

APPENDIX 29

SUPPORTING DOCUMENTS SUBMITTED ON BEHALF OF THE PREMISE LICENCE HOLDER

THE JOINERS PH

REVIEW OF PREMISES LICENCE

ADDITIONAL PAPERS SENT TO LB TOWER HAMLETS

1. CV's
 - 1.1 David Pollard
 - 1.2 Algars Saveljers
 - 1.3 Gulliano Pistoni
2. Photograph – The team with Boris Johnson
3. Information & photographs from The Joiners website
4. Photographs
 - 4.1 Living wage
 - 4.2 Notice – mnicabs
 - 4.3 Notice – beware of thieves
5. CCTV
 - 5.1 Proposal
 - 5.2 Specification
 - 5.3 Invoice
6. Professor Roy Light – Note of Review Procedure

Curriculum Vitae

David Alexander Pollard, born [REDACTED] Preston, England

Education

1965 – 1972

Preston Grammar School *no longer exists*

6 'O' Levels, 3 'A' Levels, 1 'S' Level

1972 – 1975

University College, Cardiff *no longer exists; now Cardiff University*

Read History

BA (Hons) 2.1

Bar experience 1972 -1974

Lamb Hotel, Church Street, Preston

Part time and full-time holiday work

1975 -6

Showbiz GAY night club, Cardiff

Part-time bar work

Paid postgraduate employment

Dickens Inn, pub St Katharine's Dock, London, 1977 (3 months)

1977 – 1979 Housing Department, London Borough of Hackney, Estate Superintendent

1977 -1978 **Golden Lion, GAY pub, Dean Street, London – part-time barman**

1979-1980 Joan Tree Agency, mainly full time, temporary work

1980 1985 **Harlequin pub, London. Part-time barman**

1980-1984 Provident Life Association of London, mortgage controller

1984-1988 The Building Trust/Finance For Housing, mortgage controller and general factotum, latterly taken over by Baltic Trust Ltd

1986-1988 – **The Shakespeare's Head pub, London. Part-time barman**

1988-1988 Alpha Pantechna Limited, General Manager

1988-1992,----The Guardian Building Society, domestic and commercial mortgage arrears

1989-1990 **Salmon & Compasses pub, London. Part-time barman**

1991- **Paradise Club, London. Bar manager**

1992 Made redundant when Guardian Building Society moved out of London,

I was an unpaid organizer and co-creator of Pink Angels, a fund-raising and HIV/AIDS campaign which involved all of the then many gay venues around the Angel, Islington. I was also a co-creator and contributor to a small, local free magazine called 'IQ',

1993-1997 SDS International, Personal Assistant to the Managing Director .During this time, I also wrote for THUD, a gay magazine for which I received an award as 'Gay Writer of the Year.

1997- May 2nd – Granted a Protection Order for The Joiners Arms, which became a full on-licence at the next Brewsters Session at Bow magistrate's Court.

May 6th, began trading at The Joiners Arms, with the late Trevor Dodds as joint

Licensee

Passed the BII Licence exam.

1999 obtained Public Entertainment Licence at Joiners Arms, with hours of trade from 17.00 to 02.00, nightly except Sunday, when normal hours applied

2005 Licensing Act of 2003, came into force, with current hours Monday to Saturday, but Sunday closing at 10.30. This was changed to 02.00 end of licensing, 02.30 close by an amendment to the Licence in 2007.

The Licence was further amended to permit a smoking area at the rear of the building, to reduce noise and nuisance.

Curriculum Vitae

Aigars Saveljevs

Born [REDACTED] Priekule, Latvia

Education

1983-1986

Priekules 1. Vidusskola (Secondary School No1 of Priekule)

Equivalent of A Levels

1989-1994

University of Latvia, Faculty of Geography

Nation Service

1986-1988

Soviet Union Armed Forces, Anti-Aircraft missile squad.

Work

1994-1995

Teacher of geography at Secondary School No 65 of city of Riga

1995-1997

Police Corporal at Latvian State Police

1998-2001

Part time bar tender at The Joiners Arms

2001-2002

Bar tender at The Dovetail, 9-10 Jerusalem Passage, London EC1V 4JP

2002-2006

Manager at The Dovetail, 9-10 Jerusalem Passage, London EC1V 4JP

2006 till present

Bar tender, Manager, Managing Director of The Joiners Arms

Current and relevant qualifications:

February 2009

BIIAB Award in Conflict Management

Personal Licence (LBH-PER-N-0960) from May 2009

July 2012

Virtual College

Level 2 Food Safety and Hygiene for Catering

Search emails

Name - Giuliano Pistoni

giulian

Folders



giuliano pistoni 19:48

Actions



Facebook

Inbox 1041

To [Redacted]



Twitter

Junk 64

Drafts 37

Sent

Name - Giuliano Pistoni

Already or

Deleted 34

D.o.b. - [Redacted]

Rome - Italy

b

New folder

Education - 1980/1984 GCSE- equivalent in Maths, Art, English, Geography, Italian, History.

1985/1989 Photography and Art College

1989/1990 Military service

1994/1995. Advance English course

Quick views

Work

experience 1996/1998 Toni restaurant - Chef - London N1

1998/1998 Hackney City Farm - Chef - London E8

1998/1999 Joiners Arms Pub - Part time Bar tender

London E1 7QL

2000/2000 Little Tree, Pub Restaurant - Chef Bar tender

2000/2009 Joiners Arms - Bar tender - achieved Personal

License Certificate

2009/2013 Director - Manager - Joiners Arms London E27QL

Sent from my iPad

Content fr

Learn more

Name - Giuliano Pistoni

D.o.b. - 4 th October 1969

Rome - Italy

Education - 1980/1984 GCSE- equivalent in Maths, Art, English,
Geography,

Italian, History.

1985/1989 Photography and Art College

1989/1990 Military service

1994/1995. Advance English course

Work

experience 1996/1998 Toni restaurant - Chef - London N1

1998/1998 Hackney City Farm - Chef - London E8

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London E1 7QL

2000/2000 Little Tree, Pub Restaurant - Chef Bar tender

2000/2009 Joiners Arms - Bar tender - achieved Personal
License Certificate

2009/2013 Director - Manager - Joiners Arms London E27QL



Tom Edwards

From: aigars saveļjev [REDACTED]
Sent: 30 October 2013 22:46
To: Tom Edwards
Subject: CCTV invoice
Attachments: Blank Systems Invoice.pdf

From: aigars13@hotmail.com
To: pollard-david@btconnect.com; tom@lyndales.co.uk
Subject: RE: CCTV
Date: Wed, 30 Oct 2013 22:37:55 +0000

Dear Tom,

Please find a copy of the CCTV system invoice from Blank Systems Ltd.

We have chosen Blank Systems out of around 10 companies who replied to our quote request (our requirements were based on those from The Police) printed below:

Requirement:

> CCTV system for a public house/nightclub with 2 cameras outside (front of the building), 2 inside covering the front doors (these have to record Head shot of people as they come in), 4 covering the floor, 2 outside covering backyard. All 8 have to provide 24 hour recording and the ability to work in a low light conditions. The recording has to be stored for 4 weeks and must have the ability to be backed up, if necessary, on a Data or DVD disks in a format what can be played back on most of the computers or DVD players. The quality has to be clear enough to have those recordings as an acceptable source of evidence for The Police and The Court of Justice. The system should be compatible with Facewatch. <http://www.facewatch.co.uk/cms/>

Blank Systems Ltd provided us with the most up to date product and are well know for they work in London's night clubs.

I'm sending the systems tech spec in a separate e-mails, I will also contact Blank Systems tomorrow and ask for more detailed spec with a covering letter.

Best regards

Aigars

From: Tom Edwards <Tom@lyndales.co.uk>
Date: 29 October 2013 09:46:16 GMT
To: "pollard-david@btconnect.com" <pollard-david@btconnect.com>, "aigars13@hotmail.com" <aigars13@hotmail.com>,



Blank systems Ltd
 40 Newdigate Road east
 Harefield,
 UB9 6ES
 0203 393 4646
 info@blanksystems.co.uk

REF: The-Joiners-Arms-0001

Proposal: CCTV System upgrade.

Client: The Joiners Arms, Shoreditch, London E2 7QL

Proposal Notes

1. After carrying out a site survey and discussing your requirements, I would recommend installing 3 new external cameras and 5 new internal cameras. I have quoted Concept pro CBP324DNIR low light cameras as these will maintain a very good image even in very low light. I am also recommending a Concept pro vxh264 16 channel 4TB High end DVR, which will allow you to record at a very high resolution and frame rate. The cameras and DVR we have chosen best meet licensing requirements for bars, pubs and nightclubs.
2. As discussed to achieve the best view the 8 new cameras are to be installed in new locations along with a number of the old cameras. All cabling will be surface mounted.
3. Work can be carried out within 10 working days of the received order.
4. Blanksystems Ltd only provides equipment of high quality

Proposals Costs

CCTV system			
Concept pro vxh264 16 channel 4TB	1		
Concept pro 2.8-10mm VF 650tvl Low light IR cameras inside	5		
Concept pro 2.8-10mm VF 650tvl Low light IR cameras outside	3		
HD Monitor 19"	1		
cable RG59 100m + Power in one	5		
18way PSU	1		
System installation 2 days two engineer			
Total cost			£4269
VAT+			£853.80
NET TOTAL			£5122.80

Warranty

All equipment installed by Blank system Ltd comes with a no quibble 12-month warranty.

Limitations of proposal

Whilst every effort has been made to ensure the accuracy of the information contained within it, it must be realised that no detailed survey of the location has been undertaken.

Underlook a detailed survey on the 19/08/13

Terms of proposal

- A 40% (£2049.12) deposit on the day or In advance of commencement of work and the remaining balance to be paid over 6 monthly instalment of £512.28.
- The first monthly instalment to be paid 31 days after completion of work via direct debit or standing order
- This proposal is valid for 30 days from the time of issue.
- We are not responsible for any damage to paint work or building decoration.
- Works can be carried out during office hours or out of office hours and weekends.
- Access to the premises must be accessible and clear of any debris.
- Blank systems Ltd reserves the right to correct this quote at any time until the order is signed

ACCEPTANCE OF THIS PROPOSAL

Deposit required with acceptance- £2049.12

This Proposal may be accepted by completing this section and returning two signed and completed Proposal / acceptance pages to Blanksystems within 30 days of the Proposal date, after which Blanksystems reserve the right to amend the Proposal prices / specification.

I / WE accept this quotation for works in accordance with Blanksystems terms and conditions (as per reference number above) and agree that all equipment will remain the property of Blanksystems until paid for in full.

Blanksystems Staff Name (Block Capitals).....

Blanksystems Staff Signature.....Date.....

Customer Representatives Name (Block Capitals).....

Signature of Customer..... Date.....

118463

Tax Invoice



Blank systems LTD
40 Newdigate Road East
Harefield
UB9 6ES

0203 393 4645
info@blanksystems.co.uk
www.blanksystems.co.uk
Company Registration No. : 00963352

Date	Invoice No.
03/09/2013	1827
Terms	
Net 30	

Invoice To
Joiners Arms Shoreditch Limited 116-118 Hackney Road London E2 7QL

Amount Due	Enclosed
£5,122.80	

Date	Activity	Quantity	Rate	VAT	Amount
03/09/2013	Concept pro vxh264 16 channel 4TB	1	0.00	20.0% S	0.00
03/09/2013	Concept pro 2.8-10mm VF 650tvl Low light IR cameras inside	5	0.00	20.0% S	0.00
03/09/2013	Concept pro 2.8-10mm VF 650tvl Low light IR cameras outside	3	0.00	20.0% S	0.00
03/09/2013	Monitor 19	1	0.00	20.0% S	0.00
03/09/2013	18 way PSU	1	0.00	20.0% S	0.00
03/09/2013	cable RG59 100m + Power in one	5		20.0% S	0.00
03/09/2013	installation	1	4,269.00	20.0% S	4,269.00

VAT Summary			SubTotal	4,269.00
Rate	VAT	Net	VAT Total	853.80
VAT @ 20%	853.80	4,269.00	Total	£5,122.80

VAT Registration No.: GB974563480

£512.28 paid 04/10/13

£2049.12 paid 3/9/13

£512.28 x 6 to follow

BANK DETAILS
Blank systems ltd
Lloyds TSB
30-97-81
01640488

All equipment will remain the property of Blanksystems LTD until paid for in full.



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 40 Newdigate Road east
 Harefield,
 UB9 6ES
 0203 393 4646
 info@blanksystems.co.uk

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2. As discussed to achieve the best view the 8 new cameras are to be installed in new locations along with a number of the old cameras. All cabling will be surface mounted.
3. Work can be carried out within 10 working days of the received order.
4. Blanksystems Ltd only provides equipment of high quality

Proposals Costs

CCTV system			
Concept pro vxh264 16 channel 4TB	1		
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HD Monitor 19"	1		
cable RG59 100m + Power In one	5		
18way PSU	1		
System installation 2 days two engineer			£4269
Total cost			£853.80
VAT+			£5122.80
NET TOTAL			

Warranty
 All equipment installed by Blank system Ltd comes with a no quibble 12-month warranty.

Limitations of proposal

Whilst every effort has been made to ensure the accuracy of the information contained within it, it must be realised that no detailed survey of the location has been undertaken.

Undertook a detailed survey on the 19/08/13

Terms of proposal

- A 40% (£2049.12) deposit on the day or in advance of commencement of work and the remaining balance to be paid over 6 monthly Instalment of £512.28.
- The first monthly instalment to be paid 31 days after completion of work via direct debit or standing order
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Blanksystems Staff Signature.....Date.....

Customer Representatives Name (Block Capitals).....

Signature of Customer..... Date.....

118103

Tax Invoice



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 Harefield
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 Info@blanksystems.co.uk
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03/09/2013	Monitor 19	1	0.00	20.0% S	0.00
03/09/2013	18 way PSU	1	0.00	20.0% S	0.00
03/09/2013	cable RG59 100m + Power in one	5		20.0% S	0.00
03/09/2013	Installation	1	4,269.00	20.0% S	4,269.00
VAT Summary				SubTotal	4,269.00
Rate	VAT	Net	VAT Total	853.80	
VAT @ 20%	853.80	4,269.00	Total	£5,122.80	

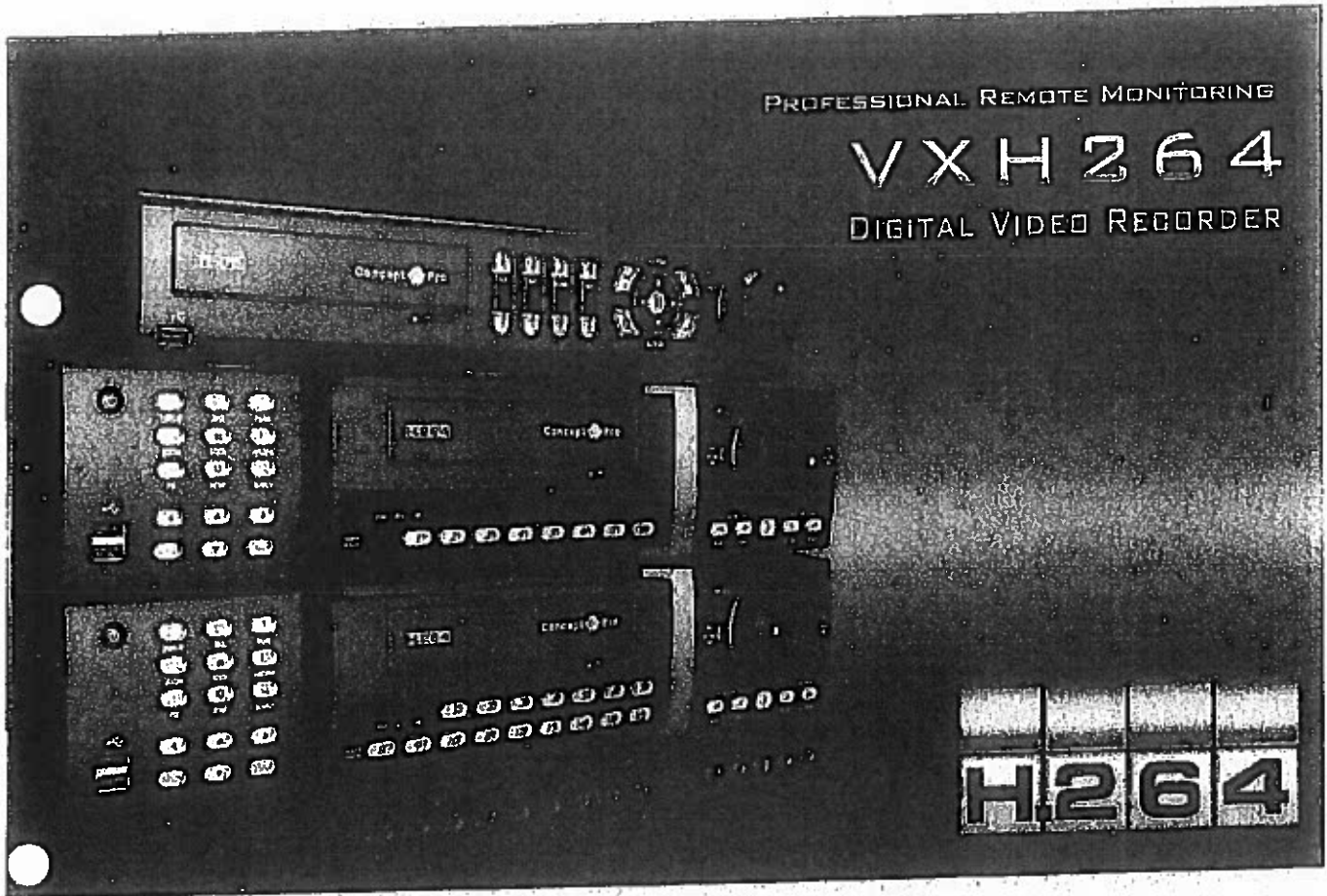
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£512.28 paid 04/10/13

*£2049.12 paid 3/9/13
 £512.28 x 6
 to follow*

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 Blank systems ltd
 Lloyds TSB
 30-97-81
 01640488

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Concept Pro

Immix

Professional Monitoring

Making professional monitoring accessible to all

With the VXH264 digital video recorder, a professional remote monitoring service is now accessible to end users of all budgets.

What is professional remote monitoring?
The most efficient way of monitoring your CCTV for every pound spent

Remote monitoring is a service given by a central monitoring station which will monitor the CCTV system on a premises. Central Monitoring provides an effective monitoring service as the operator will receive only alarm-triggered events to view, verify and respond to based on pre-determined actions set by the end-user.

Who would I offer Professional Remote Monitoring?
You can offer more at no extra cost

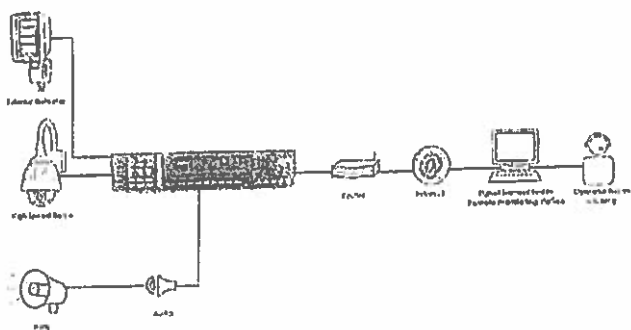
The VXH264 and a professional monitoring service offers the chance for any customer to have access to a high quality, effective monitoring solution they could not have previously afforded. A professional monitoring service can offer cost-effective protection for vulnerable and at-risk workers, particularly out of hours. By outsourcing your monitoring needs, security managers have the flexibility to reduce the cost of their in-house security operation.

What do I need to do to connect to a central station?
Connecting to a Central Station could not be simpler

- 1. Install a VXH264 Digital Video Recorder - Compatible with Central Monitoring Stations hosting the Immix Software platform all over the UK and Ireland
- 2. Connect to a router and broadband line
- 3. Set-up of the email-send facility takes under 5 minutes. Following the configuration and setting the port forward, the machine can be connected to any Immix Central Station with one phone call.

Connecting the VXH264 to a central monitoring station

The diagram illustrates the connection between the VXH264 and a central monitoring station.



Example system specifications:
Using a VXH264 with remote monitoring

- 1. Cameras
- 2. Alarm Trigger Devices
E.g. PIR Detection
CCTV Motion Detection
Access Control Points
- 3. Broadband Line
- 4. PA System for Audio Deterrent
- 5. VXH264 can be retro-filled into an existing installation

The diagram illustrates the connection between the VXH264 and a central monitoring station. The VXH264 is connected to a router and a broadband line. The router is connected to the internet, which is then connected to a central monitoring station. The central monitoring station includes a PC and an operator. The operator can view the CCTV footage and receive alarm-triggered events. The operator can also communicate with the VXH264 via a PA system for audio deterrent.



Think Remote Monitoring
Think Concept Pro
Think VXH264



Concept  Pro

VXH264

VXH264 Range of Digital Video Recorders
Incorporating professional remote monitoring



Colour Coded GUI Enhanced On-screen Operation

The GUI operation is brilliantly simple. Using colour-coded menus and various control options it is easy to program and operate.

Navigation is quick thanks to a status bar and shortcut menu on all live view displays, which assists with 'one click' access to each main function.



Professional Monitoring

Making a professional monitoring service accessible to all

Every Concept Pro VXH264 digital video recorder is compatible with the Innix software platform, used by many leading central monitoring stations across the UK and Ireland.

- Requirements
- Broadband connection
 - Router
 - Contact your preferred station

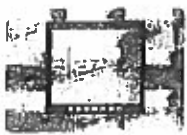


Panorama Search

24 hour single-channel overview

The panorama search facility allows the user to select a single channel over a 24 hour period which is displayed on-screen in 8 intervals of 3 hours.

In the example above, we are looking for an individual walking away from the scene. As opposed to viewing a single line of day from the selected camera, 8 time intervals are displayed at once. Using the fast forward function at the selected time interval, the individual can be identified within minutes.



Instant Playback

Rapid Response

Instant playback function allows users to select and view recently recorded footage at the push of a button. Footage from a selected camera can be instantly accessed from the live view screen.

By removing the necessity of accessing menus, users can react to an incident more quickly.



Smartphone

Connection via web browser

The VXH264 range of digital video recorders can be accessed by using any smartphone with a web browser. All channels can be viewed, giving users peace-of-mind that they can monitor their premises or residence anywhere their network operator provides coverage.



Remote Connection

Via web browser

Remote connection to the VXH264 digital video recorder can be made via a PC web browser. Users can take control of key digital video recorder functions.

- Live view
- Search & playback
- Archiving
- PTZ control
- Two-way audio
- Digital video recorder configuration
- Event log function
- Digital video recorder operational status - status, motion, video loss, recording & alarm on!

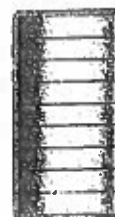
H.264

Video Compression

Powerful Compression

The Concept Pro VXH264 digital video recorder utilises H.264 video compression, which delivers longer recording times than MPEG-4 and JPEG compression formats.

The H.264 compression format is network friendly, lowering the demand for bandwidth over a local area network or remote connection.



MPEG4



H.264

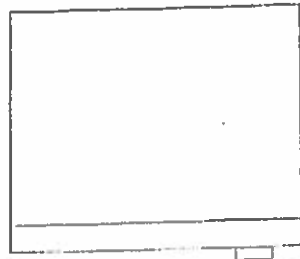
30% more footage*

*When compared to MPEG-4 Compression

Model	VX2641	VX2640	VX2616
Operation	Genlock Pentaplex	Simultaneous recording playback, network live view, network playback, network remote set-up, Frame grab included	
Video in	Channels Connection Loop through Character Connection	4 BNC, 1.0Vpp composite 75ohm unbalanced	8 BNC, 1.0Vpp composite 75ohm unbalanced, auto-lamination
Video outputs	BNC DVI (DVI) VGA (DVI, ICCI) S-Video HDMI Screen display modes Sequence Digital zoom	1 2SP81 DVI (DVI) 1024 x 768 (DVI to VGA adaptor included) N/A N/A N/A 1, 4 N/A	16 N/A 15 pin D-SUB 1024 x 768 @ 60Hz 4 pin mini DVI 6 pin HDMI (Cat. 1), 1024 x 768 @ 60Hz 1, 4, 6 (1-5), 8 (1-7), 0 Adjustable live time, user-defined sequences Between 2.5 & 4x
Audio inputs	Channels Connection Display mode	1 BNC, 1.0Vpp composite 75ohm unbalanced Full screen sequence, equalizer, de-emphasis	4, 1, 2 programmable BNC, 1.0Vpp composite 75ohm unbalanced Full screen sequence, equalizer, de-emphasis
Audio outputs	Channels Connection	1 RCA, 1.4 level unbalanced	4, 1, 2 programmable RCA, 1.4 level unbalanced
External alarm	Inputs Outputs	4, I/O or NC common ground 1, SPDT relay	16, I/O or NC common ground 8, High-voltage (HV) selectable, common ground + 4 Hz/50 Hz common ground + 4 Hz/50 Hz
User interface	On-screen display Control	GUI Mouse, front panel, IR Remote and/or VX-HDC-PRO-F12 Keyboard	
Recording	Video CODEC Resolution options for each channel Maximum total frame rate Image quality Pre-event recording Recording modes Frame rate options for each channel Schedule Configurable recording time limit Audio Motion detection Event recording Camera tilt	H.264 CIF (352 x 288), 2 CIF (704 x 576), D1 (704 x 576) 20FPS (CIF), 40FPS (CIF) Super, High, High, Standard, Low 5 seconds max Schedule/Alarm, Motion/Alarm, Panic - Via GUI only 23 - 13 - 7 - 3 - 2 - 1 25 - 13 - 7 - 2 - 1 25 - 13 - 7 - 3 - 2 - 1 - 0 12 hours, 1 day, 2 days, 3 days, 4 days, 8 days, 16 days, 1 week, 2 weeks, 3 weeks, 1 month, 2 months Audio inputs independently assigned to each channel 16 x 16 selectable grid with 16 levels of sensitivity Yes, selectable by channel 32 cameras (Max)	
Playback	Speed Control Search method Split screen display modes Audio synchronization	Forward/reverse, 1x, 2x, 4x, 8x, 16x, 32x, 64x Front panel buttons and Jog / Shuttle disc mouse Calendar / Timeline, event log, instant playback, frame 1, 4 Yes, any frame rate	
Archiving	Storage Format Archive data	CD-R (DVD-R option), USB Memory stick, Network Video-based AVI Independent channel collection, back-up log, event log	
Time	Time zone DST Time synchronization	Worldwide, selectable Yes Internet time server	
IPZ	RS-485	Yes	
Security	Watchdog Abnormal shutdown or lockout HDD Error detection System data backup / restore	Yes Yes, with system auto recovery Yes, SMART monitoring Yes, USB memory stick	
Network	Connection Simultaneous connections DHCP DDNS Two way network audio Bandwidth management	RJ45 4 (max) Yes Yes Yes Yes	
Remote Access	IE Browser Remote configuration Remote IPZ control Email event notification	Yes Yes Yes Yes	
Storage	Maximum Capacity Storage Recording options	Current 1Tb 1x HDD Maximum	Current 8Tb 4x HDD Maximum
Event Handling	Source Action	Alarm, motion detection, video loss, HDD error, Panic Record, alarm out, email notification, log, remote client pop-up, buzzer, full screen pop-up	
Security	User levels Key Lock	ADMIN, MANAGER, USER, I-C (password) Yes, password protected	
Physical	Dimensions Weight	210mm (w) x 200mm (d) x 88mm (h) 4.5kg (without HDD)	428mm (w) x 175mm (d) x 88mm (h) 4.8kg (without HDD)



63 mm

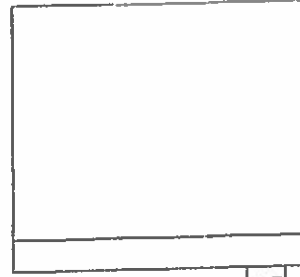


400 mm

360 mm



33 mm



475 mm

428 mm

Order Codes



4 CHANNEL
VXH264-4/500 500Gb HDD
VXH264-4/1000 1Tb HDD



8 CHANNEL
VXH264-8/500 500Gb HDD
VXH264-8/1000 1Tb HDD
VXH264-8/2000 2Tb HDD
VXH264-8/3000 3Tb HDD
VXH264-8/4000 4Tb HDD
VXH264-8/6000 6Tb HDD
VXH264-8/8000 8Tb HDD

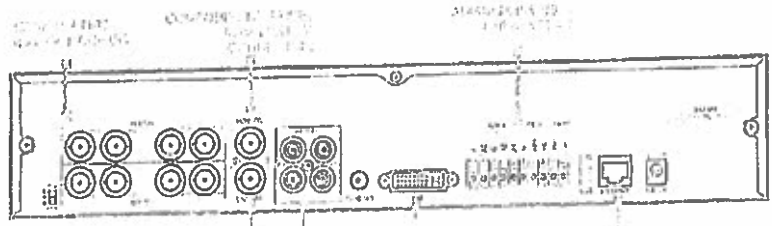


16 CHANNEL
VXH264-16/500 500Gb HDD
VXH264-16/1000 1Tb HDD
VXH264-16/2000 2Tb HDD
VXH264-16/3000 3Tb HDD
VXH264-16/4000 4Tb HDD
VXH264-16/6000 6Tb HDD
VXH264-16/8000 8Tb HDD

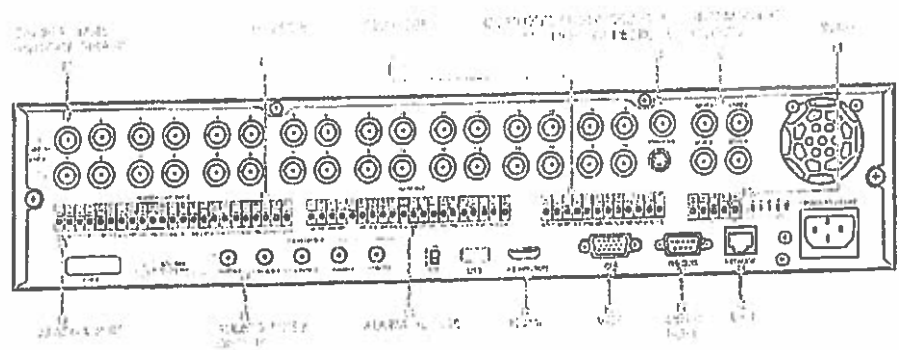


REAR PANEL DESCRIPTION

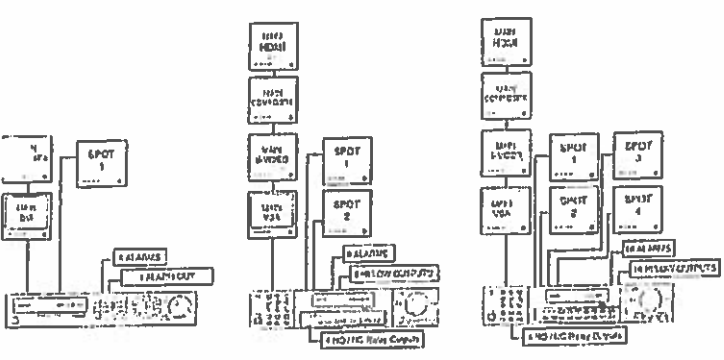
VX1100-1



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Monitor & Alarm Configurations



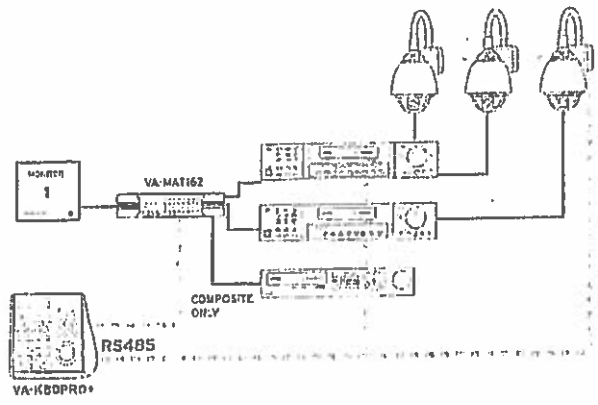
Recording Times

CIF	500GB	1Tb	2Tb	3Tb	4Tb	6Tb	8Tb
4CH 25 fps	13 days	30 days	N/A	N/A	N/A	N/A	N/A
8CH 25 fps	8 days	16 days	32 days	48 days	64 days	80 days	120 days
16CH 25 fps	4 days	8 days	16 days	24 days	32 days	48 days	64 days

2CIF	500GB	1Tb	2Tb	3Tb	4Tb	6Tb	8Tb
4CH 25 fps	7.5 days	15 days	N/A	N/A	N/A	N/A	N/A
8CH 13 fps	4.4 days	8.8 days	17.6 days	26.4 days	35.2 days	52.8 days	70.4 days
16CH 13 fps	2.2 days	4.4 days	8.8 days	13.2 days	17.6 days	26.4 days	35.2 days

D1	500GB	1Tb	2Tb	3Tb	4Tb	6Tb	8Tb
4CH 13 fps	4.8 days	9.7 days	N/A	N/A	N/A	N/A	N/A
8CH 7 fps	3.7 days	7.4 days	14.9 days	22.3 days	29.6 days	44.0 days	59.6 days
16CH 7 fps	1.8 days	3.7 days	7.4 days	11.1 days	14.9 days	22.3 days	29.6 days

Recording times are given for guidance only and can vary depending on the nature of the scenes being recorded.



Available with 4, 8 or 16 channels Wide range of storage capacity



How to program the VXR264



Lightweight remote control front panel

The GUI set-up menu is clearly structured and easy to navigate from the front panel.



USB Mouse

The VXR264 offers the benefit of mouse control, making it quicker and easier to navigate through the on-screen display.



USB Stick Upload

Preferred configurations can be saved to USB stick and subsequently uploaded on other units which require an identical configuration.



Remote Connection

The VXR264 can be programmed, saved and uploaded over a LAN / WAN connection.



IR Remote Control

An IR Remote Control is included with every unit and is a convenient way for a user to configure and operate the VXR264.



Concept Pro VA-K3DPRO

The VA-K3DPRO can control one or more VXR264 units and is compatible with many telemetry protocols including Polco-P and Polco-D.



Genie Pen Tablet

The VXR264 digital video recorder operates 3 key functions simultaneously without affecting the transmission:

- Recording
- Playback all channels simultaneously
- Live view
- Network playback/live view
- Local/Network remote set-up



CRMS PRO

Every Concept Pro VXR264 is compatible with our free central monitoring software. Ideal for multi-site operations, the Concept Pro VXR264 allows users to connect, view and operate up to 64 channels simultaneously, creating a central monitoring station at the host computer.



Reserved Data Management

Recorded events can be 'reserved' to a data management screen. This function allows the user to build up a list of events for easy and convenient archiving. The data management screen logs the number of 'bites' for each event.



Real-time Recording

The complete range of VXR264 digital video recorders can record at 25FPS @ CIF across all channels (2CF on 4Ch). D1 recording resolution can be achieved at 7FPS across all channels.

Channel frame rates can be programmed individually to achieve a balance between the quality of footage, the internal storage available and the number of channels in use on the digital video recorder.



Archiving

Video footage can be archived by:

- USB stick
- DVD
- External HDD
- Remote network storage
- Local PC through remote connection

The archive footage is watermarking and packaged with the video codec needed to play 'live'. The archive action is recorded in the digital recorder event log.

*Note: The video codec is not packaged when archiving via remote connection.



Executive Monitor Support

The following monitor outputs are available:

- BNC
- DVI - VGA Converter Supplied (4ch only)
- VGA (8 and 16ch only)
- S-Video (8 and 16ch only)
- HDMI - High-definition media interface (8 and 16ch only)

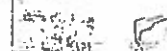
The HDMI port can deliver a resolution of up to 1024 x 768 with our VLCDA8 range of monitors.



User Profiles

Up to 8 user profiles can be stored on the Concept Pro at 3 levels - administrator, manager and user. The administrator can allow or restrict operation for an individual user from the following functions:

- Access to setup
- Search facility
- Remote connection access
- PTZ control
- Archive menu



Instant Archive

The instant archive function allows a user to only archive during playback. By removing the need to access the menu structure archiving is made simpler and quicker.



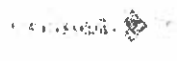
Smart Video Recorder System Health Check

The VXR264 monitors both the internal hard drives and digital recorder software. If any abnormalities are detected a user can be notified by email or alarm output.



Advanced Preview

The Concept Pro VXR264 digital video recorder stores all recorded events in a central activity log. The central log is an HTML, chronologically of events which allows the user to quickly view each recorded event in a preview window.



Advanced Integration with Concept Pro Products

The VXR264 is compatible with multiple telemetry protocols and can be used with the Concept Pro Product VA-K3DPRO Keyboard and VA-KAT162 matrix.



Easy to follow and UK manual

The Concept Pro VXR264 user manual has been written in the UK by our technical team. It has been written with the installer in mind, taking the reader through the machine using step-by-step instructions.

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On 2nd May 1997, Tony Blair went to Buckingham Palace, where the Queen invited him to form a Government, and he kissed her ring.

That very same day, I, too, was in a Crown building – the Bow Road Magistrates Court and I was asking the Justices to allow me to take over the Joiners Arms. The Chair of the bench asked, 'Mr Pollard: have you ever run a pub before?' I thought, but didn't say, the Queen won't be asking Blair if he'd ever run a country before. I only wanted to run a little pub on the Hackney Road. Still, I didn't have to kiss the Magistrate's ring.

On 6th May 1997, The Joiners Arms opened its doors as 'the first new gay pub under a Labour Government'. Don't laugh. That year was so full of promise that it is hard for older readers to remember and impossible for younger ones to imagine.

But (ahem) we have stayed the course longer than Blair, or Labour, and have remained truer to our promise than either. Freedom flags have been flying here all these years (we really were gay before it got trendy on Hackney Road), but much else has changed. The bar used to be in the middle, and we had easily wreckable toilets. It is rumoured that fragments from them are kept as souvenirs (of what, I don't like to think).

There are, of course, many stories from over the years. Some you have heard are even true, or at least partly, but many are best left buried in the mists of time, or until the pub produces its autobiography. (It may happen.)

What can be said is that we are still trying to be a home to the joyful sinner, still trying to bend the harsh reality of the world in which we operate to promote Life, Love, Liberty, still encouraging good, preferably dirty, fun. Especially fun.

Still not a place impressed by people Who Are, but a place where people can enjoy who everybody is.

Anyway, what matters is now. The best of times really is now; today is the 'back when' of tomorrow and that usually seems to be the case at The Joiners.

As, unrepentantly, is that it is always 'work in progress'.

And still a little pub on the Hackney Road.

Enjoy. We do.

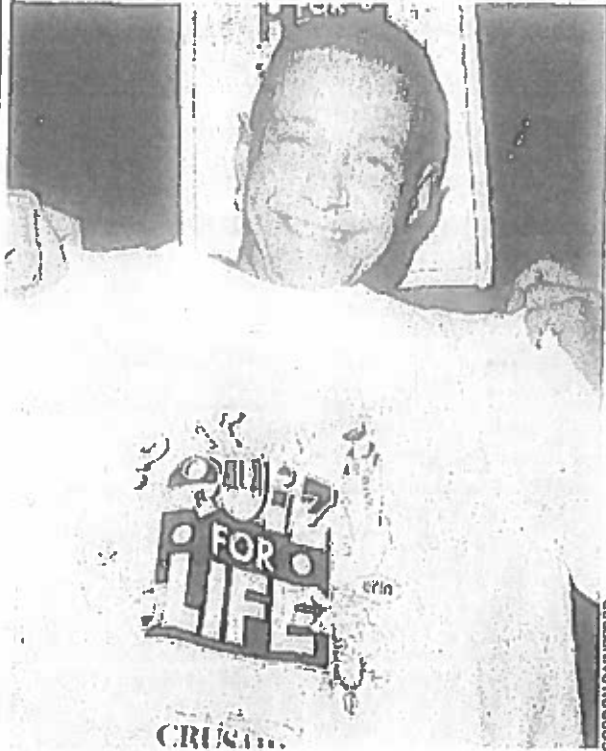
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by David Alexander Pollard



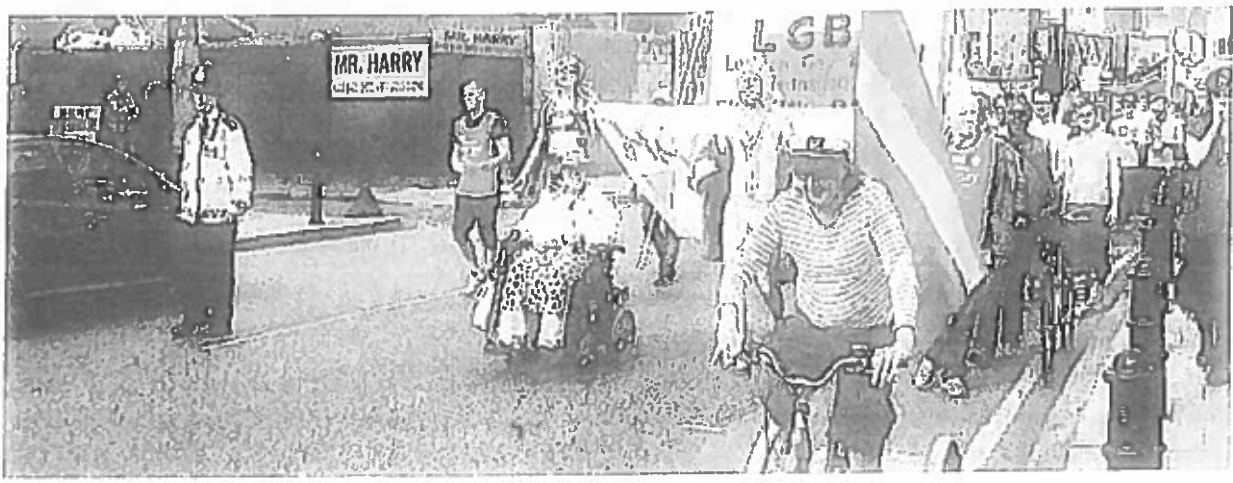
Lifers raise thousands

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Dave Pollard looks quizzical ...

AS THE song goes, there are more questions than answers, and the more we find out the less we know. Thousands of people up and down Britain took part in Cruiséd's first Quiz for Life last week and the event is expected to raise upwards of £7,000. Questions were set by celebrities including Sir Ian McKellen, Anneka Rice, the Archbishop of Canterbury, and the Prime Minister. Organiser David Pollard, of Pink Angel fame, told Capital Gay he was "absolutely delighted" by the response to Quiz for Life: "we're hoping to build and this year's success and turn next year's Quiz for Life into a mega-event!"



David Pollard.

There is no spectacle more ridiculous than the British public in one of its periodic fits of morality, was the dithering judgement of a nineteenth century politician.

He didn't know his luck.

The popular press hadn't yet been farted into existence, still less had today's mass media been vomited forth. Macauley didn't know how those periodic fits of morality would become a continuous whine of paranoia, rising to a hysterical crescendo, skilfully conducted by the Murdock's of this world.

Any group which could be attacked with safety, were and are attacked. In Britain, until very recently, gay men and lesbians provided a constant refrain of Threat to all that is right, or Right. This has almost always been accompanied by anti-Semitism (now dragged up as anti-Israel or virulently pro-Islam, with hate's typical lack of logic), anti-black, anti-Asian, anti-Irish, anti-Spic, anti-Eyette, anti-Auntie when she was a suffragette.

Today, gays here are much better off. One fifth of the population still hate some of their own sons and daughters in this country, but we can now get married and be equally boring as everybody else. Bourgeois is a French word for the British Dream.

This is a great improvement for us – undeniably a rightful triumph, and all who worked so hard in much darker days to win most of the equality battles have won their laurels.

One recent example shows how far we have come.

When a gay man, David Miranda, was detained at Heathrow the other week while heading home to Brazil and his lover who was covering the Snowden material for The Guardian, the media coverage was all about the issues. Not long ago, the involvement of gay men would have over-shadowed everything.

Less than a century ago, Sir Edward Casement was executed when an international campaign for clemency foundered on Britain's secret services' revelation. The Irish nationalists, being Good Catholics, insisted that his 'Black Diaries' were forged – implying that judicial murder was OK if he was a homo.

The Snowden affair is very much one of our computer age. The founding father of computer science was a gay man called Alan Turing. In his wartime work at the famous codebreaking Bletchley



Park, his genius is credited with shortening the war against the Nazis by at least two years, and saving million of lives. When a grateful nation found that he was an active homo, he was sentenced to chemical castration. He committed suicide as a result.

That was only a little over half a century before. David Miranda's sexuality didn't even cause a blip (except here). That does mean something.

The freedom we now have was too late for many like Alan Turing - great talents, - and even the talentless, who all deserved better. And there is still no freedom for many on dark streets at night, or in schools, in too many places, and around the world. The struggle goes on.

The Joiners Arms shortly will be showing the film 'Codebreaker', about Alan Turing, his work and the tragedy inflicted on him, soon. If anyone wishes to add to the event, please let me know.



The Joiners Arms

Malaysia White at Home Joiners Arms Theater Missing



Kitty Skiffs the name of

David Shenton's

latest mural now showing

the Juniors Arms.



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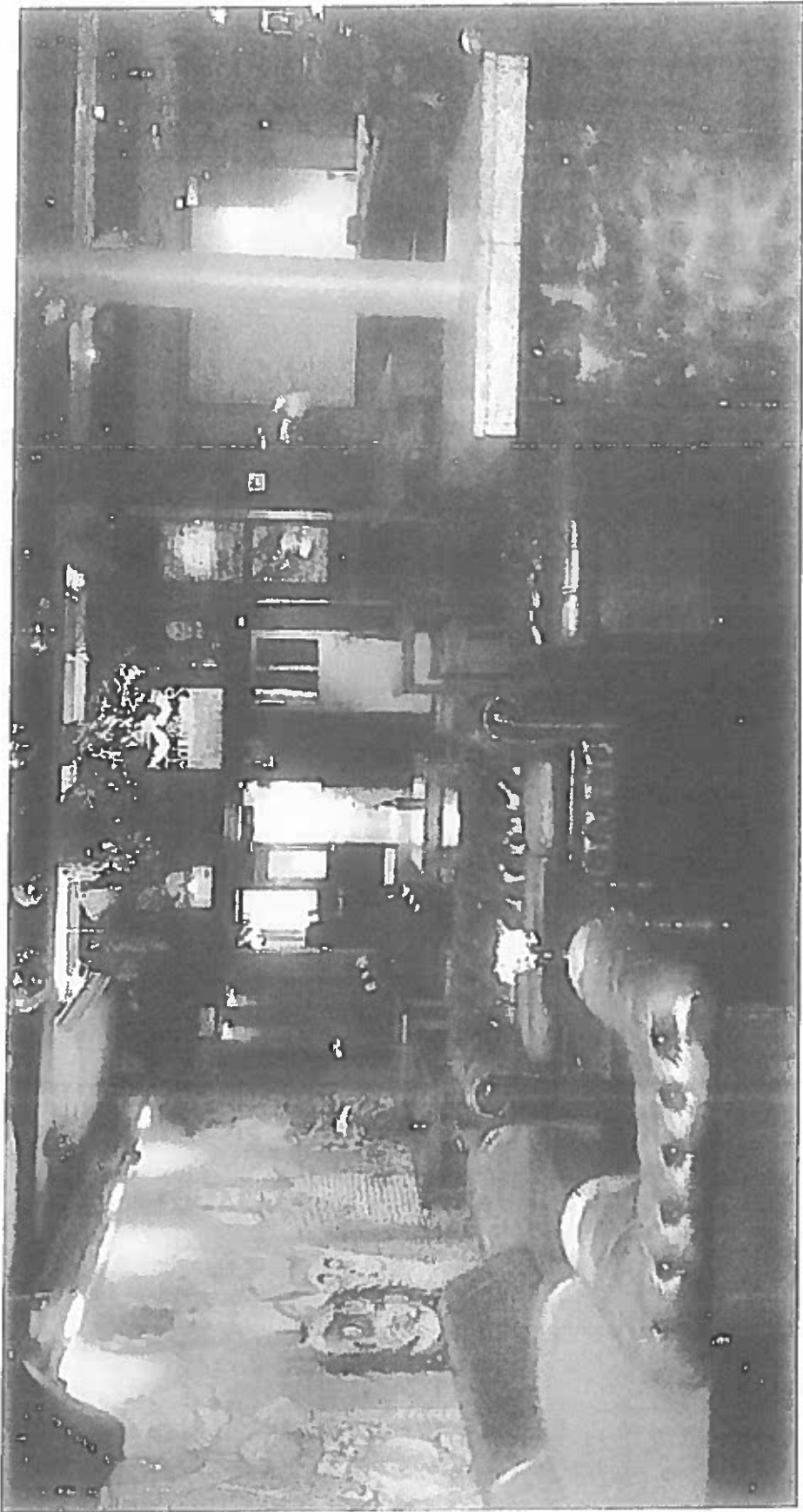
DAVID SHENTON

www.davidshenton.com

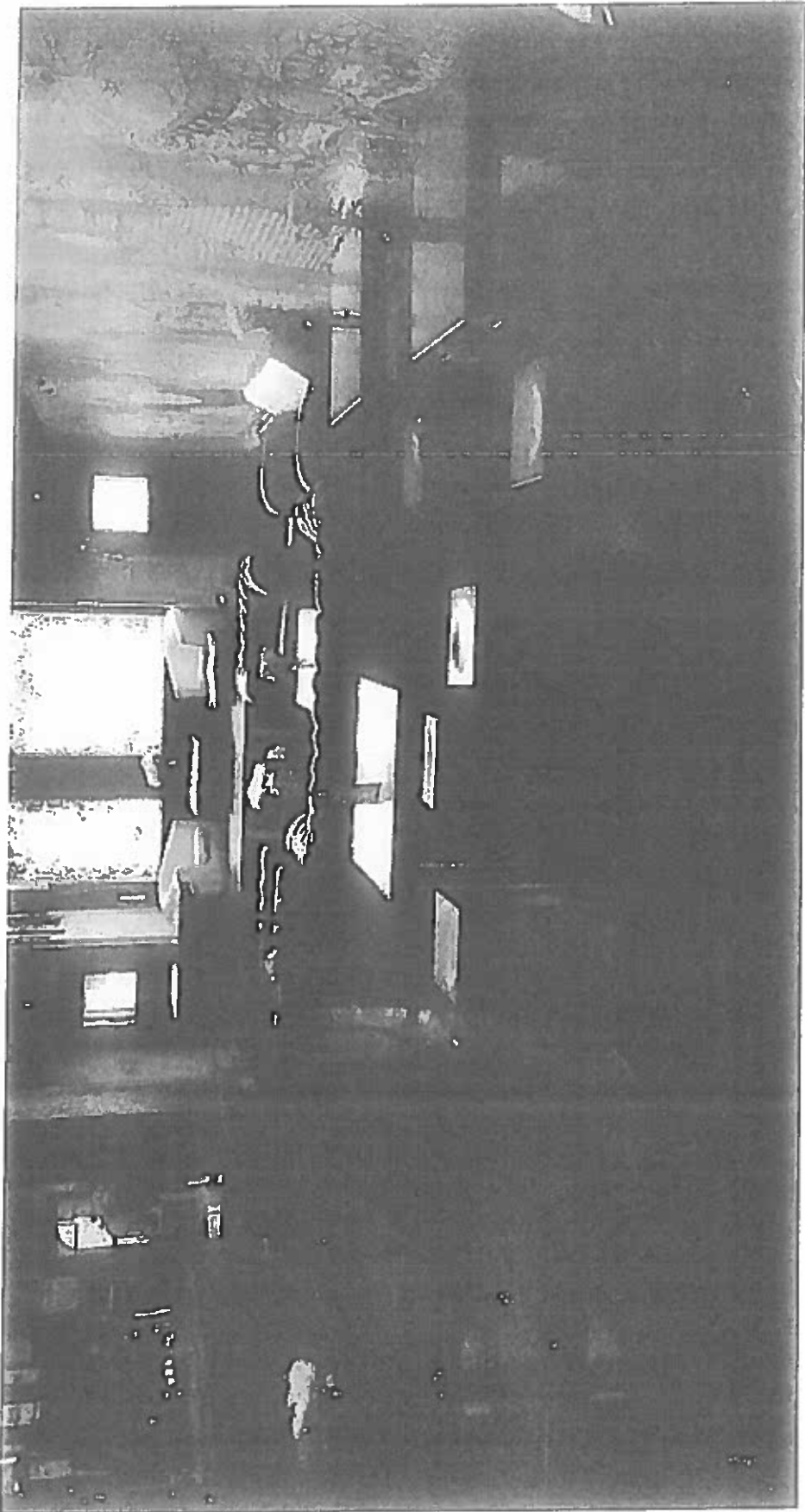
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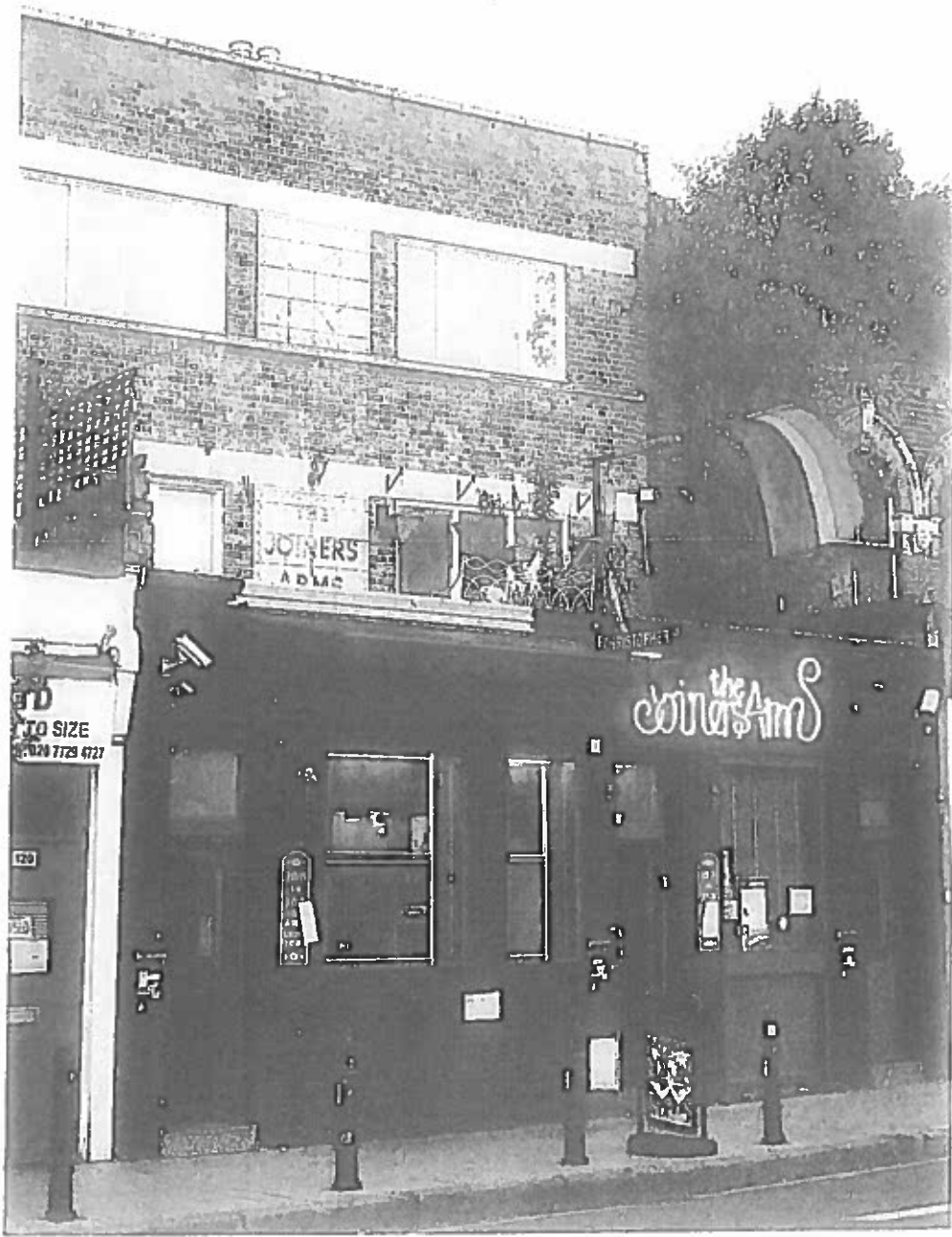
David Shenton's latest mural now showing at the
Joiners Arms.

Kitty Skritti is an ameowsing felinely dispurrlayed cater wall of
catstar from Tom-cat of Finland
malignant puss-in-boots-and
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to Catsby Kline, dressed as Catamine Jane,
Magadonna. Oscar Wilde,
Dorothy, star of the Wizard of Mog
and starring the whole Original Cats of the Rocky Horror Pussy Show.
Felicity for your viewing purrlesure,
this is not to be hisse.









TO SIZE
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JOINERS
ADMC

the windows

120







over 18
no way ahead



Wanted
Living Wage
Employee

Living Wage Foundation is proud to present the
Living Wage Employer award to the

**Joiner's Arms
Shoreditch**

This organisation is all members of Living Wage Employer

Free
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BUSINESS

THE JOINERS ARMS




**YOUR
PHONE**

09711

The Joiners Arms

IF WHEN LEAVING THIS PUB, YOU
WISH TO USE A MINI-CAB, WE ADVISE
AGAINST TAKING ANY OLD FROM THE
STREET.

FOR YOUR OWN SAFETY, WE SUGGEST
THAT YOU USE 
BY CALLING THEM ON

020 7033 0009

020 7789 8398

THEY ARE LICENCED OPERATORS AND
OFFER A POLITE, COMFORTABLE, AND
ECONOMIC SERVICE, WITHOUT FEAR
OF HARASSMENT OR DISCRIMINATION.
MINI CABS ARE VERY HELPFUL WHERE
PEOPLE HAVE MOBILITY QUESTIONS.
YOU WILL BE GIVEN A PRICE WHICH
WILL BE HONoured.
THEY WILL EVEN TAKE PETS!

The Joiners Arms

BE AWARE OF PICK POCKETS



BE AWARE OF THIEF

TRANSEXPRESS
DESPERATELY SEEKING MADONNA

SATURDAY 15TH JUNE THE JOINERS PUB

ENTRY 50: FROM 10.00 TO 11.00



admiral

Please do NOT leave your personal items unattended.



The management of these premises take no responsibility for unattended items.

Please use the cloak room and keep your items secure.

Thank You

IN THE MATTER OF REVIEW PROCEEDINGS

JOINERS ARMS, HACKNEY ROAD

NOTE ON REVIEW PROCEDURE

1. The Metropolitan Police submitted an application for a review of the Joiners Arms' premises licence under s.51 of the Licensing Act 2003 dated 18 September 2013. The application has not been advertised on the authority's website as required by regulations made under the Act.
2. The authority is under a statutory duty to advertise review applications. Failure to comply will render the application a nullity.
3. As Lord Justice Stanley Burnton put it in the Court of Appeal in 2011:

The Residents' case is not assisted by reference to section 4 of the Act. When exercising any discretion or power of decision under the Act, a licensing authority must do so "with a view to promoting the licensing objectives" as there defined. However, once the authority is under an unqualified duty to carry out an act specified by statute there is no room for section 4 to apply. The authority simply has no choice but to perform its statutory duty (para.37)¹. (emphasis added)

The law

4. S.51(3) of the Act states that the Secretary of State **must** by regulations 'require the authority to advertise the application and invite representations about it to be made to the authority by responsible authorities and other persons' (s.51(3)(b)) (emphases added).
5. The relevant regulations made under the Act are The Licensing Act 2003 (Premises Licences and Club Premises Certificates) Regulations 2005. Reg. 38(1) states that the 'authority **shall** advertise an application for the review of a premises licence under s.51(3) ...

¹ *Corporation of the Hall of Arts and Sciences v Albert Court Residents' Association & others v Westminster City Council* [2011] EWCA Civ 430.

- (a) by displaying prominently a notice ...
and
- (b) in a case where the ... authority maintains a website for the purpose of advertisement of applications given to it, by publication of a notice on that website'. (emphasis added)

6. By regulation 39 'all notices referred to in regulation 38 shall state—

- (a) the address of the premises about which an application for a review has been made,
- (b) the dates between which interested parties and responsible authorities may make representations to the relevant licensing authority,
- (c) the grounds of the application for review,
- (d) the postal address and, where relevant, the worldwide web address where the register of the relevant licensing authority is kept and where and when the grounds for the review may be inspected; and
- (e) that it is an offence knowingly or recklessly to make a false statement in connection with an application and the maximum fine for which a person is liable on summary conviction for the offence.' (emphasis added)

7. The authority published a notice on its website but the notice did not comply with regulation 39. The notice contained only the address of the premises as required by reg.39(a) but did not comply with reg.39 (b) to (e). The notice is therefore invalid as it is in breach of the statutory requirements. The review proceedings cannot continue. If they do they will be open to challenge and there will be obvious costs implications.

8. Earlier this year a decision of the North Somerset District Council's licensing committee was quashed by the magistrates' court on appeal as the review application had not been advertised on the authority's website. Costs were awarded against the authority.

9. The regulations must be followed and it is clear that this is the intention of Parliament as there is no provision to do otherwise in the Premises Licences Regulations. If Parliament had intended otherwise it would have said so in the regulations. A 'slip rule' would have been provided as has been done in The Licensing act 2003 (Hearing) Regulations 2005 which provide that 'any

irregularities resulting from any failure to comply with any provisions of these Regulations ... shall not itself render the proceedings void' (paragraphs 31-33). The review proceedings are therefore a nullity.

10. This contention is supported by recent cases on the Licensing Act 2003 and by the strict interpretation given to the notice/advertising provisions for applications under the pre-2003 Act law.

Case law

11. The High Court has recently considered the statutory procedural requirements under the Licensing Act 2003.² The case concerned a variation application that was changed between application and committee hearing. In particular the judgment refers to the hearing regulations and the premises licence regulations noting that:

Subject to the express requirements of the Hearing Regulations, procedure at the hearing of an applications is expressly a matter for the licensing authority (regulation 21 of the Hearing Regulations). There is no similar provision in the Premises Regulations, which are generally prescriptive as to the pre-hearing procedure that must be followed by the applicant .. and the licensing authority (para.20 and again at para.83).

Clearly, a power to amend that would defeat or undermine the object of the procedural provisions relating to advertisement ... could not conceivably be implied; and neither Mr Phillips nor Miss Clover suggested otherwise (para.70). (emphasis added)

12. The regulations are quite clear that the authority 'shall advertise an application for the review of a premises licence'. It is clear that Parliament intended that the requirements of regulation 38 must be complied with. The omission to follow one of two essential steps is a failure of 'an integral and essential element' of the licensing process renders the review application a nullity.
13. The point needs to be taken now, otherwise much time and money will be spent on pursuing a review which is legally flawed. While it is unfortunate that this has happened, the review process must be started again and the statutory requirements followed.

² *Matthew Taylor v Manchester City Council & TCG Bars Limited* [2012] EWCH 3167 (Admin).

ROY LIGHT

St John's Chambers
Bristol

24 October 2013

Neutral Citation Number: [2011] EWCA Civ 430

Case No: C1/2010/0687 & C1/2010/1083

IN THE COURT OF APPEAL (CIVIL DIVISION)
ON APPEAL FROM THE HIGH COURT OF JUSTICE
QUEEN'S BENCH DIVISION
ADMINISTRATIVE COURT
MR JUSTICE MCCOMBE
[2010] EWHC 393 (Admin)

Royal Courts of Justice
Strand, London, WC2A 2LL

Date: 13/04/2011

Before :

LORD JUSTICE LLOYD
LORD JUSTICE WILSON
LORD JUSTICE STANLEY BURNTON

Between :

CORPORATION OF THE HALL OF ARTS AND SCIENCES	<u>Appellant</u>
- and -	
THE ALBERT COURT RESIDENTS' ASSOCIATION and others	<u>Respondents</u>
- and -	
WESTMINSTER CITY COUNCIL	<u>Additional Party</u>
and between	
WESTMINSTER CITY COUNCIL	<u>Appellant</u>
- and -	
THE ALBERT COURT RESIDENTS' ASSOCIATION and others	<u>Respondents</u>
- and -	
CORPORATION OF THE HALL OF ARTS AND SCIENCES	<u>Additional Party</u>

Philip Coppel QC and Saima Hanif (instructed by Jeffrey Green Russell) for the Corporation of the Hall of Arts And Sciences
David Matthias QC (instructed by Westminster City Council) for the Council
John Steel QC and Andrew Sharland (instructed by Russell-Cooke) for the Respondents in both appeals

Hearing dates : 22 & 23 March 2011

Judgment

Lord Justice Stanley Burnton :

Introduction

1. This is an appeal against the order made by McCombe J dated 2 March 2010 quashing the decision of Westminster City Council (to which I shall refer as “Westminster”) dated 25 May 2009 granting the application of the Corporation of the Hall of Arts and Sciences, which manages the Royal Albert Hall, for the variation of its premises licence under the Licensing Act 2003 (“the Act”), and similarly quashing the variation of that licence. For convenience, I shall refer to the Corporation of the Hall of Arts and Sciences as “the Albert Hall” and to the Respondents, who were the Claimants in the judicial review proceedings heard by the judge, as “the Residents”.

The facts in outline

2. I can take the facts from the judgment of McCombe J.
3. On 22 December 2008 the Albert Hall applied to Westminster for a variation of its premises licence under the Act. It sought:
 - (a) to vary the hours when late night refreshment may be provided from 11pm-1am to 11pm-1.30am;
 - (b) to add boxing and wrestling to the permitted licensable activities;
 - (c) to vary the plans;
 - (d) to vary the start time for licensable events from 11am to 9am; and
 - (e) to vary the opening time from 11am to 8am.
 - (f) to vary the closing time from 1am to 1.30am.
4. The Albert Hall advertised its application, as required by the Act, in a local newspaper, the Paddington, Marylebone & Pimlico Mercury, and by placing notices outside the Hall.
5. On 6 January 2009 Westminster sent about 100 letters to residents of neighbouring premises. Albert Court is very close to the Albert Hall, and parts of it are within 30 metres from it, but no such letters were sent to any of the residents of Albert Court, whereas a substantial number were sent to residents of Albert Hall Mansions, which are to the north-east of the Hall and a similar distance from it.
6. The letters which were sent were dispatched pursuant to a practice of Westminster to notify businesses and residents, in the “immediate vicinity” of subject premises, of licensing applications in respect of such premises. This practice is referred to in a Westminster leaflet (“Licensing in Westminster”) and on the Westminster’s website. Westminster has an internal guideline for the assessment of “immediate vicinity” for these purposes which at the relevant time was 30 metres from the application site.
7. As at 19 January 2009, the required cut-off date under the Act (as to which see below), Westminster had received only one representation about the likely effect of

the variation of the licence; that single representation was from its own Environmental Health Officer, but it was withdrawn in March 2009 without a hearing having been held in relation to it. A number of residents of Albert Court made representations to Westminster after 19 January 2009. Those representations addressed many matters, including apprehended problems of anti-social behaviour, public safety, noise and disturbance and degradation of the surrounding area. Westminster declined to consider those late representations or to act upon them in any way, taking the view that the Act required them to take that stance.

8. On 25 May 2009, Westminster granted the Albert Hall's application.
9. Before the judge, the Residents contended that the decision to grant the licence was unlawful for two reasons: first, because Westminster was wrong in law to conclude that it was prohibited from considering late representations against the application; and secondly, because having promised to notify Residents in the immediate vicinity, it failed adequately to do so, so frustrating a "legitimate expectation".
10. The judge held that Westminster's decision to refuse to consider late representations was lawful, but that its decision to grant the variation of the licence was unlawful because it had failed to fulfil the legitimate expectation of the Residents of Albert Court that it would send them notification of the application. He therefore made the order referred to above.

The contentions of the parties before the judge

11. In their claim, the Residents sought relief on the grounds:
 - (1) That Westminster had "failed to comply with its policy/practice to consult residents within 30 metres of the licence premises for which the variation is being sought".
 - (2) That Westminster had misdirected itself as to its discretion to consider and take into account representations made out of time or to hold a hearing to consider the licence variation sought.
12. The Albert Hall had been served with the proceedings as an Interested Party. It had filed and served detailed grounds for contesting the Residents' claim. It summarised its grounds as follows:
 - (a) The 2003 Act requires that applications *must be granted* if there are no representations made within the statutory period (or, if made, have been withdrawn). It follows by necessary implication, and also under the Licensing Act (Hearings) Regulations 2005, that there is no power to hold a hearing to consider an application if there are no extant representations in relation to it.
 - (b) A comprehensive process of consultation is prescribed by the 2003 Act. This was adhered to ... Westminster's notification by additional means, of some selected residents (who were already included within the wider statutory consultation) does

not create a parallel consultation which itself needs to be comprehensive."

However, the Albert Hall did not appear at the hearing of the claim for judicial review.

13. Westminster similarly served detailed grounds of opposition. It contended:
- (1) It had no discretion to consider objections outside the statutory period.
 - (2) It had no power to consider or to hold a hearing to consider the grant of the variation to a licence where no representations had been received during the statutory period.
 - (3) It was bound to grant the variation applied for.
 - (4) While it had an informal practice to send out letters notifying residents in the immediate vicinity of licensed premises of a licensing application, there was no legitimate expectation that any particular residents would receive such notification.
 - (5) It had not acted irrationally in deciding to whom to give notification of the Albert Hall's application.

14. Westminster's detailed grounds in relation to (3) included the contention:

"Section 35(2) of the Act requires a licensing authority to grant a licence where there are no relevant representations. The grant must be in the terms sought. ..."

McCombe J's judgment

15. The judge accepted Westminster's submission that it could not take late representations into account. However, he held that the Residents had a legitimate expectation that they would be notified of a licensing application relating to the Albert Hall, and that in failing to comply with that expectation, and in deciding on a process of notification of the licensing application that did not include Albert Court, Westminster had acted irrationally and unlawfully, and he therefore made the order under appeal.
16. Despite the reference to the duty of a licensing authority under section 35(2) of the Act in Westminster's grounds, no submission was made to the judge on its behalf that the provisions of the Act precluded the grant of the relief claimed by the Residents on the grounds asserted by them.

The contentions of the parties on the appeal

17. The contentions of the parties on this appeal have differed substantially from those advanced before the judge.
18. For the Albert Hall, Mr Coppel QC's principal submission was that the judge had been wrong to find that the Residents had any legitimate expectation that they would

be notified of the application for a variation of the licence. He also contended that the relief proposed by the Residents was inconsistent with the provisions of the Act and the regulations made under it.

19. For Westminster, Mr Matthias QC, who did not appear before the judge, did not dispute the judge's finding as to legitimate expectation and its breach; but he submitted that any failure of Westminster to satisfy any such legitimate expectation could not affect Westminster's duty to grant the application for the variation of the licence.
20. It was because the order made by the judge arguably prevented Westminster from complying with its statutory duty, and arguably deprived the Albert Hall of the variation of its licence to which it was entitled, and because this is a pure point of law that does not depend on any evidence, let alone any disputed evidence, that the Court allowed Westminster to argue this point, even though it had not clearly been argued before the judge. Moreover, in my view the point was in Westminster's detailed grounds, and is obvious (as to which, see the discussion in *Miskovic and Blazej v Secretary of State for Works and Pensions* [2011] EWCA Civ 16).
21. The Residents also sought to raise an issue that had not been before the judge as to the Albert Hall's advertising of its application, namely whether the Albert Hall had duly advertised its application, and whether Westminster had reasonably been satisfied (as required by section 35) that it had done so. The Court refused to allow this issue to be argued. The Residents had known of this issue at the hearing before the judge, and had decided not to advance it. Furthermore, its determination would involve additional evidence, from all three parties. It followed that in this respect the appeal proceeded on the same basis as before the judge, namely that Westminster had been properly satisfied that the Albert Hall had complied with the statutory requirements, as required by section 35(1)(b).
22. On this basis, Mr Steel QC, for the Residents, pointed out that they alleged both that Westminster had failed to comply with the legitimate expectation found by the judge, but also that, irrespective of any legitimate expectation, Westminster's decision as to whom to notify of the licensing application was irrational. It was therefore unlawful and should be quashed. Westminster had failed to take into account the considerations to which it was required to have regard by section 4 of the Act. The judge had been right to grant the relief he did. Furthermore, the Court should make an order substituting a later date upon which the application for variation of the licence should be taken to have been given to Westminster, thereby enabling the late representations, or further representations, to be effective. Westminster would then be required to hold a hearing to consider the representations and to decide whether to grant any variation of the premises licence.

The statutory framework

23. Sections 4, 34 and 35 of the Act are, so far as relevant, as follows:

4 General duties of licensing authorities

(1) A licensing authority must carry out its functions under this Act ("licensing functions") with a view to promoting the licensing objectives.

(2) The licensing objectives are—

- (a) the prevention of crime and disorder;
- (b) public safety;
- (c) the prevention of public nuisance; and
- (d) the protection of children from harm.

(3) In carrying out its licensing functions, a licensing authority must also have regard to—

- (a) its licensing statement published under section 5, and
- (b) any guidance issued by the Secretary of State under section 182.

34 Application to vary premises licence

(1) The holder of a premises licence may apply to the relevant licensing authority for variation of the licence.

(2) Subsection (1) is subject to regulations under—

- (a) section 54 (form etc. of applications etc.);
- (b) section 55 (fees to accompany applications etc.).

...

(5) The duty to make regulations imposed on the Secretary of State by subsection (5) of section 17 (advertisement etc. of application) applies in relation to applications under this section as it applies in relation to applications under that section.

35 Determination of application under section 34

(1) This section applies where the relevant licensing authority—

- (a) receives an application, made in accordance with section 34, to vary a premises licence, and
- (b) is satisfied that the applicant has complied with any requirement imposed on him by virtue of subsection (5) of that section.

(2) Subject to subsection (3) and section 36(6), the authority must grant the application.

(3) Where relevant representations are made, the authority must—

(a) hold a hearing to consider them, unless the authority, the applicant and each person who has made such representations agree that a hearing is unnecessary, and

(b) having regard to the representations, take such of the steps mentioned in subsection (4) (if any) as it considers necessary for the promotion of the licensing objectives.

(4) The steps are—

(a) to modify the conditions of the licence;

(b) to reject the whole or part of the application;

and for this purpose the conditions of the licence are modified if any of them is altered or omitted or any new condition is added.

(5) In this section “relevant representations” means representations which—

(a) are about the likely effect of the grant of the application on the promotion of the licensing objectives, and

(b) meet the requirements of subsection (6).

(6) The requirements are—

(a) that the representations are made by an interested party or responsible authority within the period prescribed under section 17(5)(c) by virtue of section 34(5),

(b) that they have not been withdrawn, and

(c) in the case of representations made by an interested party (who is not also a responsible authority), that they are not, in the opinion of the relevant licensing authority, frivolous or vexatious.

24. Section 17(5) is as follows:

(5) The Secretary of State must by regulations—

(a) require an applicant to advertise his application within the prescribed period—

- (i) in the prescribed form, and
 - (ii) in a manner which is prescribed and is likely to bring the application to the attention of the interested parties likely to be affected by it;
 - (b) require an applicant to give notice of his application to each responsible authority, and such other persons as may be prescribed, within the prescribed period;
 - (c) prescribe the period during which interested parties and responsible authorities may make representations to the relevant licensing authority about the application.
25. Sections 51 to 53 make provision for review by a licensing authority of a licence. If it receives an effective application for the review of a licence, section 52(2) requires it to hold a hearing to consider any relevant representations it receives, and section 52(3) imposes on the authority a duty:
- having regard to the application and any relevant representations, [to] take such of the steps mentioned in subsection (4) (if any) as it considers necessary for the promotion of the licensing objectives.
26. Section 52(4) specifies:
- (4) The steps are—
 - (a) to modify the conditions of the licence;
 - (b) to exclude a licensable activity from the scope of the licence;
 - (c) to remove the designated premises supervisor;
 - (d) to suspend the licence for a period not exceeding three months;
 - (e) to revoke the licence;
 -
27. In the exercise of the powers conferred on him by the Act, the Secretary of State has made the Licensing Act 2003 (Premises Licences and Club Premises Certificates) Regulations 2005. They include the following provisions:
- 3. These Regulations apply to applications, notices, representations and reviews.
 - 4. A person applying for a premises licence, a provisional statement, a variation of a premises licence, a review of a premises licence or a transfer of a premises licence or giving an

interim authority notice shall comply with the appropriate provisions of Parts 2 and 4.

5. A club applying for a club premises certificate or a variation of a club premises certificate or a person applying for a review of a club premises certificate shall comply with the appropriate provisions of Parts 3 and 4.

6. The relevant licensing authority in relation to an application, notice, representations or a review shall comply with the appropriate provisions of Parts 4 and 5.

28. Parts 4 and 5 of the Regulations do not impose any obligation on a licensing authority to advertise or to give notification of an application to vary a premises licence.

29. Regulation 22 provides:

(1) An interested party or a responsible authority making representations to a relevant licensing authority, may make those representations -

(a) in the case of a review of a premises licence following a closure order, at any time up to and including seven days starting on the day after the day on which the authority received the notice under section 165(4) in relation to the closure order and any extension to it;

(b) in any other case, at any time during a period of 28 consecutive days starting on the day after the day on which the application to which it relates was given to the authority by the applicant.

30. The advertisement of applications is the subject of regulations 25 and 26:

25. In the case of an application for a premises licence under section 17, ... to vary a premises licence under section 34 [(except where the only variation sought is the inclusion of the alternative licence condition)] ... , the person making the application shall advertise the application, in both cases containing the appropriate information set out in regulation 26 -

(a) for a period of no less than 28 consecutive days starting on the day after the day on which the application was given to the relevant licensing authority, by displaying a notice,

(i) which is -

(aa) of a size equal or larger than A4,

(bb) of a pale blue colour,

(cc) printed legibly in black ink or typed in black in a font of a size equal to or larger than 16;

(ii) in all cases, prominently at or on the premises to which the application relates where it can be conveniently read from the exterior of the premises and in the case of a premises covering an area of more than 50 metres square, a further notice in the same form and subject to the same requirements every fifty metres along the external perimeter of the premises abutting any highway; and

(b) by publishing a notice -

(i) in a local newspaper or, if there is none, in a local newsletter, circular or similar document, circulating in the vicinity of the premises;

(ii) on at least one occasion during the period of 10 working days starting on the day after the day on which the application was given to the relevant licensing authority.

26. - ...

(3) In the case of an application to vary a premises licence or a club premises certificate, the notices referred to in regulation 25 shall briefly describe the proposed variation.

(4) In all cases, the notices referred to in regulation 25 shall state -

(a) the name of the applicant or club;

(b) the postal address of the premises or club premises, if any, or if there is no postal address for the premises a description of those premises sufficient to enable the location and extent of the premises or club premises to be identified;

(c) the postal address and, where applicable, the worldwide web address where the register of the relevant licensing authority is kept and where and when the record of the application may be inspected;

(d) the date by which an interested party or responsible authority may make representations to the relevant licensing authority;

(e) that representations shall be made in writing; ...

31. Although, as mentioned above, Part 4 of the Regulations does not impose any obligation on a licensing authority to advertise or to notify any application it receives

for the variation of a premises licence, regulation 38 in Part 5 does impose a duty on it to advertise an application for the review of a premises licence under section 51.

32. The Secretary of State has issued guidance under section 182 of the Act. In large part, it is a paraphrase of the statutory provisions. For present purposes, only the following paragraph is relevant:

It is open to licensing authorities to notify residents living in the vicinity of premises by circular of premises making an application, but this is not a statutory requirement.

Discussion

33. I have real doubts as to whether the Residents did have any legitimate expectation as to their being notified of any application for the variation of the premises licence relating to the Albert Hall. However, for the purposes of this appeal, I am prepared to assume that, either for that reason or otherwise, as argued by Mr Steel (see paragraph 22 above), Westminster's decision to send circulars about the Albert Hall's application to residents in the neighbourhood but not to send such a circular to any resident of Albert Court was irrational and therefore in breach of Westminster's public law duties.
34. Neither the Act nor the Regulations impose any duty on a licensing authority to advertise such an application or to take any steps to notify anyone affected by it that it has been made. As has been seen, the sole duty to advertise and to give notice of the application is placed on the person making the application, in this case the Albert Hall. Before the judge, it was accepted that the Albert Hall had complied with that duty, and, more relevantly, it was not contended that Westminster had not reasonably been "satisfied that the applicant has complied with any requirement imposed on him by virtue of" section 34(5): see section 35(1)(b). It is now accepted that Westminster did not receive any "relevant representations" as defined in section 35(5), because the Residents' representations were received after the deadline imposed by the Regulations and therefore did not fulfil the requirements of subsection (6). The duty of the authority under subsection (3) to hold a hearing arises only if a relevant representation is received: this too is common ground. It follows that Westminster was under the duty imposed by section 35(2) to grant the application, and the Albert Hall had a right, enforceable at public law, to the grant of the application. This Court cannot grant any relief that would have the effect of preventing Westminster from complying with its statutory duty or deprive the Albert Hall of its public law right to the grant of the variation of its licence for which it had made a valid application. Any failure by an authority to act in relation to its extra-statutory notifications cannot give rise to any right to interfere with the performance of its statutory duties.
35. If authority is required for the proposition that an otherwise legitimate expectation cannot require a public authority to act contrary to statute, it is to be found in the seminal judgment of this Court, given by Lord Woolf MR as he then was, in *R v North and East Devon Health Authority, ex p Coughlan* [2001] QB 213 at paragraph 86 and the judgment in *R (Bhatt Murphy) v Independent Assessor* [2008] EWCA Civ 755 at paragraph 46, stating that the claim in *R v Department of Education and Employment, ex p Begbie* [2000] 1 WLR 1115 failed "principally because to enforce the expectation would have required the Secretary of State to act contrary to statute".

The judgment of Laws LJ in *R (Nadarajah) v Secretary of State for the Home Department* [2005] EWCA Civ 1363 includes an illuminating exposition of the principle of legitimate expectation that was approved by the Supreme Court in *Walumba Lumba v Secretary of State for the Home Department* [2011] UKSC 12. Laws LJ said, at paragraph 69:

... Of course there will be cases where the public body in question justifiably concludes that its statutory duty (it will be statutory in nearly every case) requires it to override an expectation of substantive benefit which it has itself generated. So also there will be cases where a procedural benefit may justifiably be overridden. The difference between the two is not a difference of principle. Statutory duty may perhaps more often dictate the frustration of a substantive expectation. ...

36. Precisely the same limitation must apply to judicial review sought on the ground of irrationality or any other common law ground. It is no more than an incident of the principle of legislative supremacy.
37. The Residents' case is not assisted by reference to section 4 of the Act. When exercising any discretion or power of decision under the Act, a licensing authority must do so "with a view to promoting the licensing objectives" as there defined. However, once the authority is under an unqualified duty to carry out an act specified by the statute there is no room for section 4 to apply. The authority simply has no choice but to perform its statutory duty.
38. If relevant representations (by definition, representations submitted in time) have been received by the authority and have not been withdrawn, section 35(3)(b) expressly requires it to "take such of the steps mentioned in subsection (4) (if any) *as it considers necessary for the promotion of the licensing objectives*". It is significant that the italicised words do not appear in the immediately preceding subsection (2). In effect, the Residents seek to reword that subsection by substituting "may grant the application" for "must grant the application" and in addition by inserting the words to the effect of those I have italicised. That is an impossible exercise in interpretation.
39. My conclusion does not mean that a decision by an authority to refrain from notifying persons affected by a licensing application cannot be challenged. In theory, if it was thought that an authority was acting irrationally or otherwise unlawfully, an order could be sought requiring it to reconsider its decision, and if made sufficiently promptly the Court might grant relief, if it would have any practical value. Thus in an appropriate case the Court might require the authority to notify residents in the immediate vicinity, if the notification could lead to representations being made within the statutory time limit. But that is the limit of the relief the Court could grant. The Court cannot subvert the statutory scheme.
40. Mr Steel submitted that in the present case the Court could make orders having the effect of postponing the date of the Albert Hall's application, thereby enabling timely representations to be made by the Residents. Neither the Act nor the Regulations confer any statutory power on the Court to grant such relief, and it has no common law power to grant it. Furthermore, as was pointed out by Mr Coppel, such relief

would conflict with the provisions of the Act and the Regulations and create practical problems, which it is unnecessary to set out.

41. In paragraph 43 of his judgment, McCombe J summarised his reasons for his now unchallenged decision that a licensing authority has no power to take into account late representations:

43. All these considerations, [counsel for Westminster] submitted, militated against the existence of the implicit residual obligation/discretion of the Council to consider late representations, initially directed to it as licensing authority. I agree with that submission. In my judgment, for reasons already advanced, this Act contains a clear statutory procedure, with clear time limits for the making of an application, objections to it and for the resolution of such objections. It provides in clear terms that, subject to such representations, the grant of the application is to follow. Given this clear machinery, I consider that in exercising its functions under this Act, the Council is entitled to deal with representations made to it as licensing authority strictly as such. Subject to such representations, as Richards J said [in *The British Beer and Pub Association & ors v Canterbury City Council* [2005] EWHC 1318 (Admin)], the applicant is entitled to the grant of his application. It would be contrary to that entitlement for the machinery to be undermined by letting in late applications through a back door not provided for by the Act itself.”

42. Unfortunately, doubtless because the point had not clearly been made to him, the judge did not draw the to my mind inevitable conclusion from his analysis. Once the conditions set out in section 35(1) were satisfied, in the absence of any relevant representation, the Albert Hall was, as the judge said, entitled to the grant of its application, and to paraphrase his words, it would be contrary to that entitlement for it to be undermined by a failure of the licensing authority to carry out a notification process (and therefore a “back door”) not provided for by the Act.
43. It does not follow that the Residents have no possible remedy. If their fears are realised, and the result of the variation in the licence is public disorder and public nuisance, they may apply for a review of the licence under section 51, to which I have referred. If they do so, then subject to the provisions of section 51, Westminster will be under a duty to hold a hearing to consider their representations, and it will then be required by section 52(3) to take such of the steps specified in subsection (4), if any, as it considers necessary to promote the licensing objectives listed in subsection 4. Those steps include the modification of the conditions of the licence (subsection (4)(a)) or even the revocation of the licence (subsection (4)(e)).
44. For these reasons, I would allow this appeal and set aside the order made by the judge quashing the variation of the premises licence.

Lord Justice Wilson:

45. I agree.

Lord Justice Lloyd:

46. I also agree.



Neutral Citation Number: [2012] EWHC 3467 (Admin)

Case No: CO/5736/2012

IN THE HIGH COURT OF JUSTICE
QUEEN'S BENCH DIVISION
ADMINISTRATIVE COURT IN MANCHESTER
(ON APPEAL FROM THE MANCHESTER AND SALFORD MAGISTRATES'
COURT BY WAY OF CASE STATED)

Leeds Combined Court,
1 Oxford Row, Leeds LS1 3BG

Date: 07/12/2012

Before :

MR JUSTICE HICKINBOTTOM

Between:

MATTHEW TAYLOR

Appellant

- and -

(1) MANCHESTER CITY COUNCIL
(2) TCG BARS LIMITED

Respondents

Jeremy Phillips (instructed by LR Law) for the Appellant
Sarah Clover (instructed by Susan Orrell, City Solicitor, Manchester City Council)
for the First Respondent

The Second Respondents were not represented and did not appear.

Hearing date: 26 November 2012

Approved Judgment

I direct that pursuant to CPR PD 39A para 6.1 no official shorthand note shall be taken of this Judgment and that copies of this version as handed down may be treated as authentic.

.....

THE HON MR JUSTICE HICKINBOTTOM

Mr Justice Hickinbottom:

Introduction

1. When and to what extent, if at all, can an application to vary a licence under the Licensing Act 2003 be amended?
2. That is an important question in practice, because many applicants seek to change their proposed variation in the light of representations they receive objecting to it or some part of it. It is a question which, as I understand it, has never before been addressed by the courts.
3. The question comes before this court in the form of a case stated by Deputy District Judge Robinson sitting in the Manchester and Salford Magistrates' Court. On 8 and 9 March 2012, he heard an appeal by the Appellant Matthew Taylor against a decision of the Licensing Sub-Committee of the First Respondent Manchester City Council ("the Council"), taken on 7 October 2011, to grant a variation to a premises licence relating to premises known as Via in Canal Street, Manchester. The Second Respondents TCG Bars Limited ("TCG Bars") owned and operated Via, and were the premises licence holder.
4. As a preliminary issue, Mr Taylor contended that the Council had acted unlawfully because TCG Bars had significantly revised their application after the statutory period of advertisement and consultation had expired, meaning that responsible authorities (such as the Council's own Environmental Health Department) and local residents had no reasonable notice of the revision and no proper opportunity of making representations in respect of it.
5. The Deputy District Judge held that the Council did not act unlawfully, and Mr Taylor appealed that decision to this court by way of case stated dated 14 May 2012. In paragraph 52 of the Case Stated, the Deputy District Judge poses the following question for this court:

"Given the variance between the application to vary the premises licence originally advertised and the revised scheme, and the timing of those revisions, was I correct in ruling that it was lawful for [the Council] to proceed to determine [TGC Bars'] application in accordance with section 35 of the Licensing Act 2003?"

The Licensing Act 2003

6. In this judgment, all statutory references are to the Licensing Act 2003, unless otherwise indicated.
7. The Licensing Act 2003, which came into force on 24 November 2005, radically changed licensing in England and Wales. Until then, there had been a patchwork of licensing systems, under which alcohol licences were granted by licensing justices, reflecting their historical role in maintaining the peace; whilst other licensing functions, such as entertainment, were in the administrative province of local councils.

8. The 2003 Act created a single system, in which magistrates were relieved of their administrative licensing responsibilities, in favour of local authorities. The White Paper which led to the reforms (“Time for Reform: Proposals for the Modernisation of Our Licensing Laws” (Cm 4696) (April 2000)) identified three reasons for the transfer of all licensing functions to local councils, as follows (paragraph 123):

“...

- **Accountability:** we strongly believe that the licensing authority should be accountable to local residents whose lives are fundamentally affected by the decisions taken.
- **Accessibility:** many local residents may be inhibited by court processes, and would be more willing to seek to influence decisions if in the hands of local councillors.
- **Crime and disorder:** Local authorities now have a leading statutory role in preventing local crime and disorder, and the link between alcohol and crime persuasively argues for them to have a similar lead on licensing.”

The first bullet point emphasises that licensing decisions were to be regarded as administrative decisions, taken in the public interest and subject to political accountability.

9. The role of a licensing authority under the 2003 Act was recently considered by the Court of Appeal in R (Hope and Glory Public House Limited) v City of Westminster [2011] EWCA Civ 31 (“Hope and Glory Public House”). Having rehearsed the history behind the Act, Toulson LJ, giving the judgment of the court, said (at [41]-[42]):

“41. ... [T]he licensing function of a licensing authority is an administrative function. By contrast, the function of the district judge is a judicial function. The licensing authority has a duty, in accordance with the rule of law, to behave fairly in the decision-making procedure, but the decision itself is not a judicial or quasi-judicial act. It is the exercise of a power delegated by the people as a whole to decide what the public interest requires....

42. Licensing decisions often involve weighing a variety of competing considerations: the demand for licensed establishments, the economic benefit to the proprietor and to the locality by drawing in visitors and stimulating the demand, the effect on law and order, the impact on the lives of those who live and work in the vicinity, and so on. Sometimes a licensing decision may involve narrower questions, such as whether noise, noxious smells or litter coming from premises amount to a public nuisance. Although such questions are in a sense questions of fact, they are not questions of the ‘heads or

tails' variety. They involve an evaluation of what is to be regarded as reasonably acceptable in the particular location. In any case, deciding what (if any) conditions should be attached to a licence as necessary and proportionate to the promotion of the statutory licensing objectives is essentially a matter of judgment rather than a matter of pure fact."

That chimes with the White Paper, Toulson LJ again stressing the essentially evaluative nature of the decision making process in most licensing matters, which demands a complex balancing exercise, involving particularly the requirements of various strands of the public interest in the specific circumstances, including the specific locality. He also marked the fact that Parliament has determined that, in this context, local authorities are best placed to make decisions of that nature.

10. The administrative nature of a licensing authority's function is also emphasised by, e.g., regulation 23 of the Licensing Act 2003 (Hearings) Regulations 2005 (SI 2005 No 44) ("the Hearing Regulations"), which provides that the hearing of an application "shall take the form of a discussion led by the authority..." and forbids cross-examination except in limited circumstances.
11. However, the justices still have a role to play in the new scheme. The main sanction for those who fail to comply with the new licensing laws is criminal, and magistrates have retained responsibility for dealing with people charged with offences under the licensing laws, as well as having an appellate function from licensing decisions of the relevant local authority.
12. The basic mechanism for regulation of the relevant activities is as follows. By section 2 of the 2003 Act, "licensable activities" can only be carried on under and in accordance with a "premises licence" issued by a "licensing authority", defined in section 3(1) usually to be the relevant local council; and section 136 imposes a criminal sanction on those who carry on licensable activities otherwise than under and in accordance with such a licence. "Licensable activities" include the retail sale of alcohol, the provision of regulated entertainment and the provision of late night refreshment (section 1(1)).
13. Section 4 is also an important provision. Under it, a licensing authority must carry out its functions under the Act (and hence must determine any licensing decision it has to make) with a view to promoting the following "licensing objectives":
 - (a) the prevention of crime and disorder;
 - (b) public safety;
 - (c) the prevention of public nuisance; and
 - (d) the protection of children from harm.

It is noteworthy that all of these objectives are essentially concerned with the public interest; although, of course, evidence of how a licence might affect individuals may be relevant to the assessment of that public interest.

14. By section 4(3), in exercising those functions, the authority must also have regard to both:
 - i) Guidance issued by the Secretary of State under section 182, which requires her to issue such guidance. The relevant version for the purposes of this appeal, which I shall refer to as simply “the section 182 Guidance”, was issued in April 2012. It has now been replaced by new guidance issued in October 2012.
 - ii) The authority’s own licensing statement published under section 5, which requires each authority to publish a statement of licensing policy regularly, at the relevant time for a period of three years and now (by virtue of section 122 of the Police Reform and Social Responsibility Act 2011) for a period of five years. The Council’s current Statement of Licensing Policy (“the Council’s Statement of Licensing Policy”) covers the period 2011-14.
15. The licensing functions of an authority are in practice delegated to a licensing committee or sub-committee (sections 6 and 7). In the Council’s case, they have established a Licensing Committee of 15 Council Members, with any application that requires a decision being determined by a Sub-Committee of three members of the Licensing Committee at a hearing (paragraph 3.36 of the Council’s Statement of Licensing Policy).
16. As Mr Phillips submitted, the regime is essentially a permissive one, generally allowing anyone to carry out “licensable activities” in an unfettered way by requiring the licensing authority to grant or vary a licence on application, unless the decision making powers of the licensing authority are triggered – by, e.g., representations being made on an application to vary – whereupon the authority must take a decision in response to the application based upon the promotion of the licensing objectives. However, even then, the steps it has power to take are limited to those specifically identified in the scheme.
17. Section 17 sets out the procedure for making an application for a new licence. Section 17(3) requires an application to be accompanied by “a plan of the premises to which the application relates, in the prescribed form”. Section 17(5) provides that the Secretary of State must by regulations require the applicant and the licensing authority to advertise the application for a prescribed period and in a prescribed manner, and “prescribe a period during which interested parties and responsible authorities may make representations to the relevant licensing authority about the application”. “Interested parties” are defined in section 13(3) as including a person living in the vicinity of the premises. (Under section 105 of the Police Reform and Social Responsibility Act 2011, “interested parties” has now been substituted by “persons who live, or are involved in a business, in the relevant licensing area”; but that change has no relevance to this appeal). “Responsible authorities” are defined in section 13(4) to include relevant local weights and measures, police, fire, rescue, health, environmental health and planning authorities.
18. An application must also put forward an individual as the “designated premises supervisor”, and no supply of alcohol can be made under a licence unless there is such a supervisor named in the licence and he has a current “personal licence” in accordance with Part 6 of the 2003 Act (sections 15 and 19). Personal licences form

no part of this appeal, and I need not say anything further about them; except that, since May 2010, the designated premises supervisor for the premises at 28-30 Canal Street has been Anthony Cooper.

19. The Secretary of State has made procedural regulations in respect of applications for premises licences in the form of the Licensing Act 2003 (Premises Licences and Club Premises Certificates) Regulations 2005 (SI 2005 No 42) (“the Premises Regulations”), as well as the Hearing Regulations.
20. Subject to the express requirements of the Hearing Regulations, procedure at the hearing of an application is expressly a matter for the licensing authority (regulation 21 of the Hearing Regulations). There is no similar provision in the Premises Regulations, which are generally prescriptive as to the pre-hearing procedure that must be followed by the applicant (who must comply with the appropriate provisions in Parts 2 and 4), and the licensing authority (which must comply with the appropriate provisions in Parts 4 and 5) (regulations 4 and 6).
21. Regulation 23(1) of the Premises Regulations repeats the requirement that an application for a new licence must be accompanied by a plan; and regulation 23(3) provides that a plan, when required, must show various specified topographical features, including:
 - “(a) The extent of the boundary of the building, if relevant, and any external and internal walls of the building and, if different, the perimeter of the premises;
 - (b) the location of points of access to and egress from the premises;
 - (c) if different from subparagraph (3)(b), the location of escape route from the premises;
 - (d) ...”

Of course, in addition to the elements required by regulation 23(3), a plan that is lodged may show other matters which are not required by law.

22. Regulation 25 requires applications to be advertised in specific ways for 28 days.
23. “Relevant representations” are defined as representations made by an interested party or responsible authority, which are neither frivolous nor vexatious nor withdrawn, and which are in time and “are about the likely effect of the grant of the premises licence on the promotion of the licensing objectives” (section 18(6) and (7) of the 2003 Act). That definition is important: representations to be relevant have to be about the effect of the licence on the promotion of the public interest licensing objectives set out in section 4, although evidence of the actual or potential impact of the licence on individuals may be relevant to the various strands of public interest involved. That is reflected in Appendix 2 to the Council’s Statement of Licensing Policy which, under the heading “Relevant Information for Residents and Other Interested Parties”, states:

“...

- In accordance with [the definition of ‘relevant representation’], you should demonstrate how your representation affects the promotion of the licensing objectives.
 - Provide an evidential base for the grounds of the representation; which could include written logs of problems, details of previous complaints, photographs or video evidence of the particular case.”
24. The relevant period for representations in a case such as this is “28 consecutive days starting on the day after the day on which the application to which it relates was given to the authority by the applicant” (regulation 22 of the Premises Regulations).
25. Where no “relevant representations” are made, the licensing authority is bound to grant the application subject only to specified conditions derived from the operating schedule (section 18(2)). Where such representations are made, a decision making power arises in the licensing authority, because the requirement that the authority is bound to grant the application is subject not only to those same conditions but also to section 18(3) and (4), which provides that, where relevant representations are made:
- “(3) ... the authority must –
- (a) hold a hearing to consider them, unless the authority, the applicant and each person who has made such representations agree that a hearing is unnecessary; and
 - (b) having regard to the representations, take such steps mentioned in sub-section (4) (if any) as it considers necessary for the promotion of the licensing objectives.
- (4) The steps are –
- (a) to grant the licence subject to [such conditions mandated by the statutory provisions, and such conditions as are consistent with the operating schedule accompanying the application modified to such extent as the authority considers necessary for the promotion of the licensing objectives];
 - (b) to exclude from the scope of the licence any licensable activities to which the application relates;
 - (c) to refuse to specify a person in the licence as the premises supervisor;
 - (d) to reject the application.”
26. With regard to subsection (4)(a):

- (i) by section 18(5), for these purposes, conditions are “modified” if any of them is “altered or omitted or any new condition is added”; and
 - (ii) by section 109 of the Police Reform and Social Responsibility Act 2011, “necessary” has now been replaced by “appropriate”; but again that change is not material to this appeal.
27. Whilst the provisions of section 18(3) and (4) are written in mandatory terms (“... the authority *must*...”), a discretion arises as the result of the words “take such steps ... *as it considers necessary* ...” (emphases added). However, in determining a licence application, the discretion that an authority has is limited in two ways: (i) that authority can only take one or more of the steps listed in section 18(4), and (ii) it is empowered (although also obliged) to take only such of those steps it “considers necessary for the promotion of the licensing objectives”. The statutory provisions consequently both define and limit an authority’s powers in determining an application for a new licence.
28. Once a licence has been granted, if it is proposed to change the relevant business or premises such that the carrying out of licensable activities will fall outside the licence which has been granted, then the licence holder can change the licence in one of three ways.
29. First, if it is proposed to extend the period for which the licence has effect or to vary substantially the premises to which it relates, then a new application under section 17 has to be made (section 36(6), and paragraph 8.73 of the section 182 Guidance). That requires, not only advertisement and a period for the making of relevant representations to be made, but also the licensing authority to reconsider and review the entire licence afresh.
30. Second, at the other end of the scale, if the proposal is of a very limited nature, which is incapable of having an adverse impact on the promotion of any of the licensing objectives, then a simplified procedure involving restricted publicity can be adopted (sections 41A-41D, introduced by the Legislative Reform (Minor Variations to Premises Licences and Club Premises Certificates) Order 2009 (SI 2009 No 1772)). Paragraphs 8.59 and 8.60 of the section 182 Guidance provide:
 - “8.59. Many small variations to layout will have no adverse impact on the licensing objectives. However, changes to layout should be referred to the full variation process if they could potentially have an adverse impact on the promotion of the licensing objectives, for example by... affecting access between the public part of the premises and the rest of the premises or the street or public way, e.g. block emergency exits or routes to emergency exits....
 - 8.60. Licensing authorities will also need to consider the combined effect of a series of applications for successive small layout changes (for example, as part of a rolling refurbishment of a premises) which in themselves may not be significant, but which cumulatively may impact on the licensing objectives.

This emphasises the importance of having an up to date copy of the premises plan available.”

31. It is not suggested by any party that the changes proposed in this case, to which I shall come shortly, warranted a new section 17 application for a new licence, or could properly have been the subject of the minor variation procedure. It is common ground that it was appropriate for those proposed changes to be the subject of the third procedure, namely an application for a variation of the licence under section 34.
32. The procedure for an application under section 34 mirrors the procedure for a new application under section 17.
33. The Secretary of State has to make regulations for the due advertisement of the application (section 34(2)); and, by regulations 25 and 26 of the Premises Regulations, she has provided that the advertisement of such application must be the same as for an application under section 17 for a new licence.
34. Any premises licence has to be accompanied by a plan; but that does not mean that a plan always has to accompany an application to vary. Section 34(5) and regulations 27 and 27A of the Premises Regulations refer, expressly or implicitly, to accompaniment by a plan *where appropriate*; and regulation 23(1) only requires a plan to accompany an application for a new licence under section 17. For example, if an application to vary is made merely to extend hours for the same licensed activities without any change to the premises themselves, a plan would be unnecessary in practice and is not required by the scheme. However, it was properly common ground that where, as here, there is an application for a variation including significant changes to the internal layout of the premises (including elements required to be on a plan by regulation 23(3)), a plan complying with regulation 23(3) would be essential to the application.
35. Section 35(2)-(4) of the 2003 Act, reflecting to an extent section 18(2)-(4) in respect of a section 17 application for a new licence, provides that, where no relevant representations are received within the relevant period, then the licensing authority must grant the variation; but, where such representations are received, then they trigger a decision making process. The authority must hold a hearing and must, having regard to the representations, take such steps from those listed in section 35(4), if any, as it considers necessary for the promotion of the licensing objectives. Sub-section (4) states that:
 - “(4) The steps are –
 - (a) to modify the conditions of the licence;
 - (b) to reject whole or part of the applicationand for this purpose the conditions of the licence are modified if any of them is altered or omitted or any new condition is added.”
36. Again, the licensing authority has a discretion in its decision making here; but, as with section 18(4) for an application for a new licence, where there are relevant

representations in respect of an application to vary, it is limited: the authority can only respond to the application in one or more of the ways set out in section 35(4), and it can only take such steps “as it considers necessary for the promotion of the licensed objectives.” Again, that requires an evaluation of what is necessary for the promotion of those objectives.

37. Therefore, as with a section 17 application, it can be seen that it is the making of relevant representations in respect of an application to vary that triggers a process of decision making by the authority, in the form of a hearing and decision to take such steps as are allowed and required by section 35(3) and (4). Where no representations are received within the relevant period, the applicant is entitled to the variation he seeks: no decision making process is triggered at all (Corporation of the Hall of Arts and Sciences v The Albert Court Residents’ Association [2011] EWCA Civ 430, “Corporation of the Hall of Arts and Sciences”). It was suggested, obiter, in Corporation of the Hall of Arts and Sciences that an authority has no power to take into account late representations even where the decision making process may have been triggered by other, in-time representations (see, e.g., [41]): and it seems to me that that follows from the wording of section 35(3), which focuses exclusively on relevant representations which are defined in terms of being in-time. However, it was common ground before me – and, in my view, properly so – that, if someone has made relevant representations, then he may later amplify them.
38. There is one final procedure that should be mentioned. Under section 51, where a premises licence is in effect, a responsible authority or interested party may apply to the licensing authority for a review of the licence. The onus of establishing grounds for review falls upon the person initiating the application – including establishing that the ground is relevant to one or more of the licensing objectives (section 51(4)(a)) – but, otherwise, the procedure again reflects that for a new licence. In particular, any such application has to be the subject of advertisement (as well as notice to the licence holder), and there is a period in which representations may be made. There must be a hearing to consider the application and any relevant representations, which are again defined by reference to relevance to the licensing objectives (section 52(7)). In response to an application, the authority again must take such steps that are listed as it considers necessary for the promotion of the licensing objectives, those steps being, in this context:
- “(a) to modify the conditions of the licence;
 - (b) to exclude a licensable activity from the scope of the licence;
 - (c) to remove the designated premises supervisor;
 - (d) to suspend the licence for a period not exceeding three months;
 - (e) to revoke the licence.”
39. Such an application would be appropriate where a licence holder performs licensable activities, within the scope and in accordance with the terms and conditions of his licence, but nevertheless those activities impact adversely on local residents, by

causing unanticipated disorder or a public nuisance. It might be prompted by, e.g., a change in the manner in which the business is conducted (albeit within the scope and conditions of the licence), or merely busier trade.

The Facts

40. Canal Street is an area of restaurants and bars, as well as residential accommodation, in a central part of Manchester known as the Village.
41. Since September 2005, TGC Bars have operated a bar in premises at 28-30 Canal Street, under a premises licence granted by the Council. Those premises front onto Canal Street, and back onto Richmond Street, a parallel street. They comprise essentially two licensed floors: the ground floor including a mid-level mezzanine floor, and a basement.
42. The licence authorises three activities: the retail sale of alcohol, the provision of identified regulated entertainment and the provision of late night refreshment. The licence as initially granted was subject to 94 conditions, including the following in Annex 2:
 - Condition 31: "The licensed premises shall be provided with an adequate number of exits clearly indicated and so placed and maintained so as to readily afford the audience ample means of safe egress."
 - Condition 33: "Emergency doors must not be fitted with any securing device other than an approved type of panic bolt fitting...."
 - Condition 34: "Doors not in normal use, which are regarded as emergency exits, should be fitted with an alarm which is activated when they are opened. The alarm should be inaudible in public areas and should sound in an area permanently manned by management/staff whilst the premises are occupied...."
 - Condition 60: "Alterations or additions, either permanent or temporary, to the structure, lighting, heating or other installations or to the approved seating gangways or any other arrangements in the premises must not be made except with the prior approval of the City Council."
 - Condition 71: "Occupancy: Basement 240 persons, Mid Level 120 persons, Ground Level 260 persons, Total 620 persons."
 - Condition 72: "The windows and external doors on the Canal Street façade to be kept closed after 23.00 hours except for access and egress."
43. The licence had a plan of each floor attached to it, showing the matters required by regulation 23(3), and more. It showed five sets of external doors on the Canal Street

façade ground floor, two (each with a lobby inside) marked, “Entrance”; and one, at the south east end of the building, giving access to the basement only via a doorway onto Canal Street (“the V2 doorway”) and a set of stairs. The V2 doorway is adjacent to the door to the residential apartments on the upper floors of 10 Canal Street (the first floor, ground floor and basement of those premises being another licensed bar called “Crunch”, owned and managed at the relevant time and now by the Appellant, which has an entrance just a few yards further up Canal Street). At the bottom of those stairs from the V2 doorway, the basement plan attached to the licence for the Via premises shows double doors marked “FD” into a bar area with dance floor.

44. The extent to which the V2 doorway had been used prior to the application to vary is contentious. However, it was common ground before the Deputy District Judge that it had not been used as the principal entrance and exit to the premises, and use of the doorway had not been required to cease as a result of being a breach of licence. For the purposes of the preliminary ruling, the parties agreed that it was not necessary for the judge to make a finding about the extent of the use that had been made of that doorway (Case Stated, paragraph 13) – and he did not make any such finding.
45. On those licence plans, there are a number of doors shown from the rear of the building onto Richmond Street; notably one set, again to the east end of the building, giving access to a second set of stairs down to the basement (“the Richmond Street doorway”). The external doors to the Richmond Street doorway are again marked on the plan, “FD”. The evidence was, and the Deputy District Judge found (Case Stated, paragraph 10), that at all material times that doorway was in fact only used by staff and as an emergency escape.
46. In addition, the plans showed that there were several sets of internal stairs joining the ground floor and basement.
47. On 9 August 2011, TGC Bars made an application to the Council, under section 34, to vary their licence. The proposed variation had a number of elements, comprising in effect as follows (Case Stated, paragraph 14):

“... ”

- An extension of hours [for both sale of alcohol and provision of entertainment by one hour per day, ending one hour later each day].
- Internal works to the ground floor premises.
- The creation of two separate venues (Via – ground floor; Club Polari – basement), by the construction of internal walls, which had the effect of providing new toilet accommodation for Via at basement level. Club Polari would have its own completely separate toilet accommodation.
- The provision of a wholly new and independent means of access to Club Polari for members of the public/club patrons by way of a public entrance doorway on

Richmond Street (necessary because the previously utilised access from Via would no longer be possible with the new layout).”

The “previously utilised access from Via” is, of course, not a reference to the V2 doorway and stairs; but to the internal access from the ground floor.

48. The application was based upon a completed prescribed form, schedule of alterations and plans. The plans showed considerable changes to the internal walls and general layout of each floor (which made a plan a vital component of the application: see paragraph 34 above); but no change to the structure or layout of either the staircase at the north east corner of the building to the Richmond Street doorway (where the legend “FD” still appeared on the external doors), or the staircase at the south east corner onto Canal Street via the V2 doorway (where the doors at the foot of the stairs were also still marked “FD”). However, the schedule made clear that the alterations would include:

“... a full refurbishment of the rear staircase (currently used for staff and as an emergency escape) to provide improved and independent public access to this basement area from the rear of the building.”

49. The application was duly advertised, and a number of representations were received by the Council in respect of the proposed extension of hours and the public access from Richmond Street. None objected to the division of the premises into two separate public venues, *per se*.
50. The Council’s Environmental Health Department opposed both the proposed increase in hours and the proposed public use of the Richmond Street doorway on grounds of public nuisance. In respect of the latter, they said that that door was likely to lead to issues of public nuisance because Richmond Street is very narrow and bordered by high sided buildings, so any noise created by customers using that side of the building would likely be exaggerated by the corridor effect of the buildings which could lead to noise nuisance for the occupiers of the apartments that back onto Richmond Street. Those apartments include some in 10 Canal Street. No representations were received from any other responsible authority.
51. With regard to interested parties, the occupants of Flat 8, 10 Canal Street (Mr & Mrs Seymour) objected to the public use of the Richmond Street doorway on similar grounds, asking for permission for that new public entrance to be refused. Mr Taylor (who lives in Flat 1), the occupant of Flat 3 (Mr Welford) and another local resident living in a different block, all objected to the extension of hours. All of those representations were received by the Council before the close of statutory period for representations, on 7 September 2011.
52. On 12 September, solicitors for TCG Bars responded to those representations by writing to the Council as follows:

“The application is made up of three parts –

1. To carry out some internal alterations.

2. To create a new entrance on Richmond Street.
3. To extend the operation hours at the premises for alcohol and entertainment.

We have received representations from some residents and from the Environmental Health [Department] which our client has considered fully.

We are instructed, therefore, to amend the application in the light of the representations as follows.

1. We withdraw the part of the application to extend the hours for licensable activities which will remain as existing.
2. We attach amended layout plans which remove the application for the new entrance on Richmond Street.

The application to carry out other internal works which have not received any representation remains as per the amended plans.

We have copied in all authorities and the residents with email addresses and would ask them to confirm as soon as possible that the representations are now withdrawn as they have no relevance to the application so that the application can be granted by delegated powers.”

It is to be noted that the letter purported to “amend” the application to vary.

53. The “amended plans”, dated 12 September 2011, were headed “Revision A – Main entrance to basement bar now positioned to front elevation”. They showed most of the external doors at the back of the building (including the Richmond Street doorway) marked, “Escape”; and the V2 doorway marked, “Entrance to Basement Bar”. However, there were no differences in the structure or layout from the plan used for the original application. The doors in the basement at the foot of the V2 doorway stairs, and the external doors of the Richmond Street doorway, were both still marked “FD”.
54. The new proposal came to Mr Taylor’s immediate notice, and he discussed it with three other residents of 10 Canal Street on the evening of 12 September, before writing to TGC Bars’ solicitors, with a copy to the Council, the following day:

“Looking at your revised plans. On your ground floor plan there is a new second entrance planned for named “Entrance to Basement Bar”. This entrance is new on this plan which is currently a fire escape for the premises. This new proposed Entrance is directly next to the entrance door way to the 10 Canal Street flats. This is of great concern as Via already

creates more than an acceptable amount of noise and I believe that this entrance will create further noise and disturbance.

My objection has been based around noise...

... I believe most if not all premises in the area now include operating conditions in their licences to assist with the management of noise and disturbance including having sound limiters, closing doors and windows when regulated entertainments are taking place, and the use and training of dispersal aids and policies with staff.

If the applicant can provide some conditions in their licence for this, I believe I would be happy to agree the application.”

55. Mrs Seymour, having first withdrawn her representation, reinstated it on 7 October, having been contacted by Mr Taylor who pointed out the intention to use the V2 doorway as the sole means of public access to the basement. Mr Welford, the same day (7 October) also objected to the revision, on that same basis. The Environmental Health Department appears to have withdrawn its objection on the basis that the hours were not to be extended and Richmond Street would not be used for public access.
56. The hearing before the Council’s Licensing Sub-Committee was held that day, 7 October 2011. Mr Taylor was the only interested party to attend, and he pressed for a number of conditions. In the event, the Sub-Committee granted the application, but included two further conditions on the licence, as follows:
1. Exit from the premises onto Richmond Street is to be used as a fire exit only.
 2. A barrier to ensure queue forms in front of Via is to be operational from 20.00 daily. The barriers to be removed at the same time as the barriers which define the smoking area.

The second additional condition reflects paragraph CD1 of the Council’s Statement of Licensing Policy, which requires the effective management of queues to prevent any nuisance or disorderly behaviour: “... [L]icensees are expected to demonstrate how they will manage queues to the premises.”

57. That decision was formally notified to Mr Taylor on 20 October 2011. On 24 October, he lodged an appeal with the Magistrates’ Court, under section 181 of the 2003 Act. It was in the context of that appeal that the Deputy District Judge made his ruling in respect of the preliminary issue, which has in turn been appealed to this court.
58. To complete the chronology, without prejudice to this appeal, the Council, TGC Bars and the interested parties who had made representations (notably, Mr Taylor) have now agreed that further conditions should be imposed; the Council have imposed those further conditions; and the premises have been operating as two discrete bar venues for some months on the basis of those conditions. No application for any review of the licence has been made under section 51, and there is no evidence of any

difficulties in practice occurring as a result of the business operating under the licence with those conditions. Mr Cooper's apparently unchallenged evidence (paragraph 3 of the undated and unsigned statement used before the Deputy District Judge) was to the effect that, since the opening of the discrete basement bar in November 2011, there have been no issues with the Council's Environmental Health Department, the premises have been trading well, and he has maintained good relations with neighbours including those who live in 10 Canal Street.

The Parties' Contentions

59. Mr Phillips for the Appellant Mr Taylor stressed that the 2003 Act, Regulations and Guidance do not on their face allow for *any* change to an application to vary a licence. Whilst he was prepared to accept that *de minimis* changes to an application might be made, he submitted that no amendment could be made that might reasonably be considered capable of having an adverse impact on the promotion of the licensing objectives. Where such a change is contemplated, an applicant is bound to start again by resubmitting the application, with the consequent new obligations for advertisement and new rights for responsible authorities and interested parties to make representations. Such changes, he submitted, should not generally arise when an applicant has engaged in pre-application consultation with responsible authorities and interested parties, as encouraged by paragraph PN3 of the Council's Statement of Licensing Policy. However, to allow amendments greater than that after the application had been made and advertised would fundamentally undermine the regulatory scheme's provisions for representations; encourage the undesirable practice of applicants lodging applications in a form designed to attract a lesser degree of objection, with the intention of amending subsequently and without notice to those who might be detrimentally affected; and be "transparently at odds" with local residents' right to private life under Article 8 of the European Convention on Human Rights.
60. Applying those principles to this case, Mr Phillips submitted that the 12 September amendment, with its change of route for public access to the basement floor, was clearly at least capable of having an effect on the licensing objectives, notably the prevention of public nuisance. By advertising the initial proposal to create a discrete basement venue with a new means of access on Richmond Street and then, after the expiry of the time for making representations and without public notice, amending the location of that access to the V2 door onto Canal Street, responsible authorities and interested parties were effectively deprived of the opportunity to make representations in relation to potential effects the revised scheme might have upon the promotion of the licensed objectives. They would not necessarily have become aware of the new means of access at all; but, even if they did, they could not have become aware of them until, at the earliest, 12 September 2011, when the revision was put forward. By that date, they would have been debarred from making any representations against the revised scheme, as the time limit for representations is strictly construed and had expired.
61. In the circumstances of this case, the legislative scheme required responsible authorities and interested parties to be given an opportunity to make representations in respect of that new proposal. As they were denied that opportunity, the Sub-Committee acted unlawfully in proceeding on the basis of the amended application.

62. Miss Clover for the Council submitted that, under the premises licence, the licence holder had always been able lawfully to use the V2 doorway for public access to the premises. On 12 September 2011, TGC Bars abandoned their application for extended hours and the refurbishment of the Richmond Street stairway and entrance to enable them to be used for public access to the basement. The application was thereafter restricted to the internal structural and layout changes, which did not include any changes to the structure of the V2 doorway and stairs, nor any changes to which any relevant representations had been made. The mere increase in intensity of use of that doorway for public access that was likely as a result of the proposed change did not require any formal variation to the licence.
63. The Sub-Committee was therefore able, and indeed right, to deal with the application solely on the basis of that limited remaining proposed variation in structure and layout. If, in the view of interested parties such as local residents, the change of business operation in fact impacted upon the licensing objectives, then the appropriate remedy lay in an application for review under section 51 (see paragraphs 38-39 above).

Discussion

64. This appeal concerns the principles and structure of the licensing scheme implemented by the 2003 Act.
65. As I have described (paragraph 12 above), regulation of the retail sale of alcohol and prescribed entertainment is effected by imposing a criminal sanction upon those who carry out such activities other than in accordance with a licence granted by the relevant local authority. This means that a licence holder is entitled to sell alcohol and provide entertainment in any manner he wishes, so long as the licence does not prohibit that manner of provision in some way, because (e.g.) it falls entirely outside the scope of the licence or it breaches one of the licence conditions.
66. If those activities are carried out lawfully, within the scope of the premises licence and in accordance with the licence conditions, but the manner in which they are carried out adversely impacts on one of the licensing objectives (e.g. by in fact causing disorder or a public nuisance), then the remedy of any person affected (whether a responsible authority or an interested party) is to apply for a review of the licence under section 51, to which the licence holder, and responsible authorities and other interested parties can respond.
67. Where the holder of a licence intends to carry out activities in a way that he considers may not be in accordance with his licence, then he is able to apply for a variation of the licence to extend the scope of the licence to cover that manner of carrying out those activities or remove a condition in respect of which he considers he would be in breach, using one of the three procedures set out above. If he does not, and the activities do fall outside the scope of the licence or breach the licence conditions, he is liable to prosecution. So the risk of not applying for a variation is his. That is no doubt why the terms of section 34(1) do not require an application for variation to be made in any circumstances, those terms being merely permissive: "The holder of a premises licence *may* apply to the relevant licensing authority for variation of the licence" (emphasis added).

68. On an application to vary, the Premises Regulations provide detailed rules for both advertisement, and as to how, when and by whom representations can be made in respect of the application. Representations can only be made on the public interest grounds set out in section 4, and must be made within 28 days: although representations can be amplified once made, once the 28 day period has expired the authority has no power to receive representations from those who have not previously submitted any. If no representations at all are made on those grounds in that 28 day period, then the licence holder is entitled to his variation as of right. If representations are made on those grounds, then that triggers a process of decision making by the authority. The very purpose of the representations is, initially, to be that trigger.
69. Once the decision making process is triggered, it is driven by the terms of the scheme, the discretion given to the authority by the scheme, and the requirement that the authority acts fairly.
70. The scheme provides no mechanism for amending an application once made, and neither the Act nor the regulations, nor the Secretary of State's Guidance nor the Council's own Statement of Licensing Policy, makes any mention of the possibility of amendment. Clearly, a power to amend that would defeat or undermine the object of the procedural provisions relating to advertisement and right of responsible authorities and interested parties to make representations could not conceivably be implied; and neither Mr Phillips nor Miss Clover suggested otherwise.
71. However, the scheme has no express power enabling an applicant to amend an application to vary; and, in my judgment, properly construed, the regulatory scheme does not as such allow or envisage any amendment to an application to vary once it has been made.
72. It does not need to do so, because of the nature of the decision making process with which the authority is involved. As stressed in the illuminative judgment of Toulson LJ in Hope and Glory Public House (see paragraph 9 above), in respect of licensing, a licensing authority exercises an administrative function given to it by Parliament. Whilst the authority must no doubt take into account the rights of those people who live and work in the vicinity, those interested parties can only make representations as to the "likely effect of grant of the application on the promotion of the licensing objectives", i.e. on the basis that the *public* interest will be adversely affected. It is the potential impact upon that *public* interest, and that alone, which triggers any decision making process at all. In its absence, the licence holder has a right to the variation it seeks.
73. Once triggered, it requires the making of an evaluative judgment, involving (as Toulson LJ said in Hope and Glory Public House) the weighing of a variety of competing public policy considerations, such as the demand for licensed establishments, the economic benefit to the proprietor and to the locality by drawing in visitors and stimulating the demand, the effect on law and order, and including the impact generally on the lives of those who live and work in the vicinity. It inherently involves an evaluation of what is to be regarded as reasonably acceptable in the particular location, and of what is necessary and proportionate to the promotion of the statutory licensing objectives in terms of scope of the licence and conditions in a local context.

74. The scheme is based on the premise that the relevant local authority is uniquely equipped and well-placed to make such judgments. In such areas of quintessential policy, the State generally has a wide margin of appreciation, or, in the more domestic terms used by the Divisional Court in Meade v Brighton Corporation [1968] 67 LGR 289 (a case concerning a gaming machine permit under the Betting, Gaming and Lotteries Act 1963): “The discretion in the local authority is about as wide as it could be”. The court will be cautious before interfering with the exercise of such a discretion.
75. However, wide as a licensing authority’s discretion might be in general, it is limited by the specific terms of the scheme: in the context of premises licence applications under the 2003 Act – whether for new licences under section 17, or for variations under section 34, or for review under section 51 – a licensing authority does not simply have an open discretion, even when its decision making function is brought into play.
76. The principle restrictions on an authority’s discretion are, for the purposes of this appeal, two-fold.
77. First, an application to vary never triggers a general review of the licence: the scope of the review of the licence is limited. “Relevant representations”, which trigger the review, must be (i) confined to the subject matter of the variation (paragraph 9.4 of the section 182 Guidance), and (ii) “about the likely effect of the grant of the application on the promotion of the licensing objectives”. That focus reflects the fact that, where those representations are made, they trigger an enquiry by the authority into the effect the proposed variation may have upon the promotion of the licensing objectives (and, to that extent, I respectfully agree with the authors of *Alcohol and Entertainment Licensing Law* by Manchester, Poppleston & Allen (2nd Edition) (2008), at paragraph 6.9.4, to that effect). An application for a new licence or for a review is similarly limited, although the precise statutory restrictions are different, tailored to the nature of the particular application.
78. Second, in the light of the conclusions of that enquiry, the authority must determine the application to vary. However, the scheme again does not give the authority an open discretion to do whatever it likes. Indeed, the provisions are prescriptive. Section 32(5) requires the authority to consider whether, for the promotion of the licensing objectives, it is necessary to reject the application (in whole or in part) and/or to modify the conditions of the licence to accommodate the variation in the context of the licence as a whole. There is a discretion here, insofar as the authority only has to act if it considers such rejection or modification is necessary: but, if and insofar as it does consider that, then it has both a power and an obligation to reject the application or modify the licence conditions accordingly. The authority can do no more, and no less. Again, an application for a new licence or for a review has similar restrictions on the authority’s powers.
79. These provisions therefore effectively define and limit the extent of the authority’s powers as to how a licensing authority may respond to an application to vary a licence. Its field of potential action is limited by the scope of the extant licence and the application to vary that licence; and it is limited to rejecting the application to vary (in whole or in part) and/or to modifying the conditions of the licence to accommodate the variation in the context of the licence as a whole.

80. It is here that an applicant's changing wishes or intentions may come into play. Given the power of a licensing authority to reject part of an application for variation or modify the licence conditions, it is open to an applicant (e.g. in the face of relevant representations received) to indicate to both licensing authority and responsible authorities/interested parties who have made relevant representations that (i) he does not wish to pursue part of an application and/or (ii) he is willing to agree to a modification to the licence conditions to cater for the concerns expressed.
81. Whilst that may be expressed, as in this case, as an "amendment" to the application to vary, in my view it does not amount to a formal amendment to his application; but the licensing authority is bound to take those views of the licensee into account in exercising its discretion as to appropriate steps it might take in deciding the application in its original form. An authority would not usually consider it necessary to consider further any part of the application which the applicant no longer wishes to pursue - although, on particular facts, it may do so if, for example, the part abandoned cannot be properly be severed from other aspects of the licence. The authority would also wish to consider, with the responsible authorities/interested parties, whether the conditions to which the applicant is prepared to submit address the concerns raised in their relevant representations as to the potential impact of the proposed variation on the promotion of the licensed objectives.
82. Given the administrative nature of the authority's function, it is perfectly appropriate for the authority thus to liaise with the applicant licensee and the responsible authorities/interested parties to see whether a compromise can be reached. Where, after relevant representations are lodged, discussions between the licensing authority, the applicant and responsible authorities/interested parties who have made relevant representations lead to an agreement within the scope of the extant licence and original application to vary as to the parts of the application to be granted and the conditions upon which that grant will be made, then it is open to the authority to make a grant on those conditions; so long as it considers that the rejection of the parts agreed to be rejected and modification of the conditions agreed to be modified are necessary for the promotion of the licensing objectives. In those circumstances, the responsible authorities/interested parties might withdraw their representations (regulation 10 of the Hearing Regulations), or the parties may agree that a hearing is unnecessary and the authority may dispense with a hearing if it agrees that it is unnecessary (section 35(3)(a), and regulation 9 of the Hearing Regulations)
83. For the reasons already explored, given the decision making power granted to it by Parliament, the administrative nature of that power and the unique position an authority is in to make the relevant judgments, subject to any restrictions expressly imposed by the terms of the statutory scheme itself, the discretion of a licensing authority is necessarily wide, and the exercise of such a discretion with which this court should be cautious of interfering. Whilst the pre-hearing procedure is detailed and prescriptive, and does not have the equivalent of regulation 21 of the Hearing Regulations (which expressly gives the authority power over its own procedure), that discretion applies to the procedure the licensing committee adopts pre-hearing, subject to the procedure adopted (i) complying with the procedural requirements of the scheme, and (ii) being "fair" and directed to promoting the licensing objectives in section 4. That was illustrated in Corporation of the Hall of Arts and Sciences, in which, in addition to the mandated advertisement of the application to vary, the

authority had a practice of notifying directly businesses and residents in the immediate vicinity of the relevant premises. “Fair” here has to be seen in the context that the authority is performing an administrative function: it is not acting in a judicial or quasi-judicial capacity (see Hope and Glory Public House at [41] per Toulson LJ). If the licensing committee stray outside that wide discretion, and adopt a procedure which is irrational or otherwise unlawful, then the resulting decision may be open to challenge by way of appeal or judicial review (see Hope and Glory Public House at [51]-[52] per Toulson LJ; and Corporation of the Hall of Arts and Sciences at [39] per Stanley Burnton LJ).

84. In conclusion, it is to that extent, but only to that extent, that an applicant may notify “amendments” to the parts of the application he wishes to pursue, and the conditions he is prepared to accept to enable the variation to be granted. However, the licensing authority in the form of the licensing committee or sub-committee must eventually itself come to a judgment as to whether the promotion of the licensing objectives requires the rejection of the whole or part of the original application as made, and, insofar as it does not, whether it requires any modification to the licence conditions. In making that judgment, it cannot however extend the scope of the licence.
85. If the variation is granted in terms that are unacceptable to an interested party, then there are a number of routes of challenge. First, of course, as in this case, an appeal can be made to the Magistrates Court. Second, if the procedure adopted by the authority is irrational or otherwise unlawful, then the resulting decision would be open to challenge by way of judicial review (see paragraph 83 above). Third, if the variation results in unexpected adverse effects on the licensing objectives, then an interested party can seek a review of the licence under section 51.
86. Let me deal finally with two specific submissions made by Mr Phillips.
87. First, he submitted that, on an application to vary, no change to the licence could be made that might reasonably be considered capable of having an adverse impact on the promotion of the licensing objectives, unless that change was made clear in the initial application as advertised; and, where such a change to an application to vary is contemplated, an applicant is bound to start again by resubmitting the application, with the consequent new obligations for advertisement and new rights for responsible authorities and interested parties to make representations.
88. I do not agree with that proposition – or, at least, the full extent of it – which, with respect, does not seem to me to be in line with the nature of the scheme when looked at as a whole.
89. The proposition might have more force if the function of the decision maker were judicial, rather than administrative. However, relevant representations trigger an administrative investigation by the licensing authority into the effect the proposed changes will make to the promotion of the licensing objectives: that decision making process having been triggered, it is then for the authority to weigh the various strands of public interest and determine whether the promotion of those objectives requires the rejection of any part of the application or modification of the licence conditions.
90. It is true that the investigation is restricted to the matters raised in the representations, but the important point is that the action the authority can take is restricted by the

scheme to rejecting the application in whole or part, or modifying the licence conditions.

91. In respect of the former, insofar as the authority rejects the application to vary, that will have the effect of leaving the licence, to that extent, unaltered: the authority cannot extend the scope of the licence beyond that of the extant licence and the variation proposed.
92. With regard to modification of the licence conditions, the statutory scheme gives the authority full scope to add, subtract or vary any conditions to accommodate the variation in the context of the licence as a whole. The scheme requires the authority to modify the conditions if and to the extent that it considers modifications necessary to promote the licensing objectives. "Promoting the licensing objectives", as I have described, requires the balancing of various strands of public interest; and, in performing that balance, it is possible, of not inevitable, that one of the objectives may be demoted in order to benefit another. Where that is so, the scheme simply does not require further consultation of local residents and other interested parties in the form of re-advertisement with a fresh opportunity to make new relevant representations. It does not do so because:
 - i) The authority is already charged with the task of balancing the strands of public interest involved, on the basis of such evidence as it has collected. In many cases, it will consider that it is in a position to make that decision without formally consulting interested parties and local residents again. If it is not – e.g. if it considers that the procedure will be unfair to local residents without such further consultation – then it is open to the authority to require the applicant to start again with a fresh application. However, absent a proposed change extending the scope of the licence, that would be an exceptional case.
 - ii) If the authority were required to start the process over again, simply because the exercise of its statutory powers might adversely affect one strand of the public interest involved, that would seriously compromise the dialogue between the authority, applicant and responsible authorities/interested parties who have made representations, which is encouraged as an inherent part of the scheme.
93. Responsible authorities and interested parties can take considerable comfort from the fact that the authority cannot extend the scope of the licence beyond that of the extant licence and variation proposed. Furthermore, where such authorities and parties have made relevant representations, they are able to play a full part in both the pre-hearing dialogue (designed to come to a result that is satisfactory to the applicant and responsible authorities/interested parties) and the hearing itself. If they are dissatisfied with the result of the hearing in practice, they are able to appeal or challenge the result by way of judicial review or seek a review of the licence. If the manner in which the licensed business is operated causes (e.g.) a private nuisance, then they can bring a private law claim. But, in licensing terms, their rights and interests are not paramount: they are just one factor which the authority must take into account, when determining an application to vary. For the reasons I have given, in exercising a licensing function, the focus is on the public interest.

94. For those reasons, I do not accept Mr Phillips' proposition.
95. Nor do I find Mr Phillips' reliance on Article 8 effective. Article 8 concerns an individual's right to a private life. For the reasons I have just given, there are considerable safeguards for that right in the scheme, and in the private law. There is no arguable breach of Article 8 simply because the scheme does not provide for re-advertisement of any proposed change of licence conditions which might arguably affect either the licensing objectives or the private life of a specific individual. Far from being "transparently at odds" with local residents' right to private life under Article 8, I do not consider that Article 8 has any role to play in the issue in this appeal.
96. It seems to me that the principles that I have outlined are not only clear from the terms of the regulatory scheme, but are also practical in their application. Whilst I have been involved in an exercise in the proper construction of the terms of the statutory scheme, that comes as some comfort – particularly as it must have been Parliament's intention to impose a regulatory scheme that is workable. On the evidence before me, they also appear to be the principles which, in practice, licensing authorities have in substance generally applied since the advent of the new scheme in 2005. That may explain why the issue in this appeal has not until now ever come before the courts.

Application of the Principles to this Appeal

97. I now turn to apply those principles to the appeal before me.
98. The Appellant's complaint is that the initial application to vary the licence did not indicate that the V2 doorway would be used as the only means of public access to and egress from the new self-contained basement bar. In that application, the proposal was to refurbish the Richmond Street doorway and stairway to or from the basement, and use that to get the public to and from the basement. That change to the application was not the subject of advertisement, and consequently the Appellant and other local residents were denied the opportunity to make representations in respect of the use of the V2 doorway for that purpose. That amendment, it was submitted, required the licence holder applicant to start the variation process again – at least so far as advertisement and period for representations are concerned. It was that failure which rendered the decision of the authority unlawful.
99. For the reasons I have given above, the applicant could not formally amend his application, once it had been submitted; but the Council, in determining whether it was appropriate to reject the whole or part of the application, or modify the licence conditions to accommodate the proposal, was entitled to take into account the applicant's changed wishes and intentions. In the face of opposition to both the extension of hours and the refurbishment of the Richmond Street doorway and stairway to enable public access to the basement bar by that route, the Council was entitled to conclude that they could and should properly reject those parts of the application.
100. The real issue, of course, is whether the Council was entitled to grant the variation, on the basis of the original application, with the V2 doorway being the sole public means of access to the newly-discrete basement bar, without requiring the applicant to submit a new application or at least requiring the new proposal to be re-advertised

with a fresh period for responsible authorities and interested parties to lodge relevant representations.

101. As I have indicated, the extent to which the V2 doorway was in fact used for public access to the premises prior to the application to vary is controversial. As I understand it, there was some evidence that, for a short period, the V2 doorway had been used for public access to the basement; but the evidence suggests that the doorway was not used a great deal, and Mr Cooper (the premises licence's designated premises supervisor: see paragraph 19 above) appears to confirm that the V2 door was used as a fire door but not used as a (public) entrance, access to the basement being through the main doors of Via and internal stairs (paragraph 2 of an unsigned and undated statement used at the hearing before the Deputy District Judge).
102. However, as the parties properly conceded before the Deputy District Judge, in respect of the application to vary, what mattered was not the use to which the V2 doorway had actually been put, but the use of it that was lawful under the original licence. In my judgment, the licence as issued in 2005 undoubtedly allowed the V2 doorway to be used for public access to the premises.
103. Mr Phillips conceded before me that the 2005 licence enabled that doorway to be used for public access to the basement, in the sense that the licence did not limit the use to which that entrance/exit could be put and, therefore, if that doorway were used for public access to the basement, a prosecution under section 136 for breach would fail. He submitted that it would fail merely because of the high burden of proof required in criminal proceedings; but, in my view, there was clearly no restriction on the use of that entrance/exit to the premises in the 2005 licence.
104. I accept that, by virtue of regulation 23(3)(b) and (c) (paragraph 21 above), a licence plan should identify the location of points of access to and egress from the premises on the one hand, and, if different, identify discretely the location of escape routes from the premises; but the marking "FD" in the internal doors at the foot of the V2 stairs cannot indicate that the route from the basement to the V2 doorway was merely an escape route and no more. Many internal doors are marked on the plans with "FD" and, whatever that means (and, of course, it might stand for "Fire Door": see also paragraph 2 of Mr Cooper's statement), it does not appear to identify mere escape routes. Even on the final plan, from the face of which it is clear that the applicant proposed to use the V2 doorway and stairs as the only means of public access to the basement, the doors at the foot of the stairway are marked "FD".
105. In the 2005 licence, in my judgment, there were no restrictions on the use of doorways between the premises and the streets, front and back, either in the conditions or on the face of the plans that form part of the licence. In those circumstances, any of the doorways (including the V2 doorway and the Richmond Street doorway) could be used for public access to and egress from the premises. If the means of access through a particular door caused an adverse impact on the licensing objectives, it would have been open to either a responsible authority or an interested party to have made an application for review under section 51.
106. Mr Phillips relied upon the well-known passage from the judgment of Scott-Baker LJ in Crawley Borough Council v Stuart Attenborough [2006] EWHC 1278 (Admin) at [6]-[7], to the effect that licence conditions must be enforceable, and consequently

sufficiently clear for that purpose; but, in my judgment, the scope of the licence and conditions in this case, so far as the allowable use of the V2 entrance is concerned, were manifestly clear.

107. The ability of the licence holder lawfully to use the V2 doorway means of public access to and egress from the basement was not lost, even if the licence holder did not in fact use that doorway in that manner either very much or at all or to the extent that he may use it in the future. Nor, in my view, was it lost merely by the separation of the ground floor and basement bars into distinct units. That separation, of course, had an inevitable effect on how the business would operate. The final proposal, which involved the V2 doorway being used as the sole entrance/exit for the new discrete basement bar, inevitably changed the degree of use of the V2 doorway by (i) reducing the number of people who might use the V2 entrance/exit, from 620 (the total capacity of the premises) to 240 (the capacity of the basement alone), whilst (ii) meaning that all of those who used the basement bar would have to use the V2 entrance/exit. That was a change of business which resulted in a change of intensity of use of the doorway – in effect, reducing the possible maximum usage of that doorway whilst substantially increasing the likely use – but that did not require a variation to the licence at all.
108. That applied equally to the door into Richmond Street at the north east corner of the premises: there were no restrictions on the use of that doorway either, and, under the 2005 licence, the licence holder could have used that doorway for public access – although it may have been likely that, had they done so, there would have been an application for review by the Environmental Health Department, if not the occupiers of residential accommodation that abutted Richmond Street. However:
- i) The application to vary included an application to change the structure and layout of the building to this extent, namely the “full refurbishment of the rear staircase... to provide improved and independent public access to this basement area from the rear of the building...”. That appears, not from the plan – the plan was unaltered from that attached to the 2005 licence – but from the schedule of proposed alterations (see paragraph 48 above). Insofar as that involved a change to the structure or lay out of the premises, it may have required a variation to the licence (and/or approval under Condition 60 of the licence conditions: see paragraph 42 above).
 - ii) In any event, it was open to the applicant, in the light of opposition to the use of the Richmond Street doorway, to indicate that it would not use that doorway for the public, but would use the V2 doorway. No structural or layout changes were requested (or, as I understand it, required) for use of the V2 stairs and doorway for the purposes of access to the basement. The only change marked on the final plans, and the only change intended, was substantially greater use of that route for public access to the premises than had previously occurred. However, that was not required to be put into the plan, and that use already fell within the boundaries of the extant licence. Increased use of a means of egress and ingress in fact, where that use is already lawful in terms of the licence, does not require a variation of the licence.
109. In those circumstances, TCG Bars did not need a variation in their licence to enable them lawfully to use the V2 doorway for public access to the basement. After 12

September 2011, the only variation proposed by TCG Bars related to the internal structure and layout of the premises, in respect of which no representations were made and of which neither Mr Taylor nor any other person making relevant representations made any complaint.

110. However, the TCG Bars nevertheless had to satisfy the Council that queues would be managed effectively (paragraph CD1 of the Council's Statement of Licensing Policy: see paragraph 56 above). It was open to the Council, in the light of the likely future use in fact of the V2 doorway as a public entrance/exit to modify the conditions of the licence, by imposing an additional condition relating to queuing. It can properly be assumed that that condition was imposed because the Council considered it necessary for the promotion of the licensing objectives relating to the prevention of disorder and public nuisance.
111. For those reasons, in my judgment, the Council's Licensing Sub-Committee was lawfully entitled (i) to proceed with the application to vary the licence; (ii) to take into account the applicant's express wish not to proceed with parts of the application, namely the extension of hours and refurbishment of the Richmond Street entrance and stairway for use by the public; (iii) to determine, in accordance with those wishes, to reject those parts of the application as not being necessary for the promotion of the licensing objectives; (iv) to determine that, if the remaining parts of the application were to proceed, a new condition relating to queuing outside the V2 entrance was necessary for the promotion of those objectives; and (v) to grant the variation on that basis. That is the substance of the Sub-Committee's decision in this application.

Conclusion

112. For those reasons, in my judgment, the judge was correct in ruling that it was lawful for the Council to proceed to determine the application to vary in accordance with section 35 as it did, even though the applicant had notified the change of scheme whereby the public access to and egress from the basement would be by way of the V2 doorway and not the Richmond Street doorway. The result was not outwith the scope of the existing licence and application to vary as seen together.
113. I would consequently answer the question posed by the Deputy District Judge in the affirmative, and I dismiss this appeal accordingly.