

Committee: Licensing Sub-committee	Date:	Classification Unclassified	Report No. <i>LSC034</i> <i>809</i>	Agenda Item No.
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Report of: Colin Perrins Head of Trading Standards and Environmental Health (Commercial)	Title: Licensing Act 2003 Application for a premises licence application for 95 Columbia Road London E2 7RG
Originating Officer: John Cruse Team Leader Licensing	Ward affected: Weavers

1.0 Summary

Applicant: **Emma Luisa Lantosca**

Address of Premises: **95 Columbia Road
London
E2 7RG**

Licence sought: **Premises Licence - Licensing Act 2003**
• **Sale of alcohol**

Representations: **Local resident**

2.0 Recommendations

2.1 That the Licensing Committee considers the application and objections then adjudicate accordingly.

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

Brief description of "background paper"	Tick if copy supplied for register	If not supplied, name and telephone number of holder
File Only	<input type="checkbox"/>	John Cruse 020 7364 5024

3.0 **Background**

- 3.1 This is an application for a new premises licence for 95 Columbia Road London E2 7RG.
- 3.2 A copy of the application is enclosed as **Appendix 1**.

The hours that have been applied for are as follows:-

Sale of Alcohol (on and off sales)

- Monday to Saturday, from 12 00 to 19 00
- On Wednesdays in December alcohol will be on sale until 21 00 hrs

Hours premises are open to the public:

- Monday to Saturday from 12 00 hours to 19 00 hrs
- On Wednesdays in December alcohol will be on sale until 21 00 hrs

- 3.3 Members may care to note that a late night refreshment application is not necessary as the sale of food does not go beyond 23 00 hrs.
- 3.3 A map showing the situation of premises in the local area is included as **Appendix 2**.

4.0 **Licensing Policy and Government Advice**

- 4.1 The Council has adopted a licensing policy and this is available from the Licensing Section, and at the hearing.
- 4.2 Relevant Sections of the policy are brought to the attention of Members within the Licensing Officers report.
- 4.3 The Government Minister, the Secretary of State for Culture, Media and Sport has issued Guidance under Section 182 of the Licensing Act 2003. This is available on the Government's website, www.culture.gov.uk. It was substantially revised on the 28 June 2007.
- 4.4 Relevant Sections of this advice are brought to Members attention within the Licensing Officers report. Members should note however, that in some areas Tower Hamlets, after a proper consideration of local circumstances, has not followed the Government's advice, or has developed it further.

5.0 Representations

- 5.1 All representations have to meet basic legal and administrative requirements. If they fail to do so they cannot be accepted. When rejected the person sending in the representation must be written to, and an explanation for rejection given in writing.
- 5.2 Interested party as defined in Section 13 (3) of the Licensing Act 2003 is limited to persons living in the vicinity of the premises, their representatives and local businesses in the vicinity of the premises and their representatives. Essentially, the interested party making the representation should show by what they say that they, or those they represent are sufficiently close to be personally affected by the application.
- 5.3 Only a responsible authority or an interested party can make a representation. Both of these terms are defined by statute, in Section 13 of the Licensing Act 2003.
- 5.4 There are two tests for an interested party and only one for a responsible authority. The two tests are contained in Section 18 of the Act.
- 5.5 All representations must be “about the likely effect of the grant of the premises licence on the promotion of the licensing objectives.” Likely means something that will probably happen, i.e. on balance more likely than not.
- 5.6 Representations by responsible authorities do not have to meet the second test of not being vexatious and frivolous. Interested parties and their representatives have to meet this test.
- 5.7 The Secretary of State recommends that in borderline cases, the benefit of the doubt should be given to the interested party making the representation.
- 5.8 Section 182 Advice by the DCMS concerning relevant, vexatious and frivolous representations is attached as **Appendix 3**.
- 5.9 The representation in this report has been considered by the relevant officer (Team Leader Licensing) and determined to have met the requirements of the Licensing Act 2003. Not all representations have been accepted in this case.
- 5.10 All of the responsible authorities have been consulted about this application. They are as follows:
 - The Metropolitan Police
 - The LFEPA (the London Fire and Emergency Planning Authority).
 - Planning
 - Health and Safety

- Environmental Protection
- Trading Standards
- Child Protection

5.11 This hearing is required by the Licensing Act 2003, because a relevant representation have been made by a local resident.

5.12 Please see **Appendix 4** for the representation of Ms. Jankunas.

5.13 The application was required to be advertised in a local newspaper and by a blue poster. In addition the Licensing Section now consults residents within 40m.

5.14 Only objections that relate to the following licensing objectives are relevant:

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

Essentially, the local resident has raised issues that relate to

- the prevention of public nuisance.

5.15 There are strict time limits to any representations. The time limits are contained in The Licensing Act 2003 (Premises licences and club premises certificates) Regulations 2005.

6.0 Licensing Officer Comments

6.1 The Licensing Section is not a responsible authority and therefore has no ability to make any relevant representations. The following therefore is intended simply to advise Members of the relevant aspects of the Boroughs Licensing Policy, guidance from the Secretary of State, legislation and good practice. Members may depart from the Council's Licensing Policy and/or Government advice, provide they consider it appropriate to do so, and have clear reasons for their decision.

6.2 **Guidance issued under section 182 of the licensing Act 2003**

❖ As stated in the guidance it is “provided for licensing authorities carrying out their functions.” It is a key mechanism for promoting best practice, ensuring consistent application and promoting fairness (1.6).

Also “so long as the guidance has been properly and carefully understood and considered, licensing authorities may depart from it if they have reason to do so.” When doing so licensing authorities will need to give full reasons for their actions (1.7).

❖ Also Members should note “A Licensing Authority may depart from its own policy if the individual circumstances of any case merit such a decision in the interests of the promotion of the licensing objectives.” (1.10)

❖ Conditions may not be imposed for the purpose other than the licensing objectives.

❖ Necessary conditions should emerge from a risk assessment by the applicant, which should then be reflected in the operating schedule (10.7).

❖ The Licensing Authority may only impose such conditions as are necessary for meeting the licensing objectives.

6.3 The Licensing Act 2003 permits children of any age to be on the premises providing they are accompanied by an adult. It is not necessary to make this a condition.

6.4 In all cases the Members should make their decision on the civil burden of proof, that is “the balance of probability.”

6.5 In all cases Members should consider whether or not primary legislation is the appropriate method of regulation and should only consider licence conditions when the circumstances in their view are not already adequately covered elsewhere.

6.6 The Government has advised that “In the context of preventing public nuisance it is again essential that conditions are focused on measures within the direct control of the licence holder. Conditions relating to public nuisance caused by anti-social behaviour of customers once they are beyond the control of the licence holder or premises management cannot be justified and will not serve the licensing objectives.” (2.38)

6.7 The Council’s licensing Policy generally expects applicants to address the licensing objectives and discuss how to do this with the relevant responsible authorities.

6.8 Members will find advice on the issues relating to conduct on the premises and access/egress as follows:

Appendix 5 Licensing Officer comments on noise while the premise is in use

Appendix 6 Licensing Officer comments on access/egress problems

Appendix 7 Planning

7.0 Legal Comments

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

8.0 Finance Comments

8.1 There are no financial implications in this report.

9.0 Appendices

- Appendix 1** A copy of the premises licence application
- Appendix 2** Maps of the area
- Appendix 3** Section 182 Advice by the DCMS concerning relevant, vexatious and frivolous representations
- Appendix 4** Representation of Ms. Jankunas
- Appendix 5** Licensing Officer comments on noise while the premise is in use
- Appendix 6** Licensing Officer comments on access/egress problems
- Appendix 7** Planning

Appendix 1



FOR OFFICE USE			
RECEIPT / INVOICE NO.	FEE REQUIRED:	Date:	Initials:

This form should be completed and forwarded to: Licensing Section, Mulberry Place (AH), PO BOX 55739, 5 Clove Crescent, London E14 1BY with a cheque for the correct fee, made payable to the London Borough of Tower Hamlets.

Application for a premises licence to be granted under the Licensing Act 2003

PLEASE READ THE FOLLOWING INSTRUCTIONS FIRST

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

I/we (Insert name(s) of applicant) EMMA WISAJANTO & CA

apply for a premises licence under section 17 of the Licensing Act 2003 for the premises described in Part 1 below (the premises) and I/we are making this application to you as the relevant licensing authority in accordance with section 12 of the Licensing Act 2003.

Part 1 – Premises details

Postal address of premises or, if none, ordnance survey map reference or description	
<p>015 COLUMBIA ROAD LONDON E2 7JGT</p>	<p style="text-align: center;">LBTH TRAFFIC STANDARDS 3 - JUL 2008</p> <p style="text-align: center;">LICENSING</p>
Post town <u>LONDON</u>	Post code <u>E2 7JGT</u>

Telephone number at premises (if any)

Non-domestic rateable value of premises

Part 2 - Applicant details

Please state whether you are applying for a premises licence as

- Please tick yes no
- a) an individual or individuals* Please complete section (A)
- b) a person other than an individual *
- i. as a limited company please complete section (B)
 - ii. as a partnership please complete section (B)
 - iii. as an unincorporated association or please complete section (B)
 - iv. other (for example a statutory corporation) please complete section (B)
- c) a recognised club please complete section (B)
- d) a charity please complete section (B)
- e) the proprietor of an educational establishment please complete section (B)
- f) a health service body please complete section (B)
- g) an individual who is registered under Part 2 of the Care Standards Act 2000 (c14) in respect of an independent hospital please complete section (B)
- h) the chief officer of police of a police force in England and Wales please complete section (B)

*If you are applying as a person described in (a) or (b) please confirm:

- Please tick yes no
- I am carrying on or proposing to carry on a business which involves the use of the premises for licensable activities; or
 - I am making the application pursuant to a
 - statutory function or
 - a function discharged by virtue of Her Majesty's prerogative

(A) INDIVIDUAL APPLICANTS (fill in as applicable)

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

Surname First names

I am 18 years old or over Please tick yes

Current postal address if different from premises address

Post Town Postcode

Daytime contact telephone number

E-mail address (optional)

SECOND INDIVIDUAL APPLICANT (if applicable)

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

Surname First names

I am 18 years old or over Please tick yes

Current postal address if different from premises address

Post Town Postcode

Daytime contact telephone number

E-mail address (optional)

B) OTHER APPLICANTS

Please provide name and registered address of applicant in full. Where appropriate please give any registered number. In the case of a partnership or other joint venture (other than a body corporate), please give the name and address of each party concerned.

Name	EMMA IANTOSCA
Address	91 COLUMBIA ROAD, LONDON, E2 7RG
Registered number (where applicable)	/
Description of applicant (for example partnership, company, unincorporated association etc)	SOLE TRADER
Telephone number, if any	020 77391089 07525 173153
E-mail (optional)	emmaiantosca@yahoo.co.uk

Part 3 Operating Schedule

When do you want the premises licence to start?

Day	Month	Year
01	08	2008

If you wish the licence to be valid only for a limited period, when do you want it to end?

Day	Month	Year
/	/	/

If 5,000 or more people are expected to attend the premises at any one time, please state the number expected to attend.

/

Please give a general description of the premises (please read guidance note1)

A small shop which will be used as a delicatessen - Food will be available to consume on and off the premises.
The property is situated at the end of Columbia Road, it is the last property and is not amongst residential properties.

What licensable activities do you intend to carry on from the premises?
(Please see sections 1 and 14 of the Licensing Act 2003 and Schedule 1 and 2 to the Licensing Act 2003)

Provision of regulated entertainment

- Please tick yes
- a) plays (if ticking yes, fill in box A)
 - b) films (if ticking yes, fill in box B)
 - c) indoor sporting events (if ticking yes, fill in box C)
 - d) boxing or wrestling entertainment (if ticking yes, fill in box D)
 - e) live music (if ticking yes, fill in box E)
 - f) recorded music (if ticking yes, fill in box F)
 - g) performances of dance (if ticking yes, fill in box G)
 - h) anything of a similar description to that falling within (e), (f) or (g)
(if ticking yes, fill in box H)

Provision of entertainment facilities for:

- i) making music (if ticking yes, fill in box I)
- j) dancing (if ticking yes, fill in box J)
- k) entertainment of a similar description to that falling within (i) or (j)
(if ticking yes, fill in box K)

Provision of late night refreshment (if ticking yes, fill in box L)

Supply of alcohol (if ticking yes, fill in box M)

In all cases complete boxes N, O and P

L

Late night refreshment Standard days and timings (please read guidance note 6)			Will the provision of late night refreshment take place indoors or outdoors or both – please tick [X] (please read guidance note 2)	Indoors		
Day	Start	Finish		Outdoors		
Mon			Please give further details here (please read guidance)	Both		
Tue						
Wed				State any seasonal variations for the provision of late night refreshment (please read guidance note 4)		
Thur						
Fri						
Sat				Non standard timings. Where you intend to use the premises for the provision of late night refreshment at different times to those listed in the column on the left, please list (please read guidance note 5)		
Sun						

M

Supply of alcohol Standard days and timings (please read guidance note 6)			Will the supply of alcohol be for consumption – please tick [X] (please read guidance note 7)	On the premises		
Day	Start	Finish		Off the premises		
Mon			Please give further details here (please read guidance) A delicatessen providing fine wine to purchase. A few wines will be available to consume on the premises.	Both	<input checked="" type="checkbox"/>	
Tue	12-00	19-00				
Wed	12-00	19-00		State any seasonal variations for the supply of alcohol (please read guidance note 4) WEDNESDAYS IN DECEMBER - WE WILL BE OPEN UNTIL 21-00 FOR THE ANNUAL XMAS SHOPPING EVENT.		
Thur	12-00	19-00				
Fri	12-00	19-00		Non standard timings. Where you intend to use the premises for the supply of alcohol at different times to those listed in the column on the left, please list (please read guidance note 5)		
Sat	12-00	19-00				
Sun	12-00	15-00				

Box M continues on the next page...

Box M continued

State the name and details of the individual whom you wish to specify on the licence as premises supervisor

Name

EMMA IANTOSCA

Address

91 COLUMBIA ROAD
LONDON

Postcode E2 7LG

Personal Licence number(if known)

Issuing licensing authority (if known)

N

Please highlight any adult entertainment or services, activities, other entertainment or matters ancillary to the use of the premises that may give rise to concern in respect of children (please read guidance note 8)

NONE



O

Hours premises are open to the public Standard timings (please read guidance note 6)			State any seasonal variation (please read guidance note 4)
Day	Start	Finish	
Mon			<p>Non standard timings. Where you intend to the premises to be open at different times to those listed in the column on the left, please list (please read guidance note 5)</p> <p>EVERY WEDNESDAY IN DECEMBER - OPENING HOURS CHANGE TO 11.00 - 21.00</p>
Tue	11.00	19.00	
Wed	11.00	19.00	
Thur	11.00	19.00	
Fri	11.00	19.00	
Sat	11.00	19.00	
Sun	9.00	14.30	

P

Describe the steps you intend to take to promote the four licensing objectives:

a) General – all four licensing objectives (b,c,d,e) (please read guidance note 9)

Our alcohol supply will attract a particular market reducing the risk of any unwanted behaviour. Alcohol will only be available from 12.00 - 19.00 and will therefore, not be consumed in the evening for any events. We will clearly advertise age restrictions and requirements for purchase + consumption as the premises. Wine will be out of reach of children and not served to anyone we suspect would be already over the limit -

b) The prevention of crime and disorder

Alcohol will be kept in an area where by staff assistance will be required.
Nobody will be served that are already under the influence of alcohol -

c) Public safety

Alcohol is a very small percentage of our business - It will be kept to a minimum and not consumed anywhere thought unsafe.

d) The prevention of public nuisance

Alcohol will only be served with food - The delicatessen is not available for alcohol only unless purchased and taken off the premises. The business is open during the day and will not attract people wanting to only drink. Noise will be maintained, should anyone wish to drink and eat.

e) The protection of children from harm

No alcohol will be in a child's reach - No person under the age of 18 will be served alcohol and I.d will be requested for anyone uncertain.

You have completed part 3 of this form. Below is a checklist for your assistance.

CHECKLIST:

- Please tick yes
- I have made or enclosed payment of the fee
 - I have enclosed the plan of the premises
 - I have sent copies of this application and the plan to responsible authorities and others where applicable
 - I have enclosed the consent form completed by the individual I wish to be Premises Supervisor, if applicable
 - I understand that I must now advertise my application
 - I understand that if I do not comply with the above requirements my application will be rejected

Part 4 – Signatures (please read guidance note 10)

IT IS AN OFFENCE, LIABLE ON CONVICTION TO A FINE UP TO LEVEL 5 ON THE STANDARD SCALE, UNDER SECTION 158 OF THE LICENSING ACT 2003, TO MAKE A FALSE STATEMENT IN OR IN CONNECTION WITH THIS APPLICATION

Signature of applicant or applicant's solicitor or other duly authorised agent. (See guidance note 11) If signing on behalf of the applicant please state in what capacity.

Signature Auten

Date 16-06-08

Capacity _____

For joint applications signature of 2nd applicant or 2nd applicant's solicitor or other authorised agent. (please read guidance note 12) If signing on behalf of the applicant please state in what capacity.

Signature _____

Date _____

Capacity _____

Contact name (where not previously given) and postal address for correspondence associated with this application (please read guidance note 13)

Post town

Post code

Telephone number (if any)

If you would prefer us to correspond with you by e-mail your e-mail address (optional)



FOR OFFICE USE			
RECEIPT / INVOICE NO.	FEE REQUIRED:	Date:	Initials:

This form should be completed and forwarded to Licensing Section, Mulberry Place (AH), PO BOX 55739, 5 Clove Crescent, London E14 1BY with a cheque for the correct fee, made payable to the London Borough of Tower Hamlets.

Consent of individual to being specified as premises supervisor

EMMA LISA JANTOSKA
 [full name of prospective premises supervisor]

of 91 COLUMBIA ROAD, LONDON, E2 7RG
 [home address of prospective premises supervisor]

hereby confirm that I give my consent to be specified as the designated premises supervisor in relation to the application for SUPPLY OF ALCOHOL [type of application]

by EMMA LISA JANTOSKA [name of applicant]

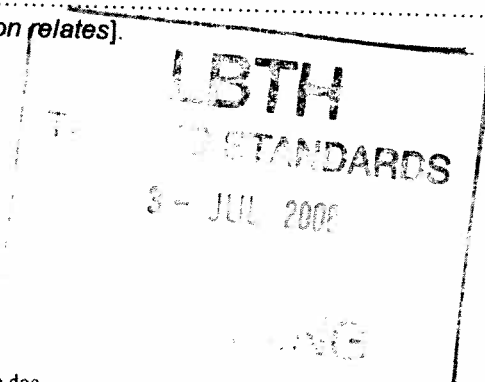
relating to a premises licence [number of existing licence, if any]
 for 95 COLUMBIA ROAD, LONDON, E2 7RG

[name and address of premises to which the application relates]

and any premises licence to be granted or varied in respect of this application made by EMMA LISA JANTOSKA [name of applicant]

concerning the supply of alcohol at 95 COLUMBIA ROAD, LONDON E2 7RG

[name and address of premises to which application relates]



I also confirm that I am applying for, intend to apply for or currently hold a personal licence, details of which I set out below.

Personal licence number

.....
[insert personal licence number, if any]

Personal licence issuing authority

.....
[insert name and address and telephone number of personal licence issuing authority, if any]

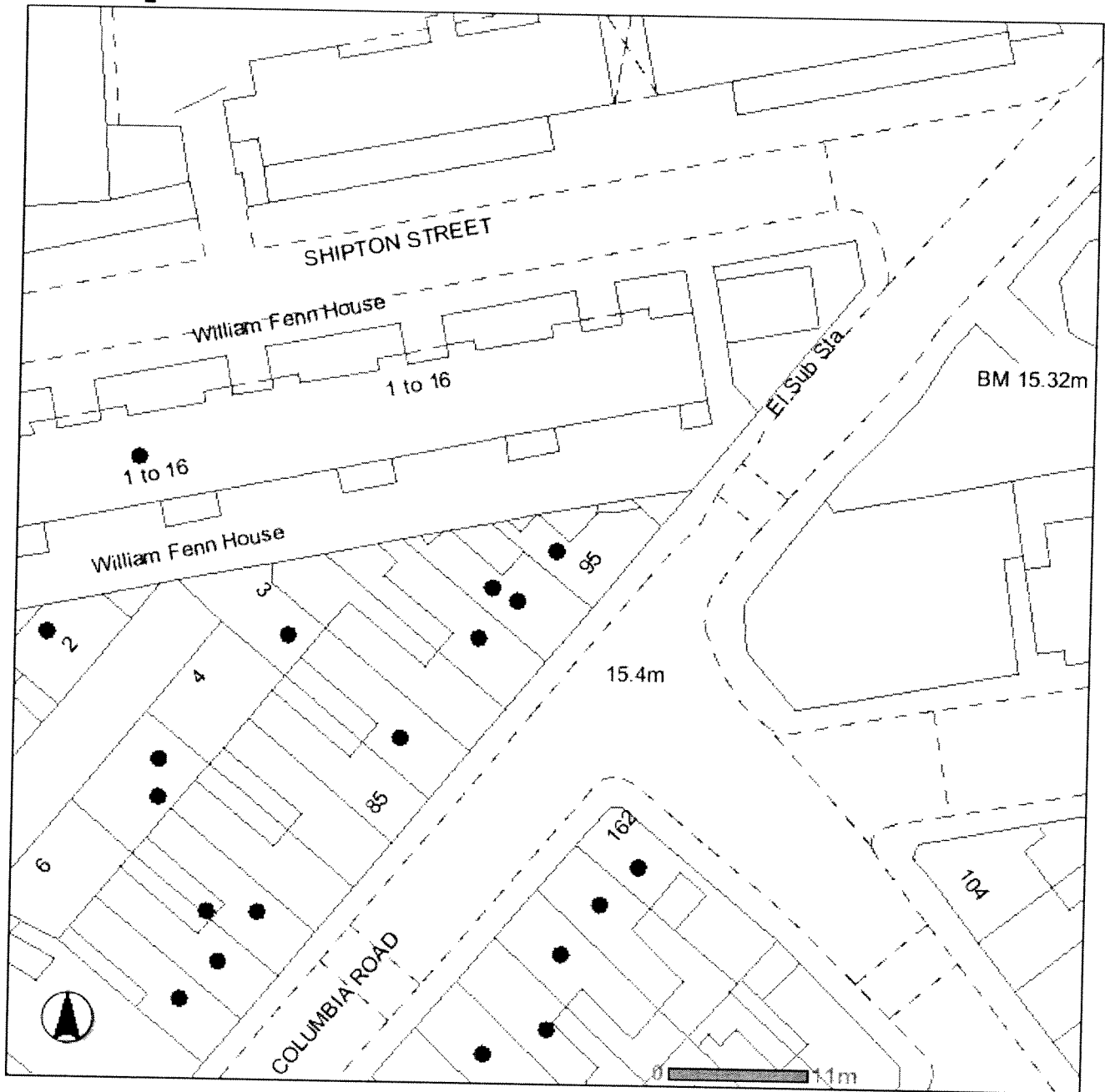
.....signed

.....name (please print)

.....dated

Appendix 2

Map



Scale 1:500

Map of:

Site Plan

Notes:

95 Columbia Road

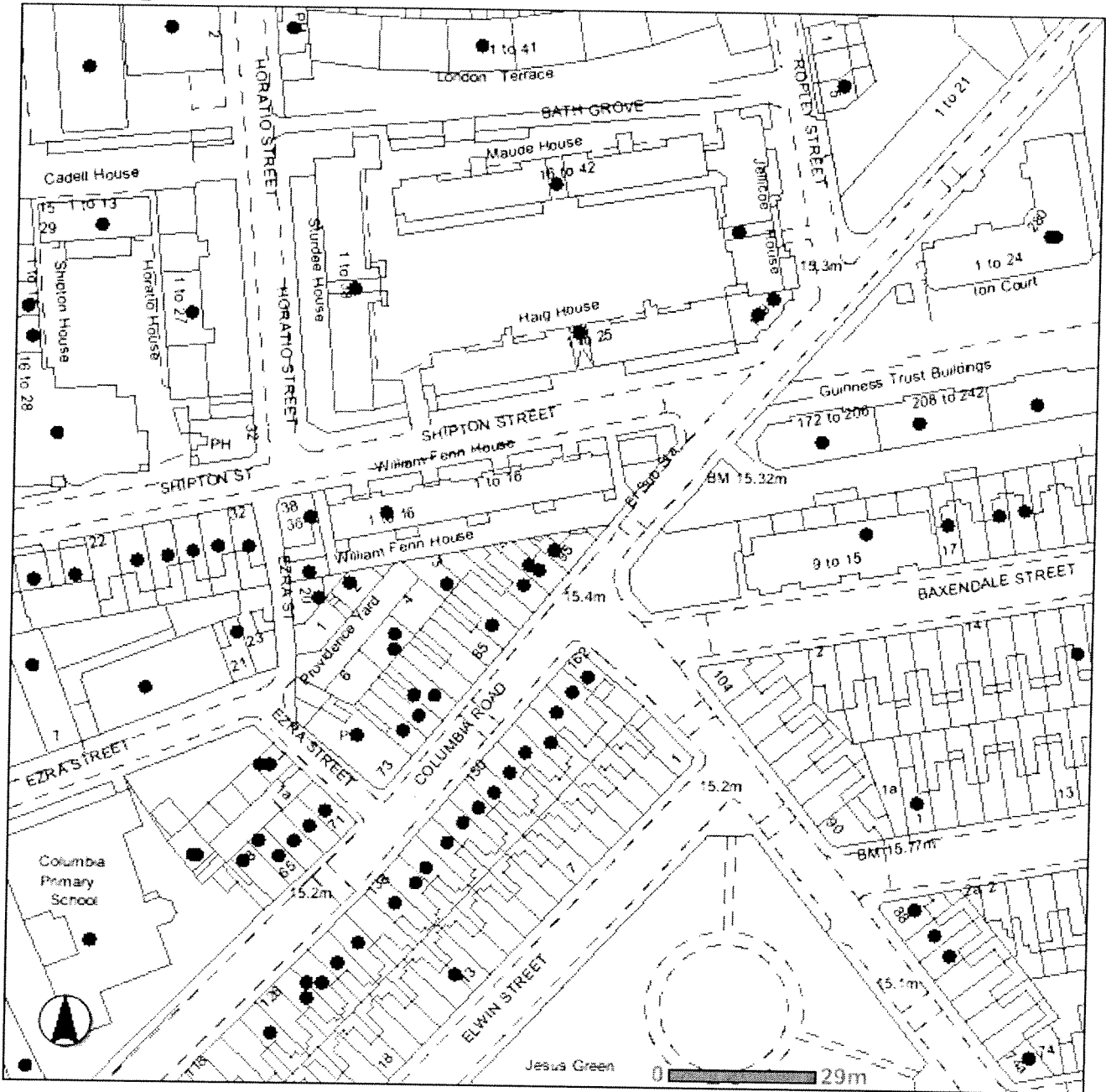
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Map



Scale 1:1250

Map of:

Site Plan

Notes:

95 Columbia Road

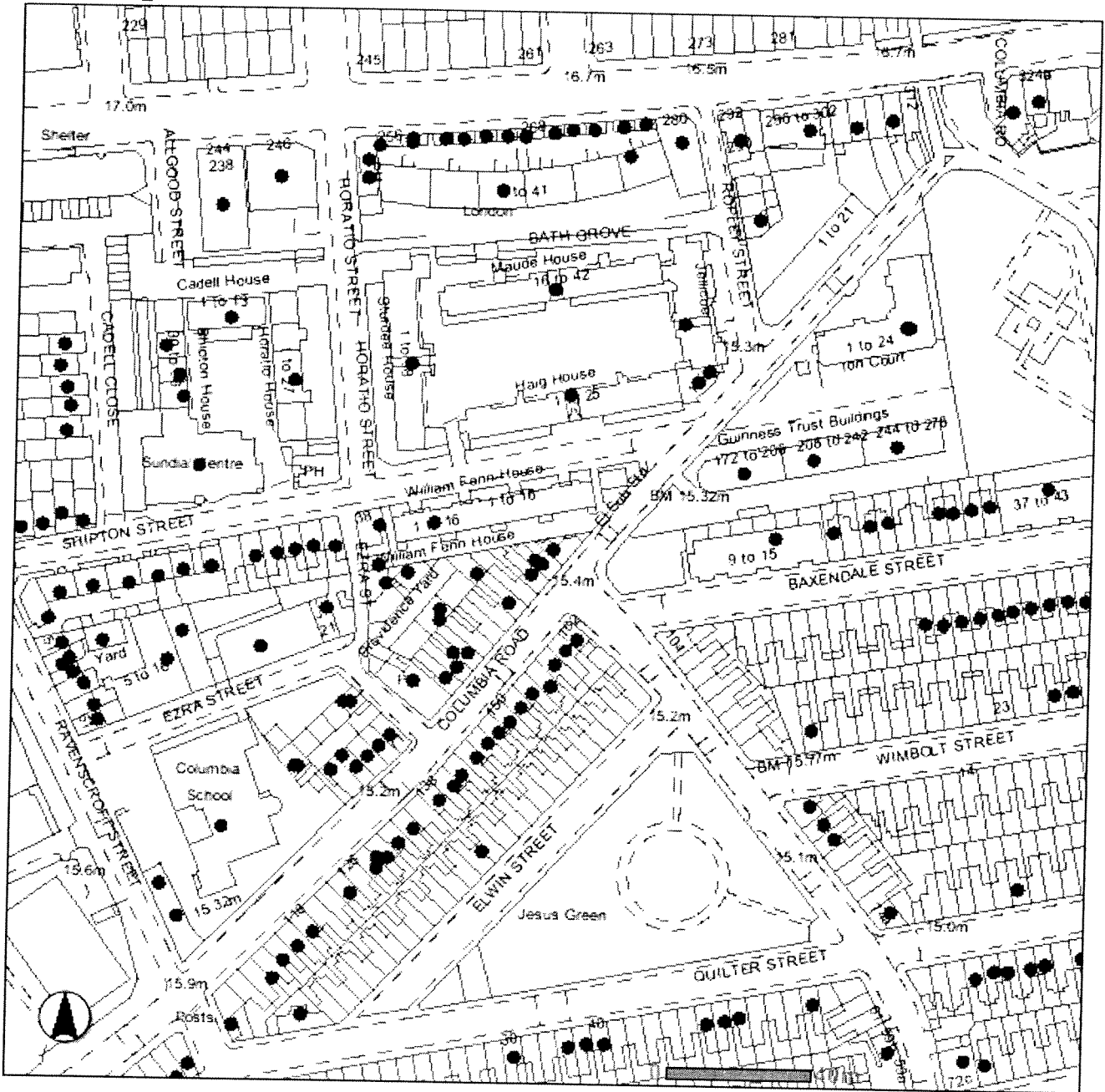
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Map



Scale 1:1750

Map of:

Site Plan

Notes:

95 columbia Road

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Appendix 3

Section 182 Advice by the DCMS

RELEVANT, VEXATIOUS AND FRIVOLOUS REPRESENTATIONS

- 9.8 A representation would only be “relevant” if it relates to the likely effect of the grant of the licence on the promotion of at least one of the licensing objectives. For example, a representation from a local businessman which argued that his business would be commercially damaged by a new licensed premises would not be relevant. On the other hand, a representation that nuisance caused by the new premises would deter customers from entering the local area and the steps proposed by the applicant to control that nuisance were inadequate would be relevant. There is no requirement for an interested party or responsible authority to produce a recorded history of problems at a premises to support their representations, and in fact this would not be possible for new premises. Further information for interested parties about the process for making representations is available in “Guidance for interested parties: Making representations” which can be found on the DCMS website.
- 9.9 The “cumulative impact” on the licensing objectives of a concentration of multiple licensed premises may also give rise to a relevant representation when an application for the grant or variation of a premises licence is being considered, but not in relation to an application for review which must relate to an individual premises.
- 9.10 It is for the licensing authority to determine whether any representation by an interested party is frivolous or vexatious on the basis of what might ordinarily be considered to be vexatious or frivolous. Vexation may arise because of disputes between rival businesses and local knowledge will therefore be invaluable in considering such matters. Frivolous representations would be essentially categorised by a lack of seriousness. An interested party who is aggrieved by a rejection of their representations on these grounds may challenge the authority’s decision by way of judicial review.
- 9.11 Licensing authorities should not take decisions on whether representations are relevant on the basis of any political judgement. This may be difficult for ward councillors receiving complaints from residents within their own wards. If consideration is not to be delegated, contrary to the recommendation in this Guidance, an assessment should be prepared by officials for consideration by the subcommittee before any decision is taken that necessitates a hearing. Any ward councillor who considers that their own interests are such that they are unable to consider the matter independently should disqualify themselves.

- 9.12 The Secretary of State recommends that in borderline cases, the benefit of the doubt should be given to the interested party making the representation. The subsequent hearing would then provide an opportunity for the person or body making the representation to amplify and clarify it. If it then emerged, for example, that the representation should not be supported, the licensing authority could decide not to take any action in respect of the application.
- 9.13 Licensing authorities should consider providing advice on their websites about how any interested party can make representations to them.

Appendix 4

Jill Jankunas
3 William Fenn
Shipton Street
London E2 7RX

29 July 2008

Mr John Cruse
The Licensing Section
London Borough of Tower Hamlets
Mulberry Place (AH)
PO Box 55379
5 Clove Crescent
London
E14 1BY
(Sent via email to: john.cruse@towerhamlets.gov.uk)

Dear Mr Cruse

Re: Licensing Act 2003 and 95 Columbia Road E2

I am writing to object to the issuing of a license for the above-named premises. I have viewed the application alongside accompanying plans and I was unable to establish fully what the nature of the business will be: restaurant, wine shop, wine bar or delicatessen. It would appear to show that customers will be catered for on the premises.

This is a residential area and these premises are only a few steps away from my home and those of my neighbours. My concern is that the issuing of a licence will create a public nuisance to nearby residents for the following reasons,

- noise nuisance
- environmental nuisance

I am strongly opposed to the potential congregation of customers outside and next to the above-named premises eating, drinking or smoking as this will result in unwanted prolonged noise very close to my home. This is a quiet area and I wish to retain the quiet enjoyment of my home when I return from work in the evenings and at weekends.

There is a small window at the rear of the premises (this does not appear on the premises plan for some unknown reason) and I am concerned that we will also suffer noise spillage through this window. Until recently this window has always remained firmly closed but residents' attention has been drawn to it over the last two weeks as we have suffered the noise of industrial machinery and building alterations - outside of permitted hours. This noise has reverberated around the rear area and I would anticipate that we will suffer the same problem with the noise of customers inside the premises as it echoes around our communal garden area.

I am also concerned about the refuse that will be created as a result of the changed use

of the premises (previously a clothing retailer). Recently it has become apparent that nearby units are depositing their refuse on the pavement where Columbia Road and Barnet Grove meet. As time passes this problem seems to grow worse, as other nearby residents/businesses follow this example. As the premises appears to have no outdoor facility to store their food refuse I believe that this should be a consideration as refuse can be a local nuisance as it can create a health hazard in addition to being unsightly.

I would also hope that suitable arrangements will be in place for the responsible disposal of glass refuse- such as bottles. Glass can be a serious potential hazard, particularly for children. There is a recycling bin nearby but I believe this is for residential, not business use. The disposal of large numbers of glass bottles creates an unwanted and unacceptable public noise nuisance.

In conclusion, I would request that should you decide to grant this licence, in spite of my objections, that the following conditions are applied:

- No consumption of food and alcohol or smoking permitted on the pavement directly in front of or beside the premises
- Small rear window is sealed to prevent noise spillage
- No music (live or recorded) permitted
- Responsible and correct disposal of recycling and food refuse.

Thank you,

Yours sincerely,

Jill Jankunas

4
2

Appendix 5

Noise while the premise is in use

General Advice

If they conclude this is a problem Members should consider whether it is possible to carry out suitable and proportionate noise control measures so that noise leakage is prevented. In addition Members may consider that only certain activities are suitable.

The hours of operation also need to be considered (see below).

If Members believe that there is a substantial problem of noise while the premises are in use and it cannot be proportionately address by licensing conditions they should refuse the application.

Licensing Policy

The policy recognises that noise nuisance can be an issue, especially if a premises is open late at night. (**See Sections 8.1 of the Licensing Policy**).

The policy also recognises that staggered closing can help prevent problems at closure time (**See Section 12.1**).

However, while all applications will be considered on their merits, consideration will be given to imposing stricter conditions in respect of noise control where premises are situated close to local residents. (**See Section 12.4**).

The Licensing Authority expects the applicant to have addressed all nuisance issues relating to the premises in their operating schedule and to have sought appropriate advice from the Council's Environmental Health Officers. (**See Sections 8.2 of the Licensing Policy**).

The Licensing Authority will consider attaching conditions to prevent nuisance and these may include Conditions drawn from the Model Poll of Conditions relating to Crime and Disorder. (**See Appendix 2 Annex D of the Licensing Policy**). In particular Members may wish to consider (this list is not exhaustive):

- hours of opening (this needs to be balanced against potential disorder caused by artificially early closing times)
- Whether certain parts should close earlier than the rest (for example a "beer garden", or restricted in their use)
- Whether or not certain activities should have to close at an early hour, for example live music
- Conditions controlling noise or vibration (for example, noise limiters, keeping doors and windows closed).

- Prominent clear and legible notices at all exits requesting the public to respect the needs of local residents and leave the premises and area quietly
- Conditions controlling the use of explosives, pyrotechnics and fireworks
- Conditions controlling the placing of refuse
- Conditions controlling noxious smells
- Conditions controlling lighting (this needs to be balanced against potential crime prevention benefits)

Police Powers

Part 8 of the Licensing Act 2003 enables a senior police officer to close down a premises for up to 24 hrs. a premises causing a nuisance resulting from noise emanating from the premises.

Guidance Issued under Section 182 of the Licensing Act 2003

The Licensing Policy has adopted the recommended Pool of Conditions as permitted (13.20 and Annex D).

The prevention of public nuisance could include low-level nuisance, perhaps affecting a few people living locally as well as major disturbance affecting the whole community (2.33).

Licence conditions should not duplicate other legislation (1.16).

Necessary and appropriate conditions should normally focus on the most sensitive periods (2.36) and may address disturbance as customers enter or leave the premises but it is essential that conditions are focused on measures within the direct control of the licence holder (2.38).

Other Legislation

The Environmental Protection Act 1990, Part 111 gives Environmental Health Officers the power to deal with statutory nuisances.

The Anti-social Behaviour Act 2003, Sections 40 and 41 give Environmental Health Officers the power of closure up to 24 hours in certain circumstances.

Appendix 6

Access and egress problems

Such as:

- Disturbance from patrons arriving/leaving the premises on foot
- Disturbance from patrons arriving/leaving the premises by car
- Lack of adequate car parking facilities
- Close proximity to residential properties

Comment

The above have been grouped together as egress problems. Of course the particular facts will be different for each alleged problem.

General Advice

In considering concerns relating to disturbance from egress, Members need to be satisfied that the premises under consideration has been identified as the source of the actual or potential disturbance. If they are satisfied that this is a problem, then proportionate conditions should be considered.

The hours of operation also need to be considered.

If Members believe that there is a substantial problem concerning egress and it cannot be proportionately addressed by licensing conditions, they should refuse the application.

Licensing Policy

The policy recognises that noise nuisance can be an issue, especially if a premises is open late at night. (**See Sections 8.1 of the Licensing Policy**).

The Licensing Authority expects the applicant to have addressed all nuisance issues relating to the premises in their operating schedule and to have sought appropriate advice from the Council's Environmental Health Officers. (**See Sections 8.2 of the Licensing Policy, and also Section 12.5**).

The policy also recognises that staggered closing can help prevent problems at closure time (**See Section 12.1**).

However, while all applications will be considered on their merits, consideration will be given to imposing stricter conditions in respect of noise control where premises are situated close to local residents. (**See Section 12.4**)

The Licensing Authority will consider attaching conditions to prevent nuisance and these may include Conditions drawn from the Model Poll of Conditions relating to the prevention of Public Nuisance. (**See Appendix 2 Annex G of the Licensing Policy**). In particular Members may wish to consider (this list is not exhaustive):

- hours of opening (this needs to be balanced against potential disorder caused by artificially early closing times)
- Whether certain parts should close earlier than the rest (for example a “beer garden”, or restricted in their use)
- Whether or not certain activities should have to close at an early hour, for example live music
- Conditions controlling noise or vibration (for example, noise limiters, keeping doors and windows closed).
- Prominent clear and legible notices at all exits requesting the public to respect the needs of local residents and leave the premises and area quietly

Guidance Issued under Section 182 of the Licensing Act 2003

The pool of conditions, adopted by the council is recommended (13.20 and Annex D).

The prevention of public nuisance could include low-level nuisance, perhaps affecting a few people living locally as well as major disturbance affecting the whole community. (2.33).

Licence conditions should not duplicate other legislation (1.16).

Necessary and appropriate conditions should normally focus on the most sensitive periods and may address disturbance as customers enter or leave the premises (2.36) but it is essential that conditions are focused on measures within the direct control of the licence holder” (2.38).

In certain circumstances conditions relating to noise in the immediate vicinity of the premises may also prove necessary to address any disturbance anticipated as customers enter and leave (2.36).

However, it is essential that conditions are focused on measures within the direct control of the licence holder. Conditions relating to behaviour once they are beyond the control of the licence holder cannot be justified. (2.38)

Appendix 7

Planning

An application for a Premises Licence can be made in respect of a premises even where the premises does not have relevant Planning Permission. That application has to be considered and Members can only refuse the application where the application itself does not promote one of more of the Licensing Objectives. Members cannot refuse just because there is no planning permission. Where a Premises Licence is granted and which exceeds what is allowed by the Planning Permission and that Premises then operates in breach of planning then the operator would be liable to enforcement by Planning.