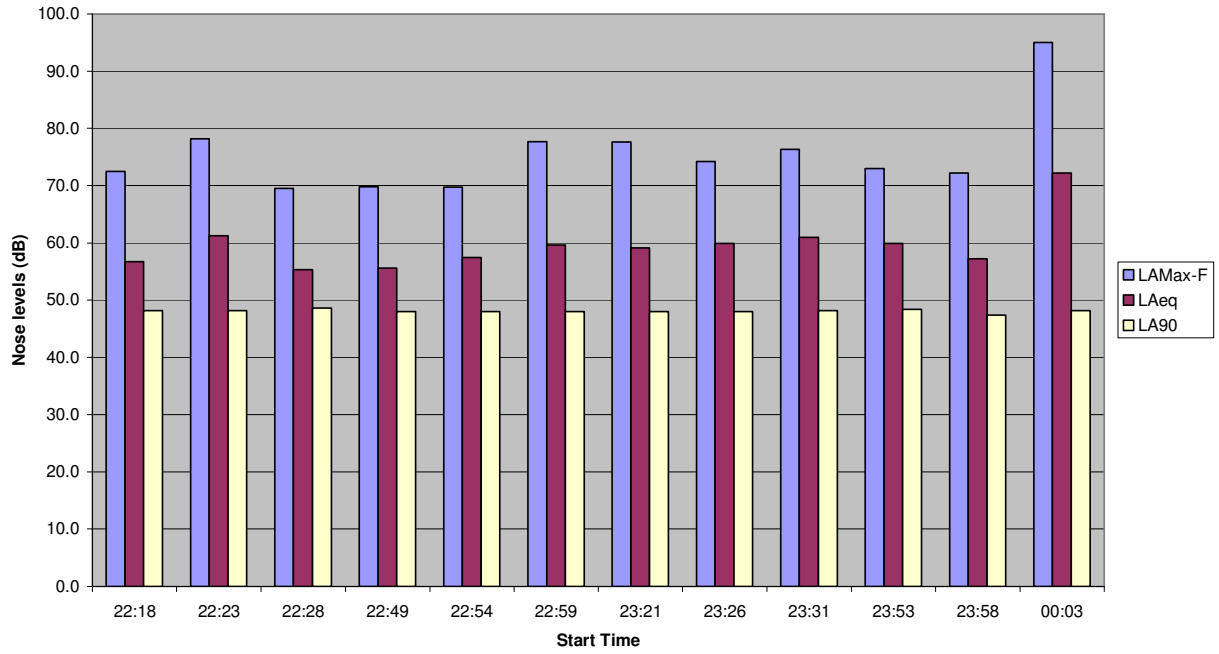
L_{A90} This is the A-weighted noise level exceeded for 90% of the time period. L_{A90} is used as a measure of background noise.

Appendix II – Results of noise survey

Dates: Thursday 11th September 2008
Equipment: Bruel & Kjaer 2260 Type 1 integrating sound level meter.
Weather: Mainly dry with little or no wind



Nose Survey - Location 2



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Licensing Observations Report

The Poet 82-82 Middlesex Street London E1 7EZ

1 Introduction

1.1 I am a licensing consultant with Licence Consultants Ltd. I was a licensing officer with the Metropolitan Police Clubs and Vice Unit (CO14) from 1994 to 2001 and was also a licensing officer at the London Borough of Islington from February 2001 to June 2004. I have attained the Certificate of Higher Education in Licensing Law from Birmingham University and am a member of the Institute of Licensing. I have been a Director of Licence Consultants Ltd since June 2004. I have been instructed by Thomas O'Maoileoin, Davenport Lyons solicitors to conduct a survey of the activity in the area outside The Poet.

2 Background

2.1 The Poet holds a Premises Licence enabling the provision of regulated entertainment and the sale of alcohol by retail until 2300 hours Monday to Saturday and until 2230 hours on Sundays.

2.2 There are 9 conditions attached to the Premises Licence in addition to mandatory conditions.

2.3 The Poet is situated on the corner of Middlesex Street and Cobb Street, E1. Middlesex Street is a one way street running north to south. Middlesex Street appears to be mainly used as a cut through by black cabs. There is a busy Chinese restaurant at 88 Middlesex Street, next to the Poet, and an Indian restaurant opposite the Poet in Cobb Street.

3 Observations

3.1 I conducted two observations between 2058 and 2250 hours on Thursday 11th September 2008 and between 1739 and 1930 hours on Thursday 18th September 2008.

3.2 The weather was warm and dry throughout both observations.

3.3 There was minimal vehicular traffic along Middlesex Street in the early evening. Later in the evening there was more traffic and I counted 24 vehicles pass the Poet in a 15 minute period between 2145 and 2200 hours.

3.4 During the first observation the premises did not appear very busy and there were very few customers. The premises were closed and empty before 2300 hours.

3.5 The premises were busier during the second observation which took place earlier in evening. However, the most customers seen outside at any one time were 7 people.

3.6 There were no glasses or bottles left discarded outside the Poet.

3.7 The external doors remained closed at all times other than for the ingress / egress of customers.

3.8 Customers outside the premises were quiet and barely audible where I was positioned opposite the Poet.

3.9 There was no music noise audible outside the Poet.

3.10 I took digital photographs throughout the two observations. These are date and time stamped and attached as an appendix to my report.

Throughout my observation on Thursday 11th September 2008 I made notes as follows:

There were 24 cars passing along Middlesex Street between 2145 and 2200 hrs.

There were 17 cars passing along Middlesex Street between 2245 and 2300 hrs.

2058 Arrive outside the Poet. The weather is mild, dry and people are in shirt sleeves outside. There are 5 people standing on the steps at the entrance of the Poet drinking and smoking. It is very quiet in the street with little pedestrian or vehicular traffic. There is no music noise emanating from the Poet at all, even when standing immediately outside the windows into the bar.

2115 There are now 2 people standing on the steps outside the entrance of the Poet.

2122 The same male and female are standing outside.

2132 The male and female are still standing outside drinking and smoke. They are inaudible from my position opposite at the junction of Middlesex Street and Harrow Place.

2135 Two males and a female join the couple standing outside to smoke.

2136 One of the males re-enter the Poet.

2138 Four females walk north along Middlesex Street talking and laughing loudly.

2140 3 of the people outside the Poet re-enter leaving a sole female outside.

2141 A male leaves the Poet and rejoins the female on the steps.

2142 2 males leave and walk north along Middlesex Street.

2142 The female re-enters the Poet leaving the male outside.

2145 The female rejoins the male outside.

2148 A male and female leave quietly and walk across Middlesex Street and away into Harrow Place.

2150 The same male and female are standing outside.

2153 A male not associated with the Poet urinates against a wall beside the public convenience. He walks away, talking very loudly, with another male into Harrow Place.

2155 A member of staff from the Poet comes outside and collects a single glass on the steps.

2156 One male leaves and walks north along Middlesex Street.

2158 Two males and a female leave, one of the males is surreptitiously carrying a half full pint glass, and walk off along Cobb Street. They are quiet and I cannot hear them from my position.

2159 The same male and female are standing outside.

2209 The same male and female are standing outside.

2212 A member of staff from the Poet comes outside and checks the outside area for glasses.

2215 The same male and female are standing outside.

2229 The female standing outside enters the Poet leaving the male outside alone.

2231 The female rejoins the male outside.

2232 There are 3 people smoking outside the Chinese restaurant.

2234 4 males leave and walk away north along Middlesex Street.

2234 There are now 5 people outside the Chinese restaurant.

2235 A member of staff from the Poet comes outside and checks the outside area for glasses. A City of London street sweeping vehicle comes along Middlesex Street and turns into Harrow Place. It is very noisy.

2237 The 5 people outside the Chinese restaurant leave in 2 cars.

2239 The street sweeping vehicle returns and carries on along Middlesex Street.

2244 A City of London Police van speeds along Middlesex Street with lights and siren sounding.

2248 The same male and female are still standing outside.

2251 A member of staff takes the A board that was situated on the corner inside the premises.

2252 The exterior lights are switched off.

2253 The member of staff takes the glasses from the couple standing outside. They walk off north along Middlesex Street.

2255 The lights are switched off inside the premises. The premises are closed and there are no customers inside.

Throughout my observation on Thursday 18th September 2008 I made notes as follows:

1739 There are no customers outside the Poet. There are no glasses or litter outside the Poet.

1750 A male comes out of the Poet and uses his mobile telephone.

1752 The male re-enters the Poet. Another male leaves the Poet and has a cigarette outside.

1753 The male smoking re-enters the Poet. There are no customers outside the Poet.

1758 Four customers come out of the Poet. Two have drinks with them; the other two customers are smoking.

1801 A male comes out of the Poet and smokes a cigarette.

1802 A male comes out of the Poet and uses his mobile telephone.

1802 A female comes out of the Poet and uses her mobile telephone. Two males re-enter the Poet. There are 5 customers outside the Poet.

1804 Two males re-enter the Poet leaving three customers outside.

1805 A female comes out of the Poet and uses her mobile telephone. There are 4 customers outside the Poet.

1805 A female comes out of the Poet and uses her mobile telephone. There are 5 customers outside the Poet.

1806 A female comes out of the Poet and uses her mobile telephone. There are 5 customers outside the Poet.

1810 There are 4 customers outside the Poet.

1816 There are 4 customers outside the Poet.

1819 A female re-enters the Poet leaving 3 customers outside.

1824 There are 3 customers outside the Poet.

1826 Two males come out of the Poet. There are 5 customers outside the Poet.

1828 The 2 males re-enter the Poet. There are 3 customers outside the Poet.

1830 There are 4 customers outside the Poet.

1831 There are 5 customers outside the Poet.

1831 There are 6 customers outside the Poet.

1837 There are 4 customers outside the Poet.

1839 There are 6 customers outside the Poet.

1842 There are 5 customers outside the Poet.

1844 There are 2 customers outside the Poet.

1845 There are 5 customers outside the Poet.

1847 There are 5 customers outside the Poet.

1850 There are 4 customers outside the Poet. There are no discarded bottles or glasses outside. Only 2 of the 4 customers outside are drinking.

1851 There are 2 customers outside the Poet.

1853 There are 5 customers outside the Poet.

1857 There are 5 customers outside the Poet.

1859 There are 4 customers outside the Poet.

1903 There are 4 customers outside the Poet.

1908 There are 5 customers outside the Poet.

1909 There are 7 customers outside the Poet.

1910 There are 6 customers outside the Poet. A street cleaning machine drives past the Poet. It is very loud and has flashing lights.

1913 There are 5 customers outside the Poet.

1918 There are 4 customers outside the Poet.

1920 There are 6 customers outside the Poet.

1923 There are 5 customers outside the Poet.

1926 There are 5 customers outside the Poet.

Conclusions

- During the observations I did not witness any crime or disorder or public nuisance attributable to the Poet or its customers
- Very few customers were seen to drink or smoke outside the premises. The most seen at any one time was 7 persons
- The premises did not remain open to its terminal hour during the later observation and was closed by 2250 hours
- There was no music noise audible outside the Poet and the external doors remained closed at all times other than for the ingress / egress of customers
- There were no glasses or bottles left discarded outside the Poet and staff were seen to regularly patrol the outside area

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2008/09/18 17:42:10.5



2008/09/18 17:42:27.3



2008/09/18 17:42:31.5



2008/09/18 17:43:29.4



2008/09/18 17:53:37.6



2008/09/18 17:58:38.9



2008/09/18 18:06:26.1



2008/09/18 18:08:05



2008/09/18 18:08:11.8



2008/09/18 18:14:16.5



2008/09/18 18:35:08



2008/09/18 18:36:34.8



2008/09/18 18:41:15.6



2008/09/18 18:46:00.2



2008/09/18 18:48:00.3



2008/09/18 18:48:31.5



2008/09/18 18:52:07.6



2008/09/18 18:58:51



2008/09/18 19:04:43



2008/09/18 19:06:49.5



2008/09/18 19:09:36.5



2008/09/18 19:15:38.4



2008/09/18 19:20:19.1



2008/09/18 19:20:41.2



2008/09/18 19:22:36.4



2008/09/18 19:25:20.9



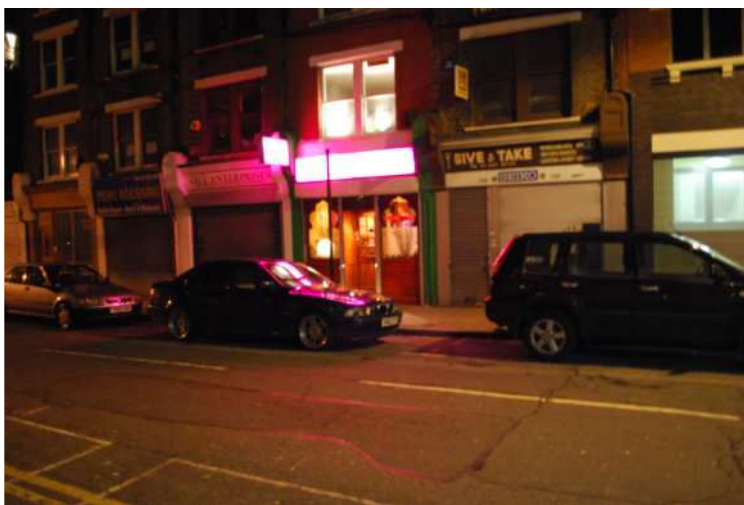
2008/09/18 19:27:56.6



The Poet #1.JPG,2008/09/11 21:10:40.8



Rani Indian Restaurant.JPG,2008/09/11 21:26:50.6



Rani Indian Restaurant #2.JPG,2008/09/11 21:27:23



The Poet #2.JPG,2008/09/11 21:27:54.7



My Old Place Chinese Restaurant.JPG,2008/09/11 21:28:40.6



The Poet #3.JPG,2008/09/11 21:41:06



The Poet #4.JPG,2008/09/11 22:02:45.2



The Poet #5.JPG,2008/09/11 22:20:56.1



The Poet #6.JPG,2008/09/11 22:29:21.3



The Poet #7.JPG,2008/09/11 22:49:00.4



The Poet #8.JPG,2008/09/11 22:55:59.8



The Poet #9 (Closed).JPG,2008/09/11 22:57:56

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