

Appendix F



TOWER HAMLETS

To Licensing Department
From Planning Enforcement
Contact Cain Duncan
Extension 3975
Date 16/04/08
Our Ref. ENF/06/10001
Your Ref.
Subject Licensing Review and Objection

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

www.towerhamlets.gov.uk

Licensing Review, The EDGE, 157 Commercial Street, London, E1 6BJ

1. The Planning Department has been notified of an application by Environmental Health to review the Premises Licence for the Edge Nightclub, 157 Commercial Street, London, E1 6BJ. The Planning Department, in its capacity as a responsible authority, supports this review on the grounds of public nuisance.

Planning Concerns

2. The Edge Club has a long history of failing to obtain planning permission for the uses conducted at the premises and more recently failing to comply with operating hours and other conditions (noise insulation) imposed on its planning permissions for a bar use (A4).
3. Mr Jaspal Singh Rathor ("Mr Singh") has been associated with the premises since 2000, when planning permission was initially granted for the creation of a fourth floor and the change of use of the building to create a wine/bar restaurant on the basement and ground floors and 8 self contained flats on the upper floors. Mr Singh made a further application in 2002 to include 9 flats on the upper floors instead of the previously approved 8. This was approved by the Development Committee on the 6th February 2002, subject to the satisfactory completion of a Section 106 Legal Agreement to secure a 'car free' development. This 'car free' agreement was never secured, although 9 flats were developed within the property. As the development was not in accordance with the 2000 planning permission and the 2002 planning permission was never issued, the site operated as a bar/club without any form of planning permission until May 2007.

4. An Enforcement Notice was served by the Council's Planning Department on the 16th March 2006, requiring the cessation of the use of the premises as a nightclub (Appendix 1). The Enforcement Notice was due to come into effect on the 29th April 2006 and 56 days were given from this date to comply with its requirements. On the 28th April 2006 the Council received notification that an appeal had been lodged against the Council's decision to issue the Enforcement Notice.
5. A Local Public Inquiry was scheduled for the 12th December 2006, however the appeal was withdrawn before this date, after agreement was reached between the Council and Mr Singh's legal team that a new application would be submitted for the use of the property as a bar, operating bar hours and that the use as a nightclub would cease. In return the Council agreed not to prosecute Mr Singh at that point in time.
6. Despite these assurances from Mr Singh, the club continued to operate as a nightclub and noise complaints were received throughout December 2006 and into the New Year, until June 2007.
7. In December 2006 Mr Singh lodged two applications for planning permission, one for a bar use (A4) with opening hours between 11am and 2am the following day, Monday to Wednesdays, 11am to 4am the following day, Thursdays to Saturdays and 11am to midnight on Sundays and an application for the use of the premises as a nightclub operating the same hours.
8. The application for a nightclub was refused by the Development Committee on the 28th March 2007 (Appendix 2) on the grounds that:
 - The proposal would cause an unacceptable degree of noise, nuisance and disturbance, to the detriment of the living conditions and amenity of adjoining and surrounding occupiers, and to the amenity of the surrounding area generally. This is contrary to a number of planning policies that seek to protect the amenity of existing occupiers from unacceptable new development proposals.
9. The Development Committee was unable to reach a decision on the bar application, but indicated they did not support the officers' recommendation to grant planning permission as they had serious concerns about the noise and disturbance such an activity would cause in this area, even with conditions restricting the opening hours of the premises to 12 midnight. The application was deferred to allow officers time to obtain legal advice and consider the concerns of the Committee. On the 2nd May 2007 the Development Committee resolved to grant planning permission in view of previous applications for a

wine bar having been approved on the site and the stringent conditions to be imposed on the permission.

10. Planning permission was granted on the 4th May 2007 (Appendix 3) and contained conditions on the hours of operation, sound attenuation measures, noise limits on any music, PA system or amplified sound and a management scheme. While I believe some noise attenuation measures may have been installed at the property, these have never been formally discharged by the planning authority, nor has a detailed management plan been submitted. Further to this the premises has consistently flouted its permitted planning opening hours.
11. Mr Singh has appealed the Council's decision to refuse planning permission for a nightclub and is also appealing the temporary nature of his existing bar permission (until May 2008) and the condition restricting his opening hours until 12 midnight. Until any appeal decision is found in Mr Singh's favour the decisions of the Council stand, including all conditions in his existing bar planning permission.
12. For a period between August and December 2007 the club appeared to close, with neither the Planning Department nor the Environmental Health Department receiving any complaints. This lasted until December 2007 when the club re-opened. Reports from residents, websites and LBTH Noise Control indicated that the club was again opening to around 3am on Sunday mornings. In order to prevent further breaches of the premises planning permission and to prevent the continued early morning disruptions and noise pollution to nearby residents, the Planning Department issued a Temporary Stop Notice on the Edge Club (Appendix 4). This Notice required that all bar/club activities cease after 12midnight (Mon-Sat) and after 11:30pm on Sundays, as stipulated in the current planning permission for the property.
13. Investigations and site visits by Planning Enforcement found that the Edge Club paid no attention to the Notice and continued to operate every weekend while the Notice was in force. While a letter was received from Mr Singh's lawyers saying that they would comply with the Notice at the end of March (by which time the Notice had actually expired) it appears this has not happened, with witnesses and LBTH Noise Control observing the club as still being open.
14. Mr Singh and the Edge Club have had no regard to the conditions of either their planning permission nor the legal notices served by the Planning Department. A prosecution date has been set for 23rd May 2008 at the Thames Magistrates Court for the offences relating to the breach of the Temporary Stop Notice.

15. In summary, the Planning Department has received numerous complaints and objections to this venue, ranging from anti-social behaviour, late night noise, loud music, and a general lack of any planning permission for the site for a bar/club use (until May 2007). Even now the club is continuing to operate (as verified by Council Noise Control Officers) after 12 midnight, despite written letters from Mr Singh's lawyers that all activities at the club would cease at the end of March.
16. The area this premises is situated in is not suitable for a nightclub, it has become increasingly residential (supported by Council policy) with flats situated above the club and a further 14 flats approved at 159 Commercial Street (currently being built). There are also further residential dwellings at 155 Commercial Street and high density housing right around this area of Commercial Street. While a bar/restaurant (as granted planning permission) may be appropriate in this increasingly residential area, a nightclub with its associated late night, early morning disturbances, loud noise and inherent anti-social behaviour is not.

Public Nuisance

17. The late night operation of the Edge Club, until 4am on weekends, is considered inappropriate and detrimental to the predominately residential character of the surrounding area. The property was granted planning permission for a bar use, however the continued use of the premises later in the evenings and early mornings (weekends) with amplified music and DJ's, well outside the hours and scope of their planning permission, has continued to cause statutory noise nuisances to surrounding residents, as verified by the numerous witness statements presented as part of Environmental Health's statement in support of this licensing review.
18. I have included a small sample of the numerous complaints and objections this Department has received since the original Premises Licence was granted in 2005 (Appendix 5). These clearly show the considerable public nuisance this venue has caused to neighbouring residents over the last 2.5 years.
19. When the application was made by the Edge Club to extend its original Premises Licence hours and to increase the capacity of the venue from 120 to 220, over 100 local residents, businesses, etc objected to the variation on anti-social behaviour, noise, drug abuse and safety grounds, amongst others. Strong objections were lodged by Keith Eglington (Tower Hamlets Police Licensing) on Crime and Disorder Grounds and the fact there had been breaches of the previous Licence conditions. Further to this, Environmental Health

expressed strong concerns after numerous statutory noise nuisances were witnessed as a result of the club and the issuing of a Noise Abatement Notice on the property in October 2005.

20. Despite these strong objections the variation to the premises licence was granted by the Licensing sub-committee on 3rd November 2005. However, in the minutes of this meeting (Appendix 6) it clearly states "The Chair reported that the Sub Committee had accepted the application as amended with the exception of the operating hours on a Sunday. Members had expressed some concern regarding the level of management of the premises and had set stringent conditions which they expected to see operated. If this was not the case, it would be necessary to consider the future of the premises very seriously. It should also be noted that if necessary, the Police and the Local Authority had the power to close premises that did not uphold the licensing objectives or who did not operate within the terms and use of their licence".
21. From the evidence presented in Appendix 6 and the long list of statutory noise nuisances witnessed by the Council's Environmental Health Team, since the granting of the premises license, it is clear that conditions set in Annex 3 of the Premises Licence, relating to the noise from the premises not causing a statutory noise nuisance have not been complied with.
22. I also failed to see any sign displayed within the premises asking for patrons to leave the premises quietly nor did I witness the door staff using clickers to monitor the number of people in the venue during my visit to the property on the 1st March 2008.
23. This premise has, and is continuing to cause a public nuisance as detailed by recent Environmental Health Department visits and correspondence to this Department from surrounding neighbours.


Conclusion

24. Planning Enforcement support the application for a review of the Edge's Premises License. The operation of this premise as a bar/club until 3am is causing an unacceptable level of noise and disturbance to surrounding residents at a time of the night when background noise is generally at a minimum.

25. If the premises licence is not revoked, as a minimum Planning Enforcement would request that the hours of operation are restricted to 12 midnight. This will prevent the use of the premises as a club and prevent the resultant early morning noise and disturbances to residents living on top of and in the vicinity of the premises.
26. The hours currently granted on the Premises Licence cannot legally be implemented as the premise only has planning permission to be open till 12 midnight on weekends and this permission expires in May 2008.



Cain Duncan
Planning Enforcement Officer


21/4/08

Jerry Bell
Applications Manager



IMPORTANT: THIS COMMUNICATION AFFECTS YOUR PROPERTY

TOWN AND COUNTRY PLANNING ACT 1990 ("the Act")
(as amended by the Planning and Compensation Act 1991)

ENFORCEMENT NOTICE

(Unauthorised Use)

ISSUED BY:- THE MAYOR AND BURGESSES OF THE LONDON BOROUGH OF TOWER HAMLETS ("the Council")

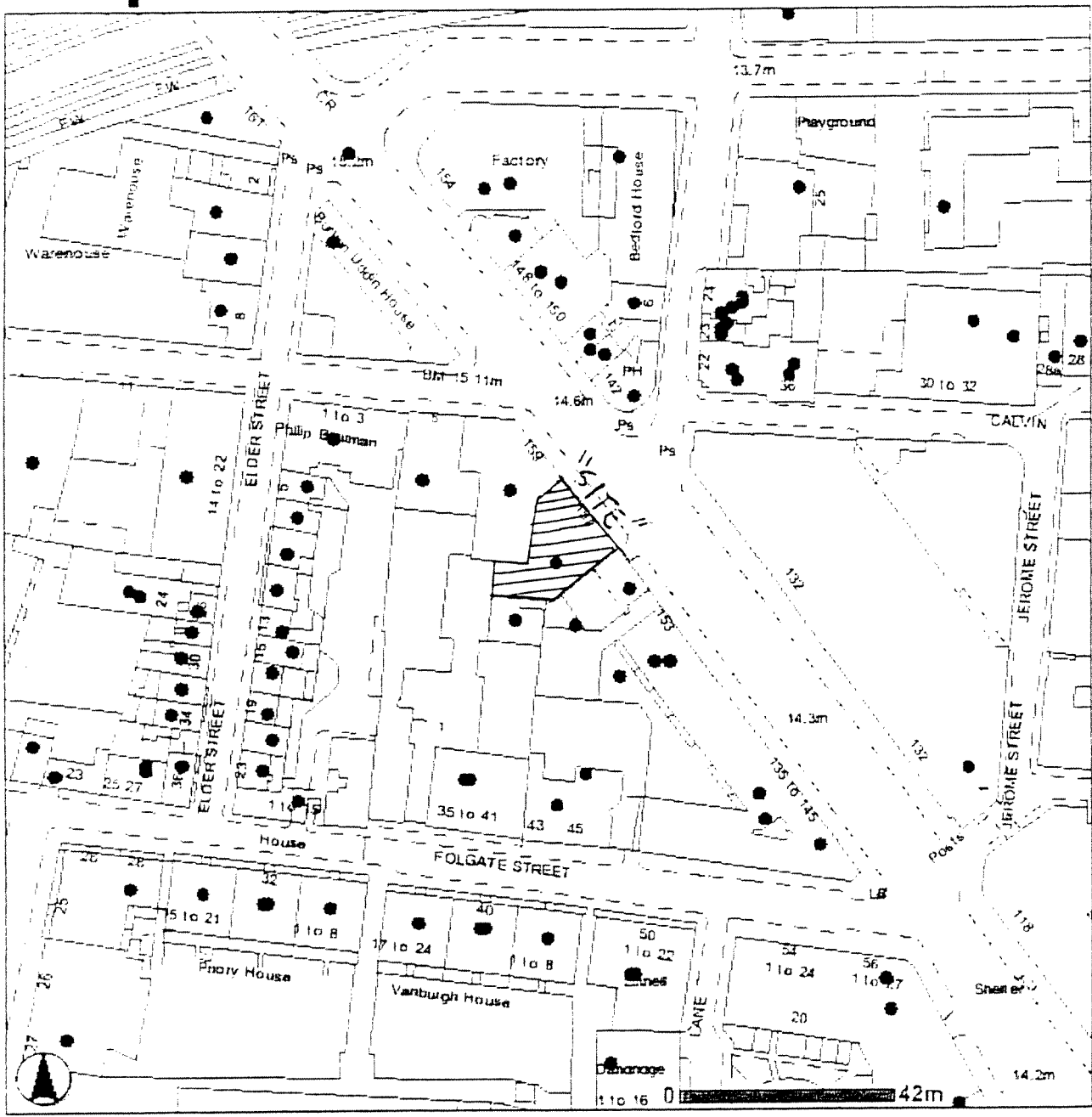
- TO:**
- (1) THE OWNER of the basement of Saga House, 157 Commercial Street London E1 6BJ
 - (2) THE OCCUPIER of the basement of Saga House, 157 Commercial Street London E1 6BJ
 - (3) THE COMPANY SECRETARY OF EASTWILLOW PROPERTIES LIMITED (Company Registration Number 04918404) care of Citycas Limited Second Floor 9 Cork Street London W1S 3LL
 - (4) JASPAL SINGH RATHOR OF 28 Eynsford Road Seven Kings Ilford Essex IG3 8BA
 - (5) THE COMPANY SECRETARY OF THE NATIONAL WESTMINSTER BANK PLC (Company Registration Number 00929027) whose registered office is situate at 135 Bishopsgate London EC2M 3UR

1. **THIS NOTICE** is issued by the Council because it appears that there has been a breach of planning control within paragraph (a) of Section 171A(1) of the above Act at the land described below. They consider that it is expedient to issue this Notice, having regard to the provisions of the Unitary Development Plan applicable to the London Borough of Tower Hamlets and to all other material planning considerations. The Annex at the end of the notice and the enclosures to which it refers contain important additional information.

2. **THE LAND TO WHICH THE NOTICE RELATES:-**

Land at the basement of Saga House, 157 Commercial Street London E1 6BJ in the London Borough of Tower Hamlets and which is shown for the purposes of identification edged with a thick black border, hatched black and marked "SITE" on the attached plan.

Map



Scale 1:1250

Map of:

Site Plan

Notes:

Edge Club, 157 Commercial Street, London E1 6BJ

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Supplied by London Borough of Tower Hamlets

License Number LA100010288

3. **THE MATTERS WHICH APPEAR TO CONSTITUTE THE BREACH OF PLANNING CONTROL:-**

Without planning permission, the carrying out of development by the unauthorised use of the Land as a nightclub (sui generis)

4. **REASONS FOR ISSUING THIS NOTICE:-**

It appears to the Council that the above breach of planning control has occurred within the last ten years. The Council considers it expedient to issue this Enforcement Notice against the unauthorised use of the Land as a nightclub (sui generis) for the following reasons:

- (a) the unauthorised use is detrimental to residential amenity
- (b) the use of the Land is considered to be in contravention of the Council's policies as contained in the Unitary Development Plan 1998 (adopted) **DEV 1** and **DEV 2** respectively which in particular, seek:
 - (i) **DEV1:** All developments should: Take into account and be sensitive to the character of the surrounding area in terms of design, bulk, scale and the use of materials. Be visually appropriate to the site and its setting.
 - (ii) **DEV 2:** All development should seek to: Protect the amenity of residential occupiers.

5. **WHAT YOU ARE REQUIRED TO DO:**

- (a) Cease the unauthorised use of the Land for the purposes of use as a nightclub (sui generis); and
- (b) Remove the external and internal fixtures and fittings that relate to the unauthorised use of the Land for the purposes of use as a nightclub (sui generis); and
- (c) Carry out works to the Land to return the Land to its authorised use

6. **TIME FOR COMPLIANCE**

Fifty six days after this notice takes effect.

WHEN THIS NOTICE TAKES EFFECT:

This Notice shall take effect on the 2nd day of May 2006 unless an appeal is made against it beforehand.

ISSUED the 26th day of March 2006

SIGNED:

S. C. [Signature]

Designation:

DEVELOPMENT CONTROL MANAGER

Corporate Director of Development and Renewal
and Duly Authorised Officer

On behalf of: The Mayor and Burgesses of the London Borough of Tower Hamlets

Address to which all communications should be sent:-

Mr Alan Drew (Ref: TH/ENF/06)
Tel: 0207 364 5211
Development and Renewal, Town Planning
41-47 Bow Road, London E3 2BS

Please read the notes on the following pages which are for your information.

YOUR RIGHT OF APPEAL:

You can appeal against this Notice, but any appeal must be received, or posted in time to be **received**, by the Secretary of State **before** the date specified in paragraph 7 of the Notice.

The enclosed booklet "Enforcement Appeals - A Guide to Procedure" sets out your rights

You may use the enclosed appeal forms:

- (a) One is for you to send to the Secretary of State if you decide to appeal together with a copy of this enforcement notice
- (b) The second copy of the appeal form and the notice should be sent to the Council
- (c) The third copy is for your own records

WHAT HAPPENS IF YOU DO NOT APPEAL:

If you do not appeal against this Enforcement Notice, it will take effect on the date specified in paragraph of the notice and you must then ensure that the required steps for complying with it for which you may be held responsible, are taken within the period[s] specified in paragraph 6 of the notices.

Failure to comply with an Enforcement Notice which has taken effect can result in prosecution and/or remedial action by the Council.

SCHEDULE

Refusal of Full Planning Permission

Location: 157 Commercial Street, London

Proposal: Use of part of ground floor and basement as a bar and late night entertainment venue (sui generis), operating Mondays to Wednesdays between 11am to 2am the following day, Thursdays to Saturdays between 11am to 4am the following day, and Sundays between 11am to Midnight.

Date: 4 May, 2007

Reference: PA/06/02243

Application Received on: 12 December, 2006

Application Registered on: 12 December, 2006

Drawings Submitted:

Registered Number: PA/06/02243

Applicant's Number:

Reasons for Refusal

1. The proposal would cause an unacceptable degree of noise, nuisance and disturbance, to the detriment of the living conditions and amenity of adjoining and surrounding occupiers, and to the amenity of the surrounding area generally. The proposal is therefore contrary Policies DEV2, HSG15, S7 and ART1 of the (1998) Tower Hamlets Adopted Unitary Development Plan, and Policies DEV1, DEV10 and RT5 of the Local Development Framework, Core Strategy and Development Control Development Control Submission Document (November 2006) that seek to protect the amenity of existing occupiers from unacceptable new development proposals.
2. The proposal would attract additional vehicles into a densely developed inner urban location, thus adding to traffic and parking congestion. It is therefore contrary to policies T16 and ART1 of the (1998) Tower Hamlets Adopted Unitary Development Plan, Policies CP40 and CP41 of the Local Development Framework, Core Strategy and Development Control Development Control Submission Document (November 2006), and Planning Policy Guidance Note 13 (Transport), which seek to promote more sustainable transport choices for traveling, and to reduce the need to travel by car, particularly in locations which are highly accessible by public transport.

Informatives:

1. You are reminded of the Council's powers of enforcement should the unauthorised nightclub use continue.

Your ref: PW/JMS/063509
My ref: PA/06/02243

4 May, 2007

Phillips Planning Services
Kingsbrook House
7 Kingsway
Bedford
MK42 9BA

Development & Renewal
Town Planning
Mulberry Place (AH) Anchorage House
PO Box 55739
5 Clove Crescent
London
E14 1BY
www.towerhamlets.gov.uk
Enquiries to: Stephen Irvine
Tel: 020 7364 5355
Fax: 020 7364 5415
TH: 276

Town and Country Planning Act 1990 (as amended)

Town and Country Planning (General Development Procedure Order) 1995

Dear Sir/Madam,

REFUSAL OF PLANNING PERMISSION

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

Your attention is drawn to the following statement of applicants' rights arising from the refusal of planning permission.

(1) APPEAL TO THE SECRETARY OF STATE

If you are aggrieved by the decision to refuse permission for the proposed development, then you can appeal to the Secretary of State for the Environment under section 78 of the Town and Country Planning Act 1990. If you want to appeal then you must do so within six months of the date of this notice using a form which you can get from the Planning Inspectorate, Temple Quay House, 2 The Square, Temple Quay, Bristol, BS1 6PN (Tel. 0117 372 6372). The Secretary of State can allow a longer period for giving notice of an appeal, but he will not normally be prepared to exercise this power unless there are special circumstances which excuse the delay in giving notice of appeal. The Secretary of State need not consider an appeal if it appears to him that the local planning authority could not have granted planning permission for the proposed development or could not have granted it without the conditions it imposed, having regard to the statutory requirements, to the provisions of the development order and to any directions given under the order. In practice, the Secretary of State does not refuse to entertain appeals solely because the decision of the local planning authority was based on a direction given by him.

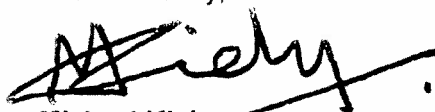
(2) PURCHASE NOTICE

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

(3) COMPENSATION

In certain circumstances compensation may be claimed from the Council of the London Borough of Tower Hamlets if permission is refused or granted subject to conditions by the Secretary of State for the Environment on appeal or on a reference of the application to him. The circumstances in which such compensation is payable are set out in Section 114 of the Town and Country Planning Act 1990.

Yours faithfully,



Michael Kiely
Head of Development Decisions



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



Corporate Director
Development and Renewal
Emma Peters

Your ref: PW/JMS/063509
My ref: PA/06/02202

4 May, 2007

Phillips Planning Services
Kingsbrook House
7 Kingsway
Bedford
MK42 9BA

Development & Renewal
Town Planning
Mulberry Place (AH) Anchorage House
PO Box 55739
5 Clove Crescent
London
E14 1BY
www.towerhamlets.gov.uk
Enquiries to: Stephen Irvine
Tel: 020 7364 5355
Fax: 020 7364 5415
TH: 276

Town and Country Planning Act 1990 (as amended)

Town and Country Planning (General Development Procedure Order) 1995

Dear Sir/Madam,

CONDITIONAL PERMISSION FOR DEVELOPMENT

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

You are advised that this permission does not modify or extinguish any covenants, easements or other restrictions applying to or affecting the land, or the rights affecting the land, or the rights of any other person entitled to the benefits thereof. You are also advised that this permission does not relieve you of the need to obtain any approval necessary under the Building Act 1984, Building Regulations 2000, or other related legislation. In this connection you should contact the Head of Building Control, Mulberry Place (AH) Anchorage House, PO Box 55739, 5 Clove Crescent, London, E14 1BY (020 7364 5241) for advice or guidance on the necessity for obtaining building regulation approval in this particular case.

Applicants are reminded of the need to comply with the provisions of Part II of the London Building Acts (Amendment) Act 1939 in order to obtain official postal addresses. This should be carried out at least one month prior to the completion of the exterior works. Details of the development, including site and block plans should be sent to the Assistant Director (Street Services), Mulberry Place (AH) Anchorage House, PO Box 55739, 5 Clove Crescent, London, E14 1BY.

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

1) Appeals to the Secretary of State

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

2) Purchase Notice

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

3) Compensation

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

Yours faithfully,


Michael Kiely
Head of Development Decisions



2006 - 2007
Early Intervention
(Children at Risk)

2003 - 2006
Winner of 4 previous
Beacon Awards



INVESTOR IN PEOPLE



Corporate Director
Development and Renewal
Emma Peters

SCHEDULE

Full Planning Permission

Location: 157 Commercial Street, London

Proposal: Use of the ground floor entrance way and basement premises as a bar (within Use Class A4), operating between the hours of Mondays to Wednesdays 11am to 2am the following day, Thursdays to Saturdays 11am to 4am the following day, and Sundays 11am to Midnight.

Date: 4 May, 2007

Reference: PA/06/02242

Application Received on: 12 December, 2006

Application Registered on: 12 December, 2006

Drawings Approved:

Registered Number: PA/06/02242

Applicant's Number: 063509/1, 2 & 3.

Reason(s) for Grant:

This application was granted for the following reason(s):

The local planning authority has considered the particular circumstances of this application against the Council's approved planning policies contained in the London Borough of Tower Hamlets Unitary Development Plan, associated supplementary planning guidance, the London Plan and Government Planning Policy Guidance and has found that it:

- a) satisfies the land use /environmental criteria adopted by the Council and
- b) does not result in material harm to the amenity of residents or the character and environment of the adjacent area.

Conditions and Reasons:

1. On or before 3rd May 2008, the use allowed by this permission must be discontinued.

Reason: Permission for a limited period will allow the local planning authority to ensure that residents amenity is not detrimentally affected by the Class A4 use and allow the local planning authority to reassess the development in the light of experience of the use.

2. The use permitted shall only be operate between the hours of:

- 9.00am to Midnight on Mondays to Saturdays and;
- 9.00am to 11.30pm on Sundays.

Reason: To safeguard the amenity of adjacent residents and the area generally and to meet the requirements of the following policies in the London Borough of Tower Hamlets Unitary Development Plan (adopted December 1998):

DEV50 Noise
HSG15 Preservation of Residential Character

3. The sound insulation / attenuation measures set out in the 'Bickerdike Allen Partners' Report (BAP Ref: A7576/HGL, dated 19 December 2006) shall be completed within one month of the date of the grant of planning permission.

Reason: To safeguard the amenity of the occupiers of adjoining residential properties and the area generally by preventing noise and vibration nuisance.

4. Within two weeks of the completion of the mitigation works:

- i) the local planning authority shall be advised of the completion of the works and;
- ii) additional acoustic testing, as agreed with the Council, shall be carried out to assess the effectiveness of the mitigation works

Reason: To safeguard the amenity of the occupiers of adjoining residential properties and the area generally by preventing noise and vibration nuisance.

5. Within two weeks of the completion of the acoustic testing required by condition 4, and subject to the results of the testing, noise limiters shall be installed and thereafter be used at all times during the playing of music, PA system or other amplified sound.

Reason: To safeguard the amenity of the occupiers of adjoining residential properties and the area generally by preventing noise and vibration nuisance.

6. The building works required to carry out the use/development allowed by this permission must only be carried out within the following times:

- 8.00am and 6.00pm Mondays to Fridays and;
- 9.00 am and 1.00 pm Saturdays.

Reason: To safeguard the amenity of adjacent residents and the area generally and to meet the requirements of the following policies in the London Borough of Tower Hamlets Unitary Development Plan (adopted December 1998):

DEV50 Noise
HSG15 Preservation of Residential Character

7. Any music, PA system or other amplified sound shall be played and operated at noise levels that do not exceed 30 dB LAeq and 45 dB LAm_{ax} as measured from the nearest residential property or any other levels agreed in writing by the local planning authority.

Reason: To safeguard the amenity of the occupiers of adjoining residential properties and the area generally by preventing noise and vibration nuisance.

8. Deliveries shall only take place between the hours of 10am to 6pm Mondays to Saturdays.

Reason: To avoid obstruction of the surrounding streets and safeguard public safety and the amenity of the surrounding area and to make sure the development meets the requirements of the following policies in the London Borough of Tower Hamlets Unitary Development Plan (adopted December 1998):

DEV1 and DEV2 General Design and Environmental Requirements
T16 and T17 Transport and Development
T12 and T13 Strategic Traffic Management

9. A detailed scheme of management for the operation of the venue shall be submitted within three weeks of the grant of planning permission.

Reason: To safeguard the amenity of adjacent residential properties and the area generally.

Informatives:

1. You are reminded of the Council's enforcement powers should the premises remain in unauthorised nightclub use or open beyond midnight on Mondays to Saturdays and 11.30pm on Sundays.

Handwritten notes and scribbles:

- 2008
- 1100
- 800
- 1000
- Thursday
- Details
-
-
-



IMPORTANT: THIS COMMUNICATION AFFECTS YOUR PROPERTY

**TOWN AND COUNTRY PLANNING ACT 1990
(as amended by the Planning and Compensation Act 1991 and the
Planning and Compulsory Purchase Act 2004)**

TEMPORARY STOP NOTICE

ISSUED BY:

**THE MAYOR AND BURGESSES OF THE LONDON BOROUGH
OF TOWER HAMLETS**, of the Town Hall, Mulberry Place, 5 Clove Crescent,
London E14 2BG ("the Council")

TO:

- (1) **Mr Jaspal Singh Rathor** of 157 Commercial Street, London, E1 6BJ and 2 Lexington House, Bow Quarters, London, E3 2UH
 - (2) **Powernet Limited** of 601 High Road, Leytonstone, London, E11 4PA
 - (3) **Mr Gulzar Singh Rathor** of 89 Auckland Road, Ilford, Essex, IG1 4SG
 - (4) **Eastwillow Properties Limited** care of City Chartered Accountants, 540 5th Floor Linen Hall, 162-168 Regent Street, London, W1B 5TF
 - (5) **The Occupier(s)** of the basement and ground floor, 157 Commercial Street, London, E1 6BJ
 - (6) **The Owner** of the basement and ground floor, 157 Commercial Street, London, E1 6BJ
1. **On 29th day of February 2008**, the Council has issued this temporary stop notice alleging that there has been a breach of planning control on the land described in paragraph 4 below.
 2. This temporary stop notice is issued by the Council, in exercise of their power in section 171E of the 1990 Act, because they think that it is expedient that the activity specified in this notice should cease on the land described in paragraph 4 below. The Council now prohibits the carrying out of the activity specified in this notice. Important additional information is given in the Annex to this notice.

3. THE REASONS FOR ISSUING THIS NOTICE

- (i) The unauthorised use of the premises as a bar/club outside the hours of 9.00am to midnight, Monday to Saturday and 9.00am to 11.30pm on Sundays (as conditioned in planning permission reference PA/06/02242) is causing unacceptable late night noise and disturbance, to the detriment of the living conditions and amenity of surrounding occupiers, and to the amenity of the surrounding area generally.

4. THE LAND TO WHICH THIS NOTICE RELATES

Basement and Ground floor, 157 Commercial Street, London, E1 6BJ shown edged red on the attached plan.

5. THE ACTIVITY TO WHICH THIS NOTICE RELATES

The use of the property as a bar/club outside the hours of 9.00am to Midnight, Monday to Saturday and 9.00am to 11.30pm on Sundays.

6. WHAT YOU ARE REQUIRED TO DO:-

Cease the activity specified in paragraph 5 of this notice.

7. WHEN THIS NOTICE TAKES EFFECT:-

This Notice shall take effect on the **29th** day of **February 2008** when all the activity specified in this notice shall cease. This notice will cease to have effect on **28th** day of **March 2008**.

Dated: the **29th** day of **February 2008**

SIGNED: - 

Designation: Applications Manager

On behalf of: The Mayor and Burgesses of the London Borough of Tower Hamlets, the Town Hall, Mulberry Place, 5 Clove Crescent, London E14 2BG

Nominated Officer: Mr Cain Duncan, Planning Enforcement Officer

Telephone Number 0207 364 3975

THE ANNEX

WARNING

**THIS NOTICE TAKES EFFECT ON THE DATE SPECIFIED IN
PARAGRAPH 7**

**THERE IS NO RIGHT OF APPEAL TO THE FIRST SECRETARY OF STATE
AGAINST THIS NOTICE**

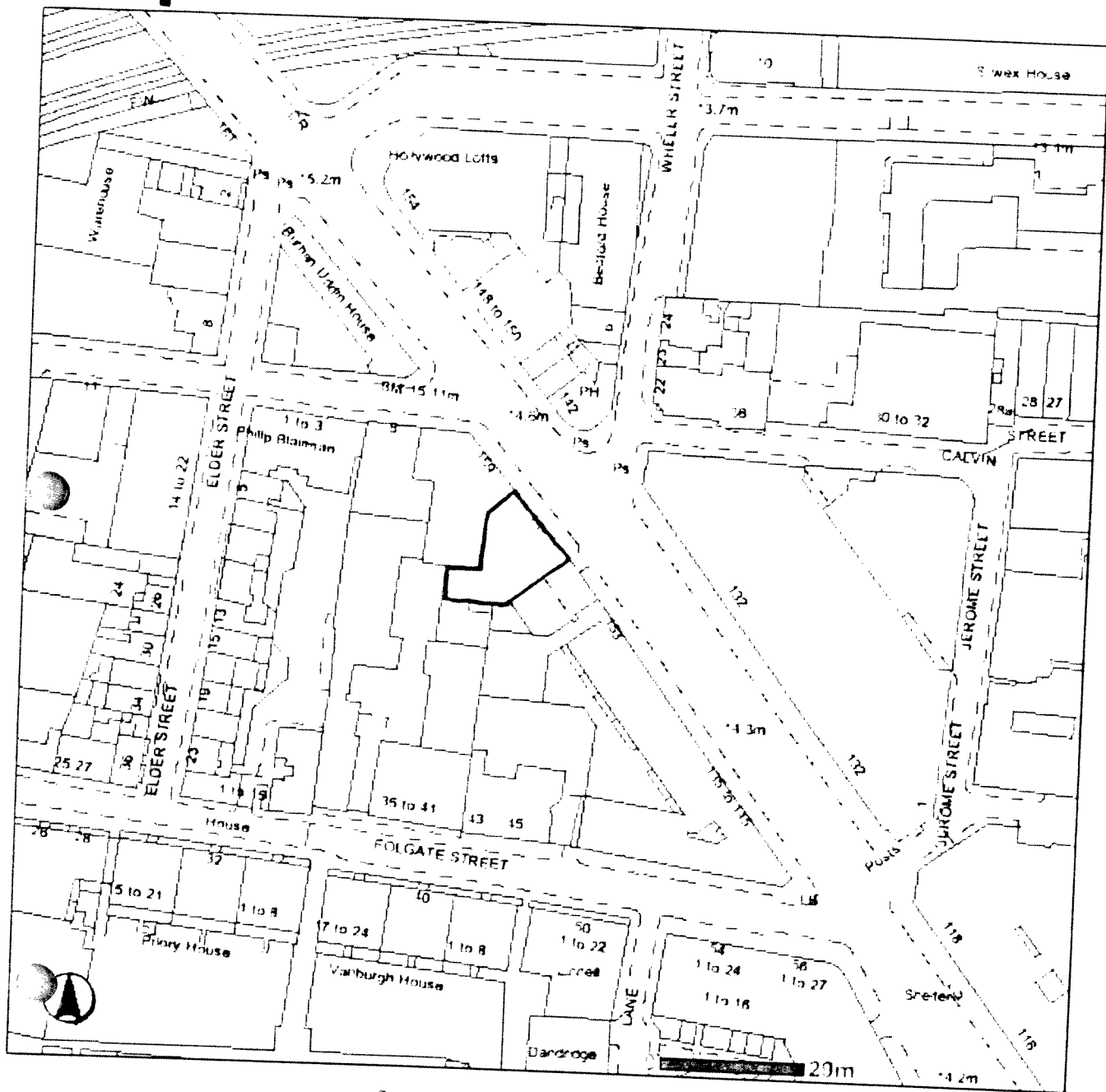
It is an offence to contravene a temporary stop notice after a site notice has been displayed or the temporary stop notice has been served on you. (Section 171G of the 1990 Act). If you then fail to comply with the temporary stop notice you will be at risk of **immediate prosecution** in the Magistrates' Court, for which the maximum penalty is £20,000 on summary conviction for a first offence and for any subsequent offence. The fine on conviction on indictment is unlimited. If you are in any doubt about what this notice requires you to do, you should get in touch **immediately** with:

Mr Cain Duncan
Planning Enforcement
Development and Renewal
Mulberry Place (AH) Anchorage House
London, E14 9YA

Phone: 0207 364 3975

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

Map



Scale 1:1250

Map of:

Notes:

Temporary Stop Notice Site Plan for 157 Commercial Street, London, E1 6BJ

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Supplied by London Borough of Tower Hamlets

Cain Duncan

From: xerxes dalal [xdalal@gmail.com]
Sent: 17 March 2008 14:20
To: Cain Duncan; CROS
Subject: Re: Edge Nightclub

Dear Cain,

The Edge Nightclub was in full swing again Saturday 15th March and into the early hours of Sunday 16th morning. I called the Noise patrol just after midnight to complain about loud music and heavy base as well as noise from the crowds of club goers smoking outside. Ben Milligan got back to me around 12:36am and came to witness the breach of their planning and TSN at approximately 1:10am. He then went down to ask Edge to turn the music down. However we were still continually disturbed by crowds gathering outside the Edge smoking till after 3am. I could not keep my eyes open much after 3am as was shattered.

Let me know if you need another official statement from me. Please feel free to use what i've put down in this email if you need me to expand on it in any way.

Thanking you.

Yours Sincerely,

Xerxes Dalal
07799416181

Regards CROS.

From: Cain Duncan [mailto:Cain.Duncan@towerhamlets.gov.uk]
Sent: 10 March 2008 10:45
To: CROS
Cc: Iain Pendrigh; Derrick Harrington; Nazmul Mannan; Stephen Irvine; John Cruse
Subject: RE: EDGE - 12.10am; 2am & 4am 09/03
Importance: High

Dear CROS

Thank you for your email below. I am disappointed but not at all surprised that the EDGE has decided to open again in breach of the Temporary Stop Notice (TSN). While it is disappointing, it is simply adding to the list of charges the Council will be bringing against the owner. I have already had prosecution proceedings authorised for the 1st breach of the Temporary Stop Notice on the 29th Feb/1st March and considering the evidence provided below, it is clear a further breach has occurred over the weekend. Each breach of a TSN is a criminal offence and carries a maximum fine of £20,000. I will be requesting that the Council's lawyers press for the maximum penalty to be imposed for the ongoing breaches.

In order for this weeks events to be brought before the Magistrates Court I will require witness statements from those people who witnessed the events. I think the best way to do this is for me to meet with the people concerned and get a statement from them. I can write up a witness statement for them, which they can edit, change, sign, etc. If required, those persons who provide statements will have to attend court to give evidence.

Any photo's etc are a huge bonus and will greatly aid in proceedings, hence if you could send the photo to me it would be greatly appreciated.

It is important that we have the statements sorted by the end of the week, that way we can include last weekends breaches in the proceedings from the 29th Feb/1st March and we won't have to wait on a second Court date to come free.

I look forward to hearing from you at your earliest convenience.

Regards

Cain Duncan
Planning Enforcement Officer
Tower Hamlets Council

PH 020 7364 3975

From: CROS [mailto:cros@dial.pipex.com]
Sent: 10 March 2008 05:56
To: Cain Duncan
Cc: Iain Pendrigh; Derrick Harrington; Nazmul Mannan; Stephen Irvine; John Cruse
Subject: EDGE - 12.10am; 2am & 4am 09/03
Importance: High

Dear Mr Duncan

Further to our 1st email on the subject of Edge wilfully breaching its TSN this weekend – FYI the following has been reported by long suffering local residents:-

1. 12.10am a resident who lives above Edge reported being disturbed by the rising level of loud music which

showed no sign of abating despite the place was now meant to be closed. Unfortunately she gave up & resorted to earplugs after failing to get an answer from the Noise Team – the number rang out.

2. Two further calls at 12.44am & 1.17am were placed to the Noise Team by another 157 resident but no one could attend Edge to witness the breach due to 'being swamped'.
3. 2.00am residents returning home to a nearby by block witnessed dozens of noisy Edge customers smoking whilst sheltering under scaffolding at 159; the doorway of 155 & under the exterior awning; giving away the fact Edge was still operating - 2 hours after it was meant to be closed. A photo is available should you require.
4. 4.00am another resident returning to his home, opposite to Edge, saw customers exiting Edge – revealing that the place was still operating by now – 4 hours after close.
5. Several more residents have reported hearing the noise of car doors slamming & raised voices – between 4 & 4.30am as Edge customers departed.

Please is there anything you can do to stop this? The TSN seems to have failed so what else can be brought to bear & how can the community help?

Regards CROS.

Working Together for a Better Tower Hamlets

Web site : <http://www.towerhamlets.gov.uk>

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Working Together for a Better Tower Hamlets

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From: ron davies [mailto:ron_davies6@hotmail.com]
Sent: 19 February 2008 21:10
To: Nathan Te Pairi; Stephen Irvine; Iain Pendrigh; John Cruse
Subject: The Edge Nightclub over the last two weekends

I want to report issues that I have had with the Edge Nightclub (157 Commercial Street) over the last two weekends (Fri 8th, Sat 9th & Fri 15th, Sat 16th Feb).

The internal noise problem (well documented over many many months) seems to have gone back to levels worse than any time in my prior two years of living in the Property (Flat 8, 157 Commercial Street).

I was led to believe that certain sound proofing activities had taken place within the club (some months ago), however on both Friday's (8th and 15th) the noise within my flat as a result of the bass and drum beats from the club was worse than I can remember.

I am situated on the third floor of the property (four floors from the club in the basement).. however the noise still reached levels where I felt I needed to call the noise team (which I did... however I fell asleep with the help of ear plugs before the noise team were able to attend)...

The noise unit will have a record of this call and I was told by the person taking the calls for the noise unit that another resident from 157 had already complained that evening.

On both of these weekends I believe the club was operating outside of it's agreed hours of use.

Can you please confirm what action the council is taking to address these issues?

Regards,
Ron Davies,
Flat 8, 157 Commercial Steet.
London,
E1 6BJ.

Messenger on the move. Text [MSN to 63463](tel:63463) now!

Stephen Irvine

From: CROS [cros@dial.pipex.com]
Sent: 12 July 2007 20:43
To: Stephen Irvine
Cc: John Cruse
Subject: URGENT Edge THIS Sat 14/7
Importance: High
Attachments: crazy b.JPG

NA2

For information.

SE

Dear Steve

Firstly for your urgent attention; please see the attached Jpg image – photo of poster found locally, advertising yet another new CLUB event at Edge, this coming Saturday 14th July.

Despite any assurances that you may have received from Edge management, concerning the 'winding down' of current booking commitments; this is further evidence that there is absolutely no intention to stop acting as a club & we residents, in the meantime, are still suffering incidents week after week much as follows:-

Disturbance Saturday 7th July between - 3.00 & 3.35am - following the Friday 6th 'Blue Martini Night': -

The driver of black car license **AX03 EGU** that was parked directly outside of Edge for most of the evening, was moved down outside The Cloisters at 145. The driver then proceeded to **repeatedly & lengthily (10 to 30 sec blasts) use his car horn to summons his male passengers, who slowly emerged one by one from Edge, over the next 20 mins.**

As his 6 passengers eventually appeared & walked down to the car; they each stopped to urinate against the front wall or in the doorway of, The Cloisters. They all continued to loiter, noisily outside, before cramming in to the vehicle, leaving at 3.35am.

Edge door security did nothing to intervene. Police called 3.15am – but a no show...

100's of sleeping local residents were once again disturbed by inconsiderate Edge customers. The following day the pavement outside & doorway of The Cloisters, was a stinking, unhygienic, fly infested mess.

Please – it's now over 2 months since such use was deemed unlawful – how much more leeway is this place going to be given?!

Regards CROS

Stephen Irvine

From: xerxes dalal [xdalal@gmail.com]

Sent: 02 April 2007 17:28

To: Stephen Irvine

Subject: Re: EDGE night club at 157 Cornmercial Street, E1

Dear Stephen,

My wife and I live at Flat 7, 157 Commercial Street, E1 6BJ

The unlawful EDGE nightclub was operating on both Friday 30th March & Saturday 31st March 2007 into the early hours around 4am-5am. The music from the club was very loud despite the noise insulation works carried out. My wife is 39weeks pregnant and has been unable to sleep peacefully for one weekend throughout her whole pregnancy. I called the noise inspectors out around 12:15am on the 1st April 2007 as the club was operating in full swing. They turned up just around 1:15am. They then went down to the club and asked them to turn down the music, which did help. However we were further disturbed later that night by people leaving the club and making lots of noise between 3am-5am.

Another weeked with very little sleep thanks to EDGE!

Please Help.

Kind Regards,

Xerxes Dalal
07799 416 181

Stephen Irvine

From: CROS [cros@dial.pipex.com]
Sent: 02 April 2007 11:31
To: Stephen Irvine
Cc: John Cruse
Subject: Edge - Sat 31st March
Importance: High
Attachments: edge_pink.JPG

Dear Steve

Friday 30th Edge blithely went ahead & hosted one of its regular club nights, which caused the usual event-long parking problems & noisy departures at gone 4.30am.

Then on the afternoon of Sat 31st – an observant local resident spotted & sent in the attached fly-poster... for a relocated club night that evening...

Also a couple living above Edge, had to call in the Noise Patrol team; which visited the 'Club' to get thudding music turned down - so it was hardly 'ancillary'.

Without skipping a beat it's business as usual. Good going - even for Edge.

Regards CROS

PS There was also a police licensing visit at 9.30pm but just what did they expect to find at that hour??!

Noel Serrano

From: Lesley Cousins [lesley_cousins@yahoo.co.uk]
Sent: 01 February 2007 12:44
To: Stephen Irvine; Noel Serrano
Cc: CROS
Subject: EDGE Planning Applications Ref: 2242 & 2243

Re: EDGE; 157 Commercial Street E1. Planning Applications PA/O6/2242 & PA/06/2243.

Dear Sirs

I write to oppose the above planning applications by EDGE for the following reasons:

EDGE, since Nov 2003, has blighted the area with brawling & drunkenness of their customers in the surrounding streets. The noise & mess this creates does nothing to help the reputation of the area and ensures that local residents feel trapped and vulnerable in their own homes. It also appears to have a complete disregard for any planning restrictions previously imposed - ie 2 bouncers on the doors, ordering cabs for clients before they leave, ensuring noise levels do not travel into other parts of the building etc.

Please say no to 4.00am Thursdays. The residents in the area have the right to sleep every night of the week and not to be disturbed at all hours of the night. We speak from experience. Granting Edge the late hours it desires will totally destroy our residential amenity.

Please say no to Sui-Generis Club Use and all that implies by allowing all forms of dance, including 'adult'. In addition to larger, louder crowds causing all of the above problems, club nights also bring in vast numbers of cars because there is no Public Transport after 2.30am weekdays and 4.30am at weekends. All of this ensures that club nights are sleepless ones for local residents.

Therefore please limit Edge to a residentially compatible, regular A4 Bar Use with a midnight close Sunday to Thursday.

In addition we request a substantial reduction in current hours of operation for Friday and Saturday. This will help to reduce the hours of post midnight, unacceptable noise disruption and anti-social behaviour that we suffer at weekends, which goes on until well after 4.30am.

We hope that Planning will now play its part in helping us to put an end to the years of disruption that one selfish business has imposed on this residential community.

05/02/2007

Yours sincerely,

Lesley Cousins

Folgate Street

Inbox full of unwanted email? Get leading protection and 1GB storage with All New Yahoo! Mail.



Dear Sir/Madam,

Appeal Ref: APP/E5900/C/06/2014012. Location: Edge 157 Commercial Street E1 6BJ

In response to the letter you recently sent to me, regarding the Edge Nightclub. I can confirm that Edge is a nightclub, is detrimental to residential amenity on the adjacent area and that the development does not take into account, and is insensitive to, the character of the surrounding area.

I understand that the Edge would like to be granted permission to use the premises as a night club. I ask, on behalf of myself and other residents, that this is not allowed, as past and existing behaviour of the club's owners and patrons, shows blatant disregard for the law, the area and its residents.

I, also, confirm that unauthorised use has occurred and have enclosed supporting evidence (websites, chat rooms, flyers, advertisements, calendar of events, photographs), as well as having recorded a dvd of incidents, which is on its way to you.

Also, I would say that the allegation does breach Planning Control because, as far as I am aware, the premises only have A3 wine bar/restaurant Planning Status and this venue has clearly been operating outside of this usage.

I live next door to the Edge and over the past years (three, if you don't count its previous incarnation as Protokol, which I have been told by staff at the club, residents and local business people, is connected), I have witnessed its continuous usage as a night club, as well as experienced its blatant disregard of opening hours, residents' basic right to sleep, and health and safety.

I, and the residents of Newlon Housing Association, who live nearby, support Tower Hamlets' decision to protect the area and its residents from all illegal activities associated with the Edge, by limiting usage to A3 wine bar/restaurant Planning Status.

Edge is a separate entity from that of the restaurant, previously Dolma and now Hawksmoor. I know this to be fact after many conversations with those associated with the restaurants, the club and local businesses.

Edge may have its place, but it is not here in the middle of a residential and conservation area, with no legal parking available. I know that it should not be here, as I, and other residents, have had to endure years of harassment, abuse, noise, disruption, lack of sleep, illegal parking, broken bottles, fights, drugs being

sold and taken outside our properties, arguments, pools of vomit and men urinating on our properties, approaching residents for sex, as well as openly partying outside our properties and having sex with prostitutes. You only have to look at the amount of substantiating evidence from previous Licensing Sub Committee meetings to see this to be true.

The Edge is a club. It is separate from the restaurant. It has separate entry and separate owners. It has a dance floor, DJ's, flyers and websites advertising them as a club and club nights (including the regular Whores night, as well as the regular Kubicle night) and advertising the pole dancing and pole and hen and stag nights. I have witnessed the queues for this venue, heard the customers, bouncers and owners refer to it as a club, heard drug dealers talking about getting their supplies for the club and spoken to prostitutes, who refer to it as a club and have told me how much business they get from the patrons of the club and of their connections to the club. The music advertised and heard blaring onto the streets is club music. I know people who have been there and they tell me it is definitely a club. If you look at a couple of the websites I have attached, you will see that thousands of people have referred to the Edge as a club and you will even see references to incidents, under age drinking (17 and 16 year olds), drug taking, pole dancing and weekly attendance numbers exceeding 300, with advertised capacities of 600, with a minimum of 250 if booking the club venue. The owners and their solicitor have themselves referred to the Edge as a club on a number of occasions (I'm sure there are several references in previous meeting minutes). Outside the club the awnings stated that Edge is a club. There is an expression that says it if it looks like a duck, walks like a duck, smells like a duck and quacks like a duck, it's a duck. The Edge advertises as a club, sounds like a club, smells like a club and behaves like a club. The Edge is a club.

Below, I have tried to copy relevant proof of Edge and its activities as a club and other activities, however, I am no computer expert and so please forgive me for the presentation. I tried to delete gaps etc. but, due to the nature of the websites, I was unable to do this, without deleting the relevant information. I'm sure you will find the discussion of the club, the pictures of the club and its advertising, illuminating.

Yours faithfully,

C Schlockenhorror 15/8/06

Secretary of Newlon Housing Association's Residents' Association

I write on behalf of myself and other residents, who are unable to.

Please acknowledge receipt of my submission and proof of websites and dvd. I have had to include a lot of the pictures with the dvd, as the internet submission only allows 1MB of information. Thank you.

61 The Exchange Building
132 Commercial Street
London E1 6NQ

The Planning Inspectorate
3/07 Kite Wing
Temple Quay House
2 The Square
Temple Quay
Bristol
BS1 6PN

Appeal Ref: APP/E5900/C/06/2014012

Sir,

I write to encourage the rejection of the appeal against the enforcement order by the owners of Edge, 157 Commercial Street.

This is one of many such objections I have made since Edge (formerly Protocol) opened. My objections have been unchanging and are generated by the scant regard the owners have exhibited for the community, the police, and the licensing authorities in the prosecution of their business

The premises have been used for some considerable time in contravention of the legal requirements demanded by the terms of their licence and against the interests of the surrounding, largely residential community. Image 1 shows a number of people leaving the premises at 04.46 on 21st January 2006. No attempt at monitoring their departure from the premises despite the fact that in past licensing hearings great detail by the owners as to how they would facilitate this with the use of security guards. It was noted by all who attended this hearing that the staff they intended to employ would be East Europeans because they were 'cheap' (sic)

Image 2 shows clients loitering outside the premises on 8th July 2006, almost 6th months later. Please note the debris in the street concentrated around the entrance to the premises.

Image 3 shows more people leaving from the club and in the top right corner of the picture the barriers marking out road works were shortly to be thrown into the path of oncoming traffic. To this moment the noise level was showing a perceptible rise.

In Image 4 you will see a young family leaving early in the morning as if for their holidays. This gives testament to the fact that there are many such young families living in the area. Please note that their attention is taken by the activities immediately outside Edge, and in Image 5 you will see that they have now the added company of some of its patrons. I watched as these men approached the family in what appeared to be less than a sober state. Although watching from a distance, it gave the impression of being a threatening experience for the young children. Finally Image 6 shows how the group of patrons, along with their noise level, was increasing. It was just after this moment that the barriers were thrown in

the road, to be followed by bottles being thrown over the top of the traffic and at the building opposite. The noise of them breaking was quite distinctive.



1. 21/01/2006. 04:46



2. 08/07/2006. 04.32



3. 08/07/2006. 04.43



4. 08/07/2006. 04.45



5. 08/07/2006. 04.45

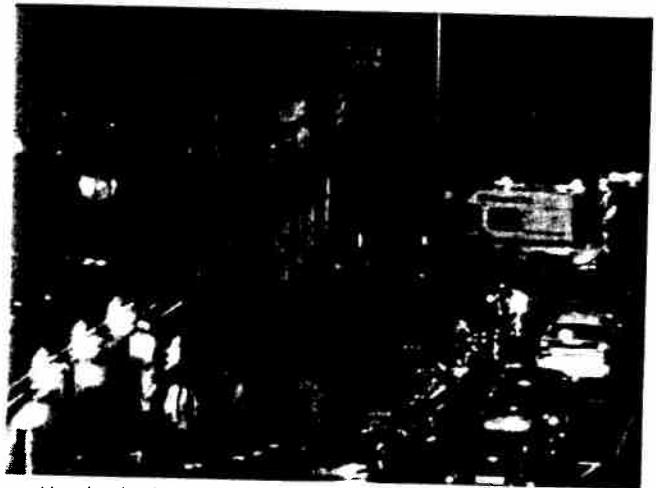


6. 08/07/2006. 04.45

The events of the night of the 8th July 2006 were by no means an isolated affair, but one of many that I have witnessed after having been woken by the noise emanating from the clients of the night club Edge.

Here is another example, this time with the police in evidence.

It is wholly unsuitable for an establishment such as this to operate in this area at the best of times, but when such flagrant disregard is shown for the surrounding community, let alone the unnecessary drain on police resources. I believe that on an earlier occasion as many as 23 police vehicles were present at an altercation to which I was a witness.



At a personal level this has had considerable effect upon my own well being particularly because of the nature of my business which requires frequent foreign trips with the inevitable jet lag and the consequent need to recover. It certainly does not add to the well being of the community and its residents.

I encourage you to disallow this appeal and heed the words of one of the licence committee members to the applicant, "If you cause any problems we will close you down"...this said over one year ago.

Yours faithfully

Michael Spencer

18 THE CLOISTERS
145 COMMERCIAL STREET
LONDON
E1 6EB
TEL: - 0207 377 5495
MOBILE: - 07944 588109
E-MAIL: - kbradley@freezone.co.uk

The Planning Inspectorate,
Room 3/21,
Temple Quay House,
2 The Square,
Temple Quay,
Bristol. BS1 6PN

Enforcement Ref: - TH/ENF/06
Appeal Ref: - APP/E5900/C/06/2014012
My Ref: - 6001372

Dear Sirs,

Edge - 157 Commercial Street London E1 6BJ

I wish to make a comment about the above premises.

I dread the weekends when the club is open, my sleep is frequently disturbed by its clients returning to their cars, which they frequently park, in Folgate Street, outside of my home. They are not quiet upon returning, there are often loud conversations, arguments, doors are slammed and car stereo systems on full blast. There appears to be little supervision from the club about policing the people leaving, and the fact that this is a residential area. If I have actually complained, I have had a torrent of abuse, cat calls and rude gestures. This is now a heavily populated residential area, and such a club and its clients are not appropriate for the area.

Yours faithfully

Katrina Bradley (Ms)

Mr R Davies,
Flat 8,
157 Commercial street,
London,
E1 6BJ.
Tel : 07860 562122

The Planning Inspectorate,
Room 3/21,
Temple Quay House,
2 The Square,
Temple Quay,
Bristol.
BS1 6PN

July 26th 2006

Ref : APP/E5900/C/06/2014012

Dear Sir/Madam,

I wish to make my views known in regards the Enforcement Appeal at 157 Commercial Street, London E1 6BJ (see above reference).

I am a resident/owner of a flat in the same block as the Edge nightclub and so I have first hand experience of the issues of living in close proximity to this business.

Noise Nuisance

The noise emanating from the club which is now open later than 4:00am on weekends has been disturbing my sleep from the time I first moved into my flat in March 2006.

I have previously contacted Tower Hamlets Council to complain about the noise and to ask if the club was in breach of it's licensing conditions (i.e. that it does not disturb the residents in the block). I raised this issue with the council on the 17th April and was given a reference (Flare ref : 62796 if you wish to confirm) and was told that this would be investigated, however over 3 months have passed and I am still awaiting a response from these investigations.

The bass from the music in the club can be heard (and even felt) clearly in my flat whilst I attempt to sleep. My flat is 3 floors above the club. Most of the residents in the block suffer even more from the noise problem as they are closer to the club.. (i.e. the first and second floors). Some of the other residents are short term tenants and many are students and so they may not feel the need to provide input to this appeal (as they will shortly be moving on).

I believe that the flats at 157 Commercial street are not sufficiently sound proofed for this type of activity to take place without disturbing many (if not all) of the residents in the block.

I have recently spoken to the tenant on the floor nearest to the nightclub (Flat 1) and I am told that even when using ear plugs, that he is unable to sleep. This has forced the tenant to sleep at a friend's every weekend. He is waiting for his tenancy to end before he can move. I unfortunately do not have that option as I recently bought the flat without realising that a club would be allowed to cause this much noise pollution in a residential block (i.e. I believed that the council would require a business of this nature be properly sound proofed!! Which it clearly isn't!).

I have been unable to contact this tenant in the last few days, but have this copy of an email he sent to the council in regards the Noise problem from the club. Please feel free to confirm with the council that this was a genuine complaint from the tenant :-

Copy of email from Jerome Maetz (Flat 1 – 157 Commercial st) to Council officer John Cruse (Tower Hamlets Council) on 11th July 2006 :-

-----Original Message-----

From: Jerome Maetz [<mailto:jerome.maetz@wanadoo.fr>]

Sent: 11 July 2006 22:25

To: john.cruse@towerhamlets.gov.uk

Subject: 157 Commercial Street London E1 6BJ

Dear Mr,

I am currently living at 157 Commercial Street, Flat 1, London E1 6BJ and I would like to complain against the Edge and Hawksmoor.

The Edge: the restaurant / night club / private club / pub.... does not respect its neighbors in terms of noise and public security. Since I moved in (three months ago) techno music has been played every Saturday evening until 4am and more recently other parties were organized Fridays and Wednesdays with the same sound volume. To give an example of the volume, the ground of the apartment is moving and ear plugs are totally inefficient so that I now spend every WE by friends because sleeping has become impossible. I have called the Noise Disturbance Department many times to make a complain before giving up. Moreover, after each party, glass bottles and glass pieces are found in front and inside the building.

Hawksmoor: Depending on the Week and on the day, loud music is played (usually between 11h30 and 1am), it seems however that some efforts have been made.

I think the minimum every citizen can ask is to sleep at night.

Please make them stop destroying the life of local inhabitants.

LONDON BOROUGH OF TOWER HAMLETS

At a meeting of the **LICENSING SUB COMMITTEE**
held on **THURSDAY 3rd NOVEMBER 2005** at **6.45**
PM in **THE COUNCIL CHAMBER, THE TOWN HALL,**
MULBERRY PLACE, 5 CLOVE CRESCENT,
LONDON, E14 2BG

PRESENT

Members of the Sub Committee:

Councillor B. Son (Chair)
Councillor A. Amos
Councillor M. Williams

Applicants

Mr P. Glazebrook	Legal Representative
Mr H. Patel	MD, Powernet Ltd, 157 Commercial Street

Objectors

Paul Smith	Environmental Health
PC K. Eglinton	Police, Licensing Section
Cl C. McNamara	Metropolitan Police
Mr M. Spencer	Exchange Building, Commercial Street
Ms L. Tonkin	Lamb Street
Mr E. Bagshaw	The Cloisters, Commercial Street
Mrs H. Bagshaw	The Cloisters, Commercial Street
Mr M. Pepperell	Exchange Building, Commercial Street
Ms C. Alayne	Exchange Building, Commercial Street
Ms J. Dey	Calvin Street
Mr P. Humberstone	Folgate Street
Ms L. Cousins	Priory House
Ms N. Heard	The Cloisters, Commercial Street
Ms C. Cox	Burhan Uddin House
Mr D. Donaghue	St. George's R.A.
Mr M. Lane	Elder Street
Ms C. Schlockenhorror	Newlon Housing Asso. R.A.
Mr J. Thornton	Hurford Salvi Carr, Managing Agents

There were a number of other objectors present who were unable to sign the attendance book.

Officers

John Cruse	Trading Standards, Licensing
Kathy Butler	Trading Standards, Licensing
Asithe Ranatunga	Legal Advisor
Margaret Sampson	Clerk to the Committee

Members of the Public in Attendance

There were several members of the public present who did not sign the attendance book.

The Chair welcomed everyone to the meeting and asked those present to introduce themselves.

1. APOLOGIES FOR ABSENCE

The Clerk reported that a number of residents who had objected had submitted apologies.

2. DECLARATIONS OF INTEREST

None were received.

3. RULES OF PROCEDURE

The Rules of Procedure were noted.

4. MINUTES

The minutes of the meetings held on 22 September (evening) and 26 September 2005, were confirmed as an accurate record of the proceedings.

At this point, the Clerk advised the Chair that several of the residents who had indicated a wish to address the meeting, had been delayed in heavy traffic. The Chair proposed and it was **Agreed**

That the Sub Committee would now, at 6.50pm, adjourn for twenty minutes to allow speakers the opportunity to attend the meeting.

The meeting reconvened at 7.10pm and the Chair asked Mr Cruse to present the report.

5. ITEMS FOR CONSIDERATION

5.1 **Application to Vary the Premises Licence: Edge, 157 Commercial Street, London E1 6BJ (LSC075/506)**

Mr Cruse reported that the application sought to vary the hours currently operated in regards to the sale of alcohol, the provision of regulated

entertainment and late night refreshment and also to increase the capacity limit of the basement area. The application related to the ground and basement area of the premises which was formerly known as Protokol.

The variation of capacity had not been contained in the public notice and Mr Cruse also reported that the person recorded as the Designated Premises Supervisor had recorded their address as that of the premises yet though there was no record that an application for a personal licence had been received by the Authority.

Having detailed the content of the report and reporting that representations had been received from the Police, Environmental Health, local residents and businesses, Mr Cruse stated that Members may wish to clarify with the applicant, exactly what the application covered.

At the invitation of the Chair, Mr Glazebrook, who was representing the applicants, advised that there were amendments to the application as follows:

- The variation hours applied to the basement area only
- The hours of the variation being sought were now Sunday to Thursday until 02:00 and Friday and Saturday until 04:00, for the sale of alcohol
- The same hours to apply to the provision of late night refreshment
- The same hours to apply to the provision of regulated entertainment
- The removal of 'exotic dancing' from the application though there would be 'regular dancers'
- There would be a new applicant DPS

Mr Glazebrook also confirmed that none of the applicants were present, only the owner of the premises and that the terminal hour sought would be 30 minutes later than the hour for any of the regulated activities.

In relation to the capacity of the premises, Mr Cruse reported that he had written several times seeking clarification as to who was applying for what and in the absence of any response, this matter had never been clarified.

Mr Glazebrook then presented the case on behalf of the applicants. He noted that there had been some previous controversy regarding the premises prior to and during the time the Public Entertainment Licence had been considered, when the premises had frequently been hired out.

This 'raised temperature' seemed to have continued though the objections raised by residents were of a general nature and did not point to these premises in particular. He felt that many of the problems encountered by residents were misdirected and believed that the submission from the Metropolitan Police sustained this point.

Mr Glazebrook went through the Police submission letter in detail, referring to points he believed to be inaccurate and clarifying others. In doing so, Mr

Glazebrook stated that cross referencing in this way highlighted the fact that only one resident had specifically referred to one incident and that this was the only direct point that could be related to the premise. The letter demonstrated that the complaints were generally not the responsibility of Edge as the applicants had learnt lessons from their previous application and the number of complaints made then.

Mr Glazebrook concluded by saying that the premises had obviously been spotlighted by the Police due to the high number of complaints by residents, though there was nothing that indicated these to be the responsibility of the club. The premises were tightly controlled and none of the incidents indicated any problems with disorder. The application as amended was fully justified.

Members sought clarification as to Mr Patel's position and Mr Glazebrook advised that the four named applicants were all employees of Powernet and that Mr Patel was a Director of this company. Mr Singh was the owner of the premises and took an active part in the operation of the business.

Members commented that it was unusual for applicants not to be present though accepted that Mr Glazebrook had received instruction from them.

Chief Inspector McNamara and Mr Paul Smith, Environmental Health Noise Team then addressed the Sub Committee in relation to their individual representations as Statutory Authorities.

Responding to some of the comments from Mr Glazebrook, Chief Inspector McNamara stated that some of the information had been recorded by officers on the scene who had responded directly to that incident.

In relation to the incident detailed on 30 July (No. 9 in the submission and relating to an incident of public disorder which appeared to have started in the lobby of the premises), 14 calls had been received from members of the public and one from a member of staff at the premises. There had been two separate references to an iron bar, four references to bottles and two to glass ash trays, all of which was considered by the Police to be evidence of weapons in use.

Chief Inspector McNamara went on to say the rest of the report was as recorded and that the Police had grave reservations regarding these premises.

Mr Smith reported that statutory noise nuisance had been witnessed on two separate occasions though he only had details relating to one of those to hand. This related to noise emanating from the premises causing nuisance to a resident living above and had resulted in a Statutory Notice being served. Mr Smith also reported Mr Singh's response to the officer who had visited the premises, that the bass noise level was as low as it could be.

Having visited the premises in the past week, Mr Smith reported that he was also concerned that additional sound equipment had been installed and that the addition of rear facing speakers was the likely source of the problem previously

reported. Noise levels had been set when the premises first opened but the introduction of further equipment and its placement changed this. There was no noise limiter at the premises.

Mr Smith also reported that Mr Singh had now disconnected the speakers and had given an undertaking that they would not be used. However, concern remained that the potential for noise nuisance remained. Mr Smith confirmed that noise levels would need to be reset and that he had also identified further noise proofing works that would be required.

Councillor Amos expressed concern that the information contained in the Police submission did not appear to be entirely accurate and asked why the club appeared to be the subject of covert operation.

CI McNamara advised that whilst the day recorded against the date of one entry was wrong, all other information was as reported and that it was for the applicant to say whether or not the club had been open on the dates recorded. In respect of covert activity, there had been considerable community representation made to the Police regarding the operation of this club and many different means were employed to ensure that premises operated effectively, not only this particular club. Of the 15 dates recorded, Police had attended and could verify seven.

CI McNamara also stated that the information regarding the date at the beginning of May had come from intelligence reports and that he could not verify whether the club had been closed as reported by Mr Glazebrook. A later incident indicated that the club showed people leaving the premises beyond the licensed hours and in an extremely drunken state, which gave rise to concerns as to the management of the premises.

It was confirmed for Councillor Williams that not all callers identified themselves to the Police and Mr Smith confirmed that Environmental Health objections would remain irrespective of a reduction in noise levels within the premises due to officers concern regarding the management of the premises.

Mr Glazebrook commented that there appeared to be an assumption that something untoward may have been going on when the premises were seen to be open at 3am and pointed out that it was a condition of the Public Entertainment Licence that patrons should be held inside the premises to wait for cabs.

There being no further questions, the Chair invited residents to make their representations. These included Mr Lane on behalf of Elder Street residents, Ms Dey on behalf of Calvin Street, Wheler Street and Quaker Street residents, Mr Spencer and Mr Pepperell as both Directors and resident representatives of the Exchange Building, Mrs Bagshaw on behalf of The Cloisters Residents Association, Mr Donaghue, Secretary, St. George's Residents Association and Mr Thornton, Hurford Salvi Carr, Managing Agents of 157 Commercial Street. Several other residents commented throughout the presentations but did not give their names.

The premises were located on a busy main road which was also a red route and surrounded by local narrow streets many of which were cobbled. This was a Conservation Area with prioritised residential use alongside ancillary business use and this had worked well until now. Local streets were not suitable for the level of parking now experienced; streets were often blocked leaving no access for emergency vehicles and causing noise and nuisance to residents.

Residents also expressed concern regarding public safety due to the behaviour of patrons on leaving the premises and the venue was not considered suitable for a residential area. No other premises in the vicinity operated late hours and increasing these would make life unbearable for residents, many of whom had young children.

It was reported that several residents were known to have responded to the incidents recorded in the Police submission, which Mr Glazebrook later accepted. More objections had been submitted regarding this application than had been made in response to the original licence application, which was an indication of the level of nuisance and disruption experienced by residents living near to this premise and which had not diminished through time.

Yet again, residents had been woken in the early hours of the morning by the noise of patrons leaving the premises, though the lights on the outside had been turned down so that it looked like the premises were closed. A number of residents were also essential workers; including medical staff and the effect such continual disruption had on them should be considered.

Mrs Bagshaw stated that the inaccuracy of the date in the Police submission may relate to how or when residents reported the incident. The incident recorded as 2nd October related to events that occurred on Saturday 1st October into the 2nd and the club had been open. Mrs Bagshaw then identified herself as one of the residents who had rung the Police on the weekend of 30 July, the incident referred to by CI McNamara earlier. Mrs Bagshaw recounted in detail what she had seen from the time a group of people left the premises until they were out of sight which confirmed the submission as recorded.

There were numerous incidents relating to patrons of the premises as The Cloisters was located opposite the club and residents directly witnessed events. This was the only premise in the vicinity licensed until the early hours and patrons were noisy on dispersal; many looking to get a cab and many with bottles of what appeared to be alcohol. Broken glass on local streets was a particular problem on a Sunday morning. Residents were regularly witnessing outbreaks of noise, nuisance and violent behaviour, as per the incident recorded in Appendix 92 of the report.

Mr Pepperell stated that there were four floors of flats in the Exchange Building that fronted Commercial Street. Whilst mindful of the perspective that residents may be demonizing the premises, he wished to stress that residents were professional people who were reporting what they saw.

Mr Donaghue stated that the patrons of other premises were seen and heard by residents between 11pm and midnight but not later when this was the only place open. The premise was not suitable for use as a club as there was a very small access/egress area and it was not therefore possible to arrange an effective dispersal route, problems associated with dispersal being the main source of nuisance for many.

Mr Donaghue also stated that Mr Singh appeared to be the owner, manager and operator of the premises yet was not the person applying for the licence. He was never the one taking responsibility, always saying it was someone else's problem. The last application had agreed a set of rules and conditions and Mr Singh had given assurances which had not been kept.

One resident reported that she lived in a ground floor flat close to the premises and that the consistency of noise and disturbance had meant that she had had to give up her studies and was also receiving medical treatment due to the effect this had had on her everyday life. This resident also reported that the premises had pulled down the front shutters on some occasions after the Police or Environmental Health had been called but before they arrived and that she had CCTV footage of patrons' behaviour which she had passed to the Police.

Mr Thornton stated that he was representing the Freeholder of the building (157 Commercial Street) and noted that the Sub Committee had heard submissions from both the Police and residents directly relating to the licensing objectives, the prevention of Crime & Disorder, the prevention of public nuisance and the provision of public safety. He felt that further time may be needed to see if the existing arrangements were working though residents would be asked to keep a diary of events.

Mr Thornton confirmed that investigations were continuing as to whether the premises use was allowed within the leasehold covenant though no action had been taken at this point.

Mr Glazebrook responded to the above. He retained the belief that the premises had been spotlighted by the Police and that many of the problems contained in the submissions from residents were not pertinent to the premises. The frontage of the premises was on a main thoroughfare and could easily be confused with general street activities.

Apart from Mr Spencer, there had been no specific reference to dates in the submissions from residents and a strict policy operated regarding bottles being taken from the premises. A lot of money had been spent on the premises and there were residents above who had not complained. The application as amended was not a great change from that which currently operated and the premises would continue to be well managed. A review of the licence could be sought at any time.

Mr Donaghue stated that the residents above the premises had moved out and that the incidents reported were as seen by residents and related to this specific club.

The Chair thanked everyone for their respective submissions and reported that the Sub Committee would now, at 9.05pm, adjourn to consider the evidence presented.

The Sub Committee reconvened at 10pm.

The Chair reported that the Sub Committee had accepted the application as amended with the exception of the operating hours on a Sunday. Members had expressed some concern regarding the level of management of the premises and had set stringent conditions which they expected to see operated. If this was not the case, it would be necessary to consider the future of the premises very seriously. It should also be noted that if necessary, the Police and the Local Authority had the power to close premises that did not uphold the licensing objectives or who did not operate within the terms and use of their licence. Mr Ranatunga was asked to detail the conditions of the licence.

The Sub Committee **RESOLVED**

That the application to vary the Premises Licence for Edge, 157 Commercial Street, London E1 6BJ be **GRANTED** as amended and relates to the basement area only:

Hours for the sale of alcohol

Monday – Thursday 11:00 to 02:00, Friday and Saturday 11:00 to 04:00, Sunday 11:00 to Midnight.

Premises to close 30 minutes later than the hours for regulated activity on every day.

Late Night Refreshment

Monday – Thursday 23:00 to 02:00, Friday and Saturday 23:00 to 04:00, Sunday 23:00 to Midnight.

Regulated Entertainment

Monday – Thursday 18:00 to 02:00, Friday and Saturday 18:00 to 04:00, Sunday 18:00 to Midnight.

Capacity of basement area increased to 215 persons including staff.

A minimum of 2 Registered Door Supervisors to be on duty at all times the premise is open, including private events.

The numbers of patrons must be monitored and recorded by use of clickers at all times.

A person capable of acting on behalf of the applicant must be on the premises at all times a private event takes place.

At all times the premises are operated under this licence, emergency exit routes from the basement into the ground floor premises and to the street there from shall be readily available at all times.

The applicant to comply with all reasonable requirements from Environmental Health and sound levels must be set and maintained in agreement with Environmental Health (Noise) Officers.

All noise emanating from the premise must not cause a statutory nuisance as set out in Section 79, Sub-section (1) paragraph (g) of the Environmental Protection Act 1990 within any other premise.

The windows at the front of the premises are to be kept shut whilst the premises are used under this licence.

Patrons are to be held inside the premises whilst waiting for transport.

Signage to be displayed within the premises asking patrons to leave quietly and be respectful of residential amenity.

All bottled drinks to be served in plastic glasses.

Alcohol purchased in the premises must be consumed within the premises and not taken outside.

Mr Ranatunga also advised of the right of appeal.

The Chair reiterated the grave concerns Members held relating to the effective management of the premises. Whilst Members would not wish to see local businesses close, they must also be respectful to the amenity of local residents.

There being no further business, the meeting closed at 10.05pm.

CHAIR _____



Memorandum

To Licensing Department
From Planning Enforcement
Contact Cain Duncan
Extension 3975
Date 08/07/08
Our Ref. ENF/06/10001
Your Ref.
Subject Licensing Review and Objection

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

www.towerhamlets.gov.uk

**Additional Information, Licensing Review, The EDGE, 157 Commercial Street,
London, E1 6BJ**

The Planning Department would like to add the following relevant information to its initial comments sent to the Licensing Department on the 16/04/08. This information relates to the prosecution of the premises licence holder (Jaspal Singh Rathor) on the 20/06/08.

It should be noted that Mr Singh was prosecuted on the 20/06/08 for two breaches of a Planning Temporary Stop Notice and one breach of a Noise Abatement Notices, in his capacity as the owner and premises license holder at the EDGE Club.

While Mr Singh stated and provided evidence that he had debits of £1,250,000 and that he owed a further £150,000 to friends and relatives the Magistrates Court handed down a fine of £11,000 due to the seriousness of the offences.

This conviction further emphasises the lack of regard the Edge Club has for surrounding residents and the conditions of both its premises licence and planning permission.

In addition to the above and further to comments in paragraph 11 of my initial statement, the Secretary of State (Planning Inspectorate) has dismissed both Mr Rathor's planning appeals and also overturned the Council's decision to grant planning permission for a bar use. These decisions were both based on protecting residents and the local area from noise and disturbance during the night time period. The premises now has no planning permission for any licensable activity, be it a bar or a club (a copy of the Secretary of States decision is attached).

Regards

Cain Duncan
Planning Enforcement Officer



Appeal Decisions

Site visit made on 17 March 2008

by **Mr D Lavender MRTPI**

an Inspector appointed by the Secretary of State
for Communities and Local Government

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Decision date:
2 June 2008

Appeal (A) Ref: APP/E5900/A/07/2060233

Appeal (B) Ref: APP/E5900/A/07/2060232

**157 Commercial Street, London (entrance at ground floor and basement)
E1 6BJ**

- **Appeal (A)** is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - **Appeal (B)** is made under section 78 of the Town and Country Planning Act 1990 against a grant of planning permission subject to conditions.
 - Both appeals are by Powernet Ltd against decisions of the Council of the London Borough of Tower Hamlets.
 - **Application (A)**, Ref PA/06/02243, dated 11 December 2006, was refused by notice dated 4 May 2007.
 - The development proposed in this application is use of premises as a bar and late night entertainment venue (sui generis).
 - **Application (B)**, Ref PA/06/02242, was approved on 4 May 2007 and planning permission was granted subject to conditions.
 - The development permitted in this application is use of the ground floor entrance way and basement premises as a bar (within use Class A4), operating between the hours of Mondays to Wednesdays 11am to 2am the following day, Thursdays to Saturdays 11am to 4am the following day, and Sundays 11am to midnight.
 - The conditions in dispute are Nos 1 and 2.
 - Condition 1 states "On or before 3rd May 2008 the use allowed by this permission must be discontinued".
 - The reason given for this condition is that "Permission for a limited period will allow the Local Planning Authority to ensure that residents' amenity is not detrimentally affected by the Class A4 use and allow the Local Planning Authority to reassess the development in the light of experience of the use.
 - Condition 2 states "The use shall only be permitted to operate between the hours of 9.00 am to midnight on Mondays to Saturdays and 9.00 am to 11.30 pm on Sundays.
 - The reason given for this condition is "To safeguard the amenity of adjacent residents and the area generally and to meet the requirements of the following policies in the London Borough of Tower Hamlets Unitary Development Plan (adopted December 1998):
DEV50 Noise
HSG15 – Preservation of Residential Character
-

Decisions:

1. I dismiss appeal A.

2. I dismiss appeal B, reverse the Council's decision, and refuse planning permission for the use of the ground floor entrance way and basement of premises at 157 Commercial Street, London as a bar (within use Class A4),

operating between the hours of Mondays to Wednesdays 11am to 2am the following day, Thursdays to Saturdays 11am to 4am the following day, and Sundays 11am to midnight.

Reasons

Procedural Matters

1. The site for both applications is identical and includes a small entrance lobby at street level, the stairs down to basement level and the whole of the basement of the premises. The basement has been fitted out and is operational as a late night entertainment venue ("The Edge") and by all accounts has been operating as such for some time. Application (A) effectively seeks permission to continue this use, while application (B) promotes an alternative and more limited use in the event of use as an entertainment venue not being permitted. As an appeal against conditions, the latter now falls to be considered under the provisions of Section 79 of the Town and Country Planning Act 1990. Both appeals focus primarily on the Council's concerns about night-time noise and disturbance, so I deal with that aspect for both appeals together. Appeal (B), however, also gives rise to particular questions concerning the suitability of the conditions imposed by the Council, which I deal with separately.
2. Following my site inspection, I sought additional information from the Council and the appellant on a range of matters including the consistency with which time limits had been applied to other premises in the area and enforced. I have taken account of the replies in my consideration of the appeals. Notably, appeal B insofar as it relates to permitted hours of use in condition 2 has now been withdrawn.

Main issues

3. From the foregoing, there are two main issues in these cases. The first is the effect of the uses proposed in appeals (A) and (B) on the character of the area and the living conditions of local residents, in terms of potential noise and disturbance during the night time period. The second, which concerns only appeal (B), is whether condition 1 is reasonable in the context of Circular 11/95 advice.

Issue 1: Appeals A and B – noise and disturbance

4. The Spitalfields area closely borders the City of London's east side and accommodates a wide mixture of business and residential uses which both support and contribute to the City's economic and social life. Alongside businesses and flats in often sizeable converted commercial buildings, the area includes some recently developed estates of social housing, and older smaller-scale family houses that front directly onto the surrounding side streets. Many of the businesses hereabouts are small workshops and other wholesale and retail enterprises and services. These trade mainly during normal daylight hours and reflect the cultural diversity of the area.
5. While there are public houses, restaurants and club premises in the Spitalfields area too, they are generally relatively few in number and broadly scattered, and very much more so than in other parts of central London that have come

to be popularly regarded as the capital's nightspots. Indeed, apart from the 8 flats on the upper floors of the appeal building itself, the Council has identified the presence of some 240 or more flats in this immediate section of Commercial Street and directly opposite in Wheeler Street, all within a very short distance of the appeal premises. Moreover, while the noise of traffic along Commercial Street might well be unremitting, this contrasts with the quietude of both Wheeler Street and other nearby mainly residential side streets.

6. At present, the basement of the appeal property contains a bar and servery along part of one wall, a small dance floor or space for entertainers, a partly enclosed area for the operation of static and mobile sound systems, some seating booths (built into arches under the pavement) and a separate functions room. Apart from these and toilets and other offices, the basement is mainly an open area for people to gather, sit, stand or circulate, potentially in some numbers. Following complaints by local residents to the Council about noise, I saw that works have been carried out to certain parts of the ceilings and walls to minimise sound transmission to the upper floors, in accordance with a noise consultant's recommendations. Those recommendations were compiled on the assumption that there would be no live music. Whatever the case may be in that respect, the Council now advises that it is seeking revocation of The Edge's premises licence due to on-going noise nuisance. This is apparently manifested in vibration of the floors of the flats above as a result of the volume at which music is played and its bass rhythms. This despite the presence of the intervening and currently unused ground floor.
7. Moreover, the many representations received from local people about the present use of the basement refer also to noise and disturbance (including traffic disturbance) outside the premises. Some of this disturbance, particularly further afield, may be attributable to other premises in the area, but this does not account for all of the Council's concerns. These arise from people allegedly gathering outside the premises before being admitted, when smoking, when they are departing and, more widely, when they are returning to their cars parked in surrounding side streets. As the Council has recognised in granting conditional permission for the use proposed in appeal B, customer activity associated with bar use only is less likely to involve the clientele gathering or departing en masse and may be regarded as little different in terms of amenity impact from the long established public house opposite. With appeal A, I accept that disturbance at such times could in some measure be controlled by strict management practices, for example by enabling patrons to enter quickly, requesting them to wait inside the building for taxis or other transport when leaving, and drawing their attention to the need to exercise consideration as they disperse. Nonetheless, internal space at street level is very limited and, with revellers present in potentially large numbers, these measures are unlikely to be completely effective especially among those in high spirits before or after a long night of drinking with entertainment. There is also evidence that, in consequence of past management failure, police have had to be called to deal with serious affray in and around the entrance area.
8. Efforts to control the off-site activities of patrons by on-site management do not, in any event, represent a good reason for allowing appeal A. Rather, the need for such endeavours is simply indicative of the type of noise and

disturbance associated with late night entertainment activity (even if less than the hours proposed), and its potentially wide impact, which could all too easily further increase if future management of the appeal premises was less responsible or successful than the present Appellant now claims it to be. In essence, the entertainment use has already demonstrated itself to be inherently incompatible with residential use of the upper floors of the building and its wider setting, as well as with the environmental safeguards implicit in policies DEV2, ART1 and HSG15 of the Unitary Development Plan for the area. It is for that reason that I reject appeal A.

9. That said, and with regard to appeal B, I acknowledge that those who choose to live in an inner city area cannot expect absolute peace and quiet even during the late night/early morning hours. Rather, a careful balance needs to be drawn between the demands for late night refreshment, the operational needs of businesses that serve such demands and the entitlement of local residents to the reasonable enjoyment of their properties. In my judgement that balance is best established by consistency in the permitted hours of operation and consistency in their enforcement for the area as a whole, rather than by an ad hoc and inconsistent approach to applications for their relaxation from individual businesses. While appeal A fails in principle, hours of operation for Appeal B are part of the subject matter of the second main issue, which I turn to deal with next.

Appeal B: Suitability of condition 1

10. Paragraph 111 of Circular 11/95 says that where an application is made for permanent permission for a use that may be "potentially detrimental" to existing uses nearby, but there is insufficient evidence to enable the Local Planning Authority to be sure of its effect, a temporary "trial run" might be appropriate provided this would be reasonable having regard to the capital expenditure necessary to carry out the development. In this case, it is debatable whether any additional capital expenditure would be necessary to convert the premises from a light night entertainment venue and bar to use solely as a bar. However, there is no need for a trial period because experience of other similar uses in the area has already established a broad pattern of permitted hours of operation, generally that premises be closed by about 23:00 hrs on Sunday-Thursday nights and 01:00hrs on Friday and Saturday nights. The hours permitted under condition 2 are more restrictive than this. Condition 1 therefore serves no useful purpose and should be deleted.
11. As I have indicated in correspondence with the parties, I further take the view that condition 2 fails the test of reasonableness (paragraph 35 of Circular 11/95) because it nullifies the benefit of the use specifically applied for (and contradicts the opening hours specified in the description of the development permitted). It would, however, be wrong to strike the condition out altogether because that would lend supremacy to the hours provided for in the application description and would be unacceptably inconsistent with the general pattern established in the area. Moreover, it is not possible to substitute different hours from those referred to in the application description without similarly falling foul of the reasonableness test. The appropriate way forward, as the appellant has accepted in withdrawing the appeal against condition 2 is for a fresh application to be made with a revised development description that

leaves suitable opening hours to be determined by condition. As matters stand, the application description and condition 2 are irreconcilable. In these circumstances, there is no alternative open to me other than to reverse the Council's decision (as I have previously cautioned) because it is fundamentally faulted in this respect and, as Section 79 of the Act provides, refuse permission for the development applied for as a whole.

Other matters and conclusions

12. I have considered all other matters raised in the representations, including local residents' concerns about street crime, prostitution and drug dealing in the area. However, such activities are for the police to control and, in land use planning terms, cannot be held to be directly or indirectly attributable to the generic use of the appeal premises. The type of entertainments held in connection with Appeal (A) are likewise for the licensing system rather than the planning system to regulate. There is nothing to indicate that the physical character or appearance of the Elder Street Conservation Area within which the premises lie would be anything other than preserved whatever the outcome of these appeals. I find nothing in these or any other matter to alter my conclusions on each of the main issues. Both appeals accordingly fail.

D Lavender



Appeal Decisions

Site visit made on 17 March 2008

by **Mr D Lavender MRTPI**

an Inspector appointed by the Secretary of State
for Communities and Local Government

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Decision date:
2 June 2008

Appeal (A) Ref: APP/E5900/A/07/2060233
Appeal (B) Ref: APP/E5900/A/07/2060232
157 Commercial Street, London (entrance at ground floor and basement)
E1 6BJ

- **Appeal (A)** is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
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- The reason given for this condition is that "Permission for a limited period will allow the Local Planning Authority to ensure that residents' amenity is not detrimentally affected by the Class A4 use and allow the Local Planning Authority to reassess the development in the light of experience of the use.
- Condition 2 states "The use shall only be permitted to operate between the hours of 9.00 am to midnight on Mondays to Saturdays and 9.00 am to 11.30 pm on Sundays.
- The reason given for this condition is "To safeguard the amenity of adjacent residents and the area generally and to meet the requirements of the following policies in the London Borough of Tower Hamlets Unitary Development Plan (adopted December 1998):
DEV50 Noise
HSG15 – Preservation of Residential Character

Decisions:

1. I dismiss appeal A.

2. I dismiss appeal B, reverse the Council's decision, and refuse planning permission for the use of the ground floor entrance way and basement of premises at 157 Commercial Street, London as a bar (within use Class A4),

operating between the hours of Mondays to Wednesdays 11am to 2am the following day, Thursdays to Saturdays 11am to 4am the following day, and Sundays 11am to midnight.

Reasons

Procedural Matters

1. The site for both applications is identical and includes a small entrance lobby at street level, the stairs down to basement level and the whole of the basement of the premises. The basement has been fitted out and is operational as a late night entertainment venue ("The Edge") and by all accounts has been operating as such for some time. Application (A) effectively seeks permission to continue this use, while application (B) promotes an alternative and more limited use in the event of use as an entertainment venue not being permitted. As an appeal against conditions, the latter now falls to be considered under the provisions of Section 79 of the Town and Country Planning Act 1990. Both appeals focus primarily on the Council's concerns about night-time noise and disturbance, so I deal with that aspect for both appeals together. Appeal (B), however, also gives rise to particular questions concerning the suitability of the conditions imposed by the Council, which I deal with separately.
2. Following my site inspection, I sought additional information from the Council and the appellant on a range of matters including the consistency with which time limits had been applied to other premises in the area and enforced. I have taken account of the replies in my consideration of the appeals. Notably, appeal B insofar as it relates to permitted hours of use in condition 2 has now been withdrawn.

Main issues

3. From the foregoing, there are two main issues in these cases. The first is the effect of the uses proposed in appeals (A) and (B) on the character of the area and the living conditions of local residents, in terms of potential noise and disturbance during the night time period. The second, which concerns only appeal (B), is whether condition 1 is reasonable in the context of Circular 11/95 advice.

Issue 1: Appeals A and B – noise and disturbance

4. The Spitalfields area closely borders the City of London's east side and accommodates a wide mixture of business and residential uses which both support and contribute to the City's economic and social life. Alongside businesses and flats in often sizeable converted commercial buildings, the area includes some recently developed estates of social housing, and older smaller-scale family houses that front directly onto the surrounding side streets. Many of the businesses hereabouts are small workshops and other wholesale and retail enterprises and services. These trade mainly during normal daylight hours and reflect the cultural diversity of the area.
5. While there are public houses, restaurants and club premises in the Spitalfields area too, they are generally relatively few in number and broadly scattered, and very much more so than in other parts of central London that have come

to be popularly regarded as the capital's nightspots. Indeed, apart from the 8 flats on the upper floors of the appeal building itself, the Council has identified the presence of some 240 or more flats in this immediate section of Commercial Street and directly opposite in Wheeler Street, all within a very short distance of the appeal premises. Moreover, while the noise of traffic along Commercial Street might well be unremitting, this contrasts with the quietude of both Wheeler Street and other nearby mainly residential side streets.

6. At present, the basement of the appeal property contains a bar and servery along part of one wall, a small dance floor or space for entertainers, a partly enclosed area for the operation of static and mobile sound systems, some seating booths (built into arches under the pavement) and a separate functions room. Apart from these and toilets and other offices, the basement is mainly an open area for people to gather, sit, stand or circulate, potentially in some numbers. Following complaints by local residents to the Council about noise, I saw that works have been carried out to certain parts of the ceilings and walls to minimise sound transmission to the upper floors, in accordance with a noise consultant's recommendations. Those recommendations were compiled on the assumption that there would be no live music. Whatever the case may be in that respect, the Council now advises that it is seeking revocation of The Edge's premises licence due to on-going noise nuisance. This is apparently manifested in vibration of the floors of the flats above as a result of the volume at which music is played and its bass rhythms. This despite the presence of the intervening and currently unused ground floor.
7. Moreover, the many representations received from local people about the present use of the basement refer also to noise and disturbance (including traffic disturbance) outside the premises. Some of this disturbance, particularly further afield, may be attributable to other premises in the area, but this does not account for all of the Council's concerns. These arise from people allegedly gathering outside the premises before being admitted, when smoking, when they are departing and, more widely, when they are returning to their cars parked in surrounding side streets. As the Council has recognised in granting conditional permission for the use proposed in appeal B, customer activity associated with bar use only is less likely to involve the clientele gathering or departing en masse and may be regarded as little different in terms of amenity impact from the long established public house opposite. With appeal A, I accept that disturbance at such times could in some measure be controlled by strict management practices, for example by enabling patrons to enter quickly, requesting them to wait inside the building for taxis or other transport when leaving, and drawing their attention to the need to exercise consideration as they disperse. Nonetheless, internal space at street level is very limited and, with revellers present in potentially large numbers, these measures are unlikely to be completely effective especially among those in high spirits before or after a long night of drinking with entertainment. There is also evidence that, in consequence of past management failure, police have had to be called to deal with serious affray in and around the entrance area.
8. Efforts to control the off-site activities of patrons by on-site management do not, in any event, represent a good reason for allowing appeal A. Rather, the need for such endeavours is simply indicative of the type of noise and

disturbance associated with late night entertainment activity (even if less than the hours proposed), and its potentially wide impact, which could all too easily further increase if future management of the appeal premises was less responsible or successful than the present Appellant now claims it to be. In essence, the entertainment use has already demonstrated itself to be inherently incompatible with residential use of the upper floors of the building and its wider setting, as well as with the environmental safeguards implicit in policies DEV2, ART1 and HSG15 of the Unitary Development Plan for the area. It is for that reason that I reject appeal A.

9. That said, and with regard to appeal B, I acknowledge that those who choose to live in an inner city area cannot expect absolute peace and quiet even during the late night/early morning hours. Rather, a careful balance needs to be drawn between the demands for late night refreshment, the operational needs of businesses that serve such demands and the entitlement of local residents to the reasonable enjoyment of their properties. In my judgement that balance is best established by consistency in the permitted hours of operation and consistency in their enforcement for the area as a whole, rather than by an ad hoc and inconsistent approach to applications for their relaxation from individual businesses. While appeal A fails in principle, hours of operation for Appeal B are part of the subject matter of the second main issue, which I turn to deal with next.

Appeal B: Suitability of condition 1

10. Paragraph 111 of Circular 11/95 says that where an application is made for permanent permission for a use that may be "potentially detrimental" to existing uses nearby, but there is insufficient evidence to enable the Local Planning Authority to be sure of its effect, a temporary "trial run" might be appropriate provided this would be reasonable having regard to the capital expenditure necessary to carry out the development. In this case, it is debatable whether any additional capital expenditure would be necessary to convert the premises from a light night entertainment venue and bar to use solely as a bar. However, there is no need for a trial period because experience of other similar uses in the area has already established a broad pattern of permitted hours of operation, generally that premises be closed by about 23:00 hrs on Sunday-Thursday nights and 01:00hrs on Friday and Saturday nights. The hours permitted under condition 2 are more restrictive than this. Condition 1 therefore serves no useful purpose and should be deleted.
11. As I have indicated in correspondence with the parties, I further take the view that condition 2 fails the test of reasonableness (paragraph 35 of Circular 11/95) because it nullifies the benefit of the use specifically applied for (and contradicts the opening hours specified in the description of the development permitted). It would, however, be wrong to strike the condition out altogether because that would lend supremacy to the hours provided for in the application description and would be unacceptably inconsistent with the general pattern established in the area. Moreover, it is not possible to substitute different hours from those referred to in the application description without similarly falling foul of the reasonableness test. The appropriate way forward, as the appellant has accepted in withdrawing the appeal against condition 2 is for a fresh application to be made with a revised development description that

leaves suitable opening hours to be determined by condition. As matters stand, the application description and condition 2 are irreconcilable. In these circumstances, there is no alternative open to me other than to reverse the Council's decision (as I have previously cautioned) because it is fundamentally faulted in this respect and, as Section 79 of the Act provides, refuse permission for the development applied for as a whole.

Other matters and conclusions

12. I have considered all other matters raised in the representations, including local residents' concerns about street crime, prostitution and drug dealing in the area. However, such activities are for the police to control and, in land use planning terms, cannot be held to be directly or indirectly attributable to the generic use of the appeal premises. The type of entertainments held in connection with Appeal (A) are likewise for the licensing system rather than the planning system to regulate. There is nothing to indicate that the physical character or appearance of the Elder Street Conservation Area within which the premises lie would be anything other than preserved whatever the outcome of these appeals. I find nothing in these or any other matter to alter my conclusions on each of the main issues. Both appeals accordingly fail.

D Lavender