

Licensing Sub-Committee

Agenda

Wednesday 11 January 2023 at 7.00 pm

Main Hall (1st Floor) - 3 Shortlands, Hammersmith, W6 8DA

MEMBERSHIP

Administration:	Opposition:
Councillor Mercy Umeh (Chair) Councillor Paul Alexander (Vice-Chair)	Councillor Dominic Stanton

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Public Notice

Speaking at Licensing meetings is restricted to those who have submitted a representation and registered to speak.

Date Issued: 03 January 2023

Licensing Sub-Committee Agenda

11 January 2023

<u>Item</u>		<u>Pages</u>
1.	APOLOGIES FOR ABSENCE	
2.	DECLARATIONS OF INTEREST	
	<p>If a Councillor has a disclosable pecuniary interest in a particular item, whether or not it is entered in the Authority's register of interests, or any other significant interest which they consider should be declared in the public interest, they should declare the existence and, unless it is a sensitive interest as defined in the Member Code of Conduct, the nature of the interest at the commencement of the consideration of that item or as soon as it becomes apparent.</p> <p>At meetings where members of the public are allowed to be in attendance and speak, any Councillor with a disclosable pecuniary interest or other significant interest may also make representations, give evidence or answer questions about the matter. The Councillor must then withdraw immediately from the meeting before the matter is discussed and any vote taken.</p> <p>Where Members of the public are not allowed to be in attendance and speak, then the Councillor with a disclosable pecuniary interest should withdraw from the meeting whilst the matter is under consideration. Councillors who have declared other significant interests should also withdraw from the meeting if they consider their continued participation in the matter would not be reasonable in the circumstances and may give rise to a perception of a conflict of interest.</p> <p>Councillors are not obliged to withdraw from the meeting where a dispensation to that effect has been obtained from the Standards Committee.</p>	
3.	MARI DELI, 1A EYOT GARDENS, LONDON W6 9TN	3 - 118

Agenda Item 3

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1. THE APPLICATION

On 19th August 2022, Ciro Guerra (“the applicant”) submitted an application to vary the premise licence in respect of the premises known as Mari Deli 1A Eyot Gardens London W6 9TN.

1.1 Current Hours of Operation

The premises currently benefit from a premises licence. The current premises licence permits the following:

Sale of Alcohol on and off the Premises

Monday to Sunday 10:00- 23:00

Exhibition of a film- indoors only

Monday to Sunday 07:00 - 23:00

The opening hours of the premises

Monday to Sunday 07:00 - 23:00

A copy of the current premises licence and plan can be seen on pages 11-22 of this report.

1.2 Application Requested

The applicant has applied to vary their premise licence to change the below conditions to state 22:00 rather than 21:30 as outlined below:

34. All tables and chairs shall be removed from the front outside area by 22:00 hours each day.

35. The outside area shall be separated from the public highway by a screen, rope barrier or other means of demarcation from the public highway which shall be removed by 22:00 hours each day.

37. Alcohol shall not be consumed in the outside area of the Premises after 22:00 each day

38. There shall be no open glass vessels taken into the outside area of the Premises after 22:00 hours.

All other activities and timings to remain the same as the current licence.

A copy of the application form can be seen on pages **23-34** of this report.

1.3 Applicants Operating Schedule

The applicant has not proposed any additional steps to promote the four licensing objectives if the application is granted.

2. BACKGROUND

The main access to the premise's unit is located on Eyot Gardens. A map showing the location of the premises can be seen on page **35** of this report. There are primarily residential premises within the area and there are no neighbouring licensed premises within 75 metres.

There are limited options for transport away from the area including buses which are at least an 11-minute walk away and taxis which run from on and around Eyot Gardens. Stamford Brook tube station is a 12-minute walk away. Ravenscourt Park tube station is a 13-minute walk away.

3. CONSULTATION

A public notice was displayed at the premises for 28 days. The application was advertised in a local circular and all statutory consultees were notified as required by the Regulations. The Council has served written notice of hearing upon the applicant and all those parties that have made representations in respect of the application.

3.1. Relevant Representations

The licensing section received one representation from Cllr Patrick Walsh objecting to the licence application. A copy of the representation can be seen on **page 36** of this report.

The licensing section received one representation from a local resident objecting to the licence application. A copy of the representation can be seen on **pages 37-98** of this report.

4. OTHER INFORMATION

4.1 Enforcement History

- On the 13 September 2022, an inspection sheet was left at the premises as a warning letter in response to licensing breaches observed during a full licensing inspection.
- On the 03 November 2022, licensing enforcement officer visited the premises. During this visit, the officer noted that the contraventions observed during the inspection on the 13 September 2022 had been rectified.
- On the 08 November 2022, a warning letter was issued following a breach of condition ascertained by the Noise and Nuisance team during their visit to a residential property on the 03 November 2022.

4.2 Event Notices ("TENs")

No TENs have been submitted in respect of this premises in the past twelve months.

4.3 Fire Authority Comments

The licensing section did not receive a representation from the Fire Authority, however on 06 October 2022, the licensing section received a copy of a Notification of Fire Safety Deficiencies letter placed on premises which can be seen on pages 99-119 of this report.

5. POLICY CONSIDERATIONS

5.1 Section 5 pages 12 and 13 of the Statement of Licensing Policy (“SLP”) states that in order to ensure the promotion of the four Licensing Objectives the Licensing Authority will require applicants to detail in their operating schedule:

- the steps proposed to promote the licensing objective of the prevention of crime and disorder on, and in the vicinity of, the premises, having regard to their location, character, condition, the nature and extent of the proposed use and the persons likely to use the premises;
- the steps proposed to ensure the physical safety of people using the relevant premises or place;
- how they intend to prevent nuisance arising, prevent disturbance and protect amenity so far as is appropriate to ensure that the Licensing Objectives are met. Where there is a relevant representation regarding extended hours, the Licensing Authority will not permit an extension unless it is satisfied that the Licensing Objectives would be met;
- the measures and management controls in place to protect children from harm. Where appropriate a written childcare policy should be available and be incorporated in the induction of staff.

5.2 Policy 3 page 21 of the SLP in relation to licensing hours states that where there is a relevant representation, the Licensing Authority will consider each particular case on its merits having regard in particular to the following matters:

- a) Whether the licensed activities are likely to have an adverse impact especially on local residents and, if there is potential to have an adverse impact, what, if any, appropriate measures will be put in place to prevent it;
- b) Whether there will be a substantial increase in the cumulative adverse impact from these or similar activities, on an adjacent residential area;
- c) Whether there is a suitable level of public transport accessibility to and from the premises at the appropriate times;
- d) Whether the activity will be likely to lead to a harmful and unmanageable increase in car parking demand in surrounding residential streets suffering high levels of parking stress or on roads forming part of the Strategic London Road Network or the London Bus Priority Network leading to a negative impact on the Licensing Objectives relating to the prevention of crime, disorder, anti-social behaviour (ASB), nuisance and vehicle emissions;
- e) Whether there have been any representations made by Responsible Authorities, or other relevant agency or representative.

In determining representations to an application which incorporates an external area to the premises, the licensing committee might decide that the circumstances are such that a restriction on hours in that area is the only appropriate means to achieve the promotion of the Licensing Objectives.

If an 'hours' restriction is imposed, the Licensing Authority will normally require that customers should be allowed a minimum of thirty minutes to consume alcohol.

To act as a guide for new or existing operators we have set out the suggested closing times for licensed premises below:

Type of premises	Town centres	Mixed use areas	Residential areas
Restaurants and cafes	Fri – Sat 01:30 Mon - Thurs 01:00 Sun – 00:00	Fri – Sat 01:00 Mon - Thurs 00:00 Sun – 23:00	Fri – Sat 23:00 Sun – 22:00

5.3 Policy 11 page 29-30 of the SLP states that Licensing law is not the primary mechanism for the general control of nuisance and anti-social behaviour caused by people once they are away from the licensed premises and, therefore, beyond the direct control of the licensee. However, licensing is a key aspect of such control and licensing law is part of a holistic approach to the management of the night time economy.

As a matter of policy the council expects every holder of a licence, certificate or permission, to accept and be responsible for minimising the impact of their activities and anti-social behaviour by their patrons within the vicinity of their premises by taking appropriate measures and action consistent with that responsibility.

Licensees and certificate holders should take reasonable steps to prevent the occurrence of crime and disorder and public nuisance immediately outside their premises, for example on the pavement, in a beer garden or in a smoking area, to the extent that these matters are within their control.

Population densities in this borough are high, with many residential premises located above or in close proximity to licensed premises. This means that the public nuisance and crime and disorder objectives will be of paramount concern when evaluating Operating Schedules. Licensing Committees will place high regard on the control measures put in place by the applicant to ensure that our residents are protected from the potential detrimental effects of any licensed premises.

5.4 Annex 1 pages 35 and 36 of the SLP in relation to the prevention of crime and disorder states licence applicants will be expected to demonstrate the following in their operating schedules:

- a) Measures to control excessive consumption and intoxication.
- b) Consideration of any additional measures or restrictions that may be placed on alcohol sales to prevent binge drinking and promote 'sensible drinking'.
- g) Conditions will, so far as possible, reflect local crime prevention strategies, and the Licensing Authority will also have regard to the views of the local Crime and Disorder Reduction Partnership.
- h) **Crime and disorder in the vicinity of the premises:** this may include the crime and disorder risks arising from persons queuing to enter the premises; persons exiting the premises and customers smoking eating or drinking in outdoor areas and on the highway outside the premises. This can also include crime arising from

pickpockets and bag snatchers, particularly in open spaces or crowded areas where alcohol is being consumed.

l) **dealing with and reporting crime and disorder** - training for staff and door security aimed at reducing crime and disorder in the premises and its vicinity and dealing with and reporting incidents if they occur.

m) **door staff** - considering whether the premises employs a sufficient number of SIA registered door staff, whether Door Premises Supervisors check the legitimacy of the badges and whether SIA staff display their badges prominently. (Note: All door supervisors must be Security Industry Authority (SIA) registered).

n) **drugs and weapons** - ensuring compliance with relevant guidance regarding illegal drugs and weapons. Attention should be paid to search procedures, procedures for the safe storage and surrender of seized

o) **excessive drinking** - training for staff to recognise when customers are becoming drunk and adopting appropriate 'cut off' procedures for drunken customers, so as to reduce the likelihood of fights or aggressive behaviour.

p) **local schemes** – joining and attending local Pubwatch meetings and participating in the Behave or Be Banned Scheme (BOBB) and/or signing up and using the Council's Safety Net Radio scheme.

q) **prevention of theft** - using bag hooks and signage to warn customers of pickpockets and bag snatchers.

5.5 Annex 1 pages 37 to 38 of the SLP in relation to Public Safety states that the Licensing Authority will require the applicant to demonstrate the steps proposed to ensure the physical safety of people using the relevant premises or place. This does not cover the separate need for applicants to provide relevant public safety requirements dealt with by Environmental Health. This is expected to include:

c) The Licensing Authority will, where appropriate, attach conditions to a licence to ensure public safety, dealing with, but not limited to, the following:

i. Checks on equipment at specified intervals, e.g. gas safety checks; 38

ii. Standards to be maintained, e.g. temporary electrical installations to comply with British Standards;

iii. The number of people on the premises to ensure it is appropriate having regard to the activities taking place and reliable ways of counting the number;

iv. The steps taken to manage the risk from glass, the use of bottle bins, glass collectors and door supervisors to prevent glass being taken off the premises;

v. The use of door supervisors to manage the entrance and exit from the premises and to protect public safety as customers leave the premises;

vi. The provision of air conditioning and ventilation;

vii. Measures to protect against overcrowding; and

viii. Implement access/support needs for disabled people.

5.6 Annex 1 pages 38 to 40 of the SLP in relation to the prevention of public nuisance states that the Licensing Authority will particularly consider the following matters where they are material to the individual application:

ii. The proximity of residential accommodation;

iii. The type of use proposed, including the likely numbers of customers, proposed hours of operation and the frequency of activity;

iv. The steps taken or proposed to be taken by the applicant to prevent noise and vibration escaping from the premises, including music, noise from ventilation

equipment, and human voices. Such measures may include the installation of soundproofing, air conditioning, acoustic lobbies and sound limitation devices;

v. The steps taken or proposed to be taken by the applicant to prevent disturbance by customers arriving at or leaving the premises.

vi. Limiting the number of people permitted to use a garden or other open-air areas, including those for the use of smoking, at any one time.

vii. Restricting the use of a garden or other open-air areas, including those for the use of smoking, after a particular time e.g. 11:00pm (or such earlier time as may be considered appropriate)

viii. The steps taken or proposed to be taken by the applicant to prevent queuing (either by pedestrian or vehicular traffic). If some queuing is inevitable then queues should be diverted away from neighbouring premises or be otherwise managed to prevent disturbance or obstruction;

ix. The steps taken or proposed to be taken by the applicant to ensure staff leave the premises quietly;

x. The arrangements made or proposed for parking by patrons, and the effect of parking by patrons on local residents;

xi. The provision for public transport in the locality (including taxis and private hire vehicles) for patrons;

xii. The level of likely disturbance from associated vehicular and pedestrian movement to and from the premises;

xiii. The delivery and collection areas and delivery/collection times;

xv. The arrangements for refuse disposal, storage and the prevention/tidying of litter (including fly posters and illegal placards);

xviii. The generation of odour, e.g. from the preparation of food;

xix. Any other relevant activity likely to give rise to nuisance;

xx. Any representations made by the Police, or other relevant agency or representative;

The following provides a non-exhaustive list of risks associated with the public nuisance objective that applicants may want to consider when preparing their Operating Schedule:

n) **External Areas** – External areas such as gardens can be the source of noise disturbance to surrounding premises. Consider limiting the use of the garden to a reasonable time and number of people.

r) **Waste** – consider how and where waste will be stored/disposed of at the end of trading hours, particularly if trading until late at night. This is important because the disposal of glass and/or cans to outside bin areas can be very noisy and give rise to complaints, so it may be necessary to store such items and other non-degradable refuse inside the premises until the next trading day. Consideration should also be given to the time of deliveries to minimize disruption to local residents

6. DETERMINATION

6.1 In determining this application, the Committee must have regard to the representations and take such of the following steps as it considers necessary for the promotion of the licensing objectives. The steps are:

(a) Grant the application in full

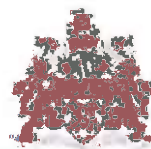
(b) Grant the application in part – modifying the proposed hours, activities or conditions.

(c) Reject the application

It is the Council's duty under the Licensing Act 2003 ("The Act") to determine applications with a view to promoting the four licensing objectives; Prevention of Crime and Disorder, Public Safety, Prevention of Public Nuisance and the Protection of Children from Harm.

In reaching a decision the Council shall consider the details of any relevant representations received; the applicant's Operating Schedule; the Council's adopted Statement of Licensing Policy and the guidance issued by the Secretary of State under section 182 of the Act.

If the Committee is minded to grant the application conditions may be attached to the licence to alleviate the concerns raised through the representations.



Licensing Act 2003 Premises Licence Schedule 12 Part A, Regulation 33, 34

Premises Licence Number: 2017/00402/LAPR

Part 1 – Premises details

**Mari Deli
1A Eyot Gardens**

Post town: **London**

Post code: **W6 9TN**

Telephone: **020 7041 9251**

Where the licence is time limited the dates:

Not Applicable

Licensable activities authorised by the licence:

**Exhibition of a Film -Indoors Only
Sale of Alcohol On and Off the Premises**

The licence authorises the carrying out of the following licensable activities on the days and at the times specified below:

**Exhibition of a Film -Indoors Only
Monday to Sunday 07:00 -23:00**

**Sale of Alcohol On and Off the Premises
Monday to Sunday 10:00 -23:00**

The opening hours of the premises:

Monday to Sunday 07:00 -23:00

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

Both on and off the premises

Part 2

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

Mr Ciro Guerra

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

Not Applicable

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

Mr Mariano Aiello

Licensing Authority:

Personal Licence Number:

Annex 1 – Mandatory Conditions

1. Mandatory Condition

(1) The responsible person must ensure that staff on relevant premises do not carry out, arrange or participate in any irresponsible promotions in relation to the premises.

(2) In this paragraph, an irresponsible promotion means any one or more of the following activities, or substantially similar activities, carried on for the purpose of encouraging the sale or supply of alcohol for consumption on the premises—

(a) games or other activities which require or encourage, or are designed to require or encourage, individuals to—

(i) drink a quantity of alcohol within a time limit (other than to drink alcohol sold or supplied on the premises before the cessation of the period in which the responsible person is authorised to sell or supply alcohol), or

(ii) drink as much alcohol as possible (whether within a time limit or otherwise);

(b) provision of unlimited or unspecified quantities of alcohol free or for a fixed or discounted fee to the public or to a group defined by a particular characteristic in a manner which carries a significant risk of undermining a licensing objective;

(c) provision of free or discounted alcohol or any other thing as a prize to encourage or reward the purchase and consumption of alcohol over a period of 24 hours or less in a manner which carries a significant risk of undermining a licensing objective;

(d) selling or supplying alcohol in association with promotional posters or flyers on, or in the vicinity of, the premises which can reasonably be considered to condone, encourage or glamorise anti-social behaviour or to refer to the effects of drunkenness in any favourable manner;

(e) dispensing alcohol directly by one person into the mouth of another (other than where that other person is unable to drink without assistance by reason of disability).

2. Mandatory Condition

The responsible person shall ensure that free potable water is provided on request to customers where it is reasonably available.

3. Mandatory Condition

1) The premises licence holder or club premises certificate holder must ensure that an age verification policy is adopted in respect of the premises in relation to the sale or supply of alcohol.

(2) The designated premises supervisor in relation to the premises licence must ensure that the supply of alcohol at the premises is carried on in accordance with the age verification policy.

(3) The policy must require individuals who appear to the responsible person to be under 18 years of age (or such older age as may be specified in the policy) to produce on request, before being served alcohol, identification bearing their photograph, date of birth and either—

- (a) a holographic mark, or
- (b) an ultraviolet feature.

4. Mandatory Condition

The responsible person must ensure that—

(a) where any of the following alcoholic drinks is sold or supplied for consumption on the premises (other than alcoholic drinks sold or supplied having been made up in advance ready for sale or supply in a securely closed container) it is available to customers in the following measures—

- (i) beer or cider: ½ pint;
- (ii) gin, rum, vodka or whisky: 25 ml or 35 ml; and
- (iii) still wine in a glass: 125 ml;

(b) these measures are displayed in a menu, price list or other printed material which is available to customers on the premises; and

(c) where a customer does not in relation to a sale of alcohol specify the quantity of alcohol to be sold, the customer is made aware that these measures are available.

5. Mandatory Condition

1. A relevant person shall ensure that no alcohol is sold or supplied for consumption on or off the premises for a price which is less than the permitted price.

2. For the purposes of the condition set out in paragraph 1—

(a) "duty" is to be construed in accordance with the Alcoholic Liquor Duties Act 1979;

(b) "permitted price" is the price found by applying the formula—

$$P = D + (D \times V)$$

where—

- (i) P is the permitted price,
- (ii) D is the amount of duty chargeable in relation to the alcohol as if the duty were charged on the date of the sale or supply of the alcohol, and

(iii) V is the rate of value added tax chargeable in relation to the alcohol as if the value added tax were charged on the date of the sale or supply of the alcohol;

(c) "relevant person" means, in relation to premises in respect of which there is in force a premises licence—

(i) the holder of the premises licence,

(ii) the designated premises supervisor (if any) in respect of such a licence, or

(iii) the personal licence holder who makes or authorises a supply of alcohol under such a licence;

(d) "relevant person" means, in relation to premises in respect of which there is in force a club premises certificate, any member or officer of the club present on the premises in a capacity which enables the member or officer to prevent the supply in question; and

(e) "value added tax" means value added tax charged in accordance with the Value Added Tax Act 1994.

3. Where the permitted price given by Paragraph (b) of paragraph 2 would (apart from this paragraph) not be a whole number of pennies, the price given by that sub-paragraph shall be taken to be the price actually given by that sub-paragraph rounded up to the nearest penny.

4.(1) Sub-paragraph (2) applies where the permitted price given by Paragraph (b) of paragraph 2 on a day ("the first day") would be different from the permitted price on the next day ("the second day") as a result of a change to the rate of duty or value added tax.

(2) The permitted price which would apply on the first day applies to sales or supplies of alcohol which take place before the expiry of the period of 14 days beginning on the second day.

6. Mandatory Condition

(1) No supply of alcohol may be made under the premises licence—

(a) at a time when there is no designated premises supervisor in respect of the premises licence, or

(b) at a time when the designated premises supervisor does not hold a personal licence or his personal licence is suspended.

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

7. Mandatory Condition

Admission of children must be restricted in accordance with any recommendation made by the film classification body specified in the licence, or,

where the licensing authority has notified the holder of the licence that it considers a classification is necessary then,

admission of children must be restricted in accordance with any recommendation made by that licensing authority.

In this section -

"children" means persons under the age of 18; and

"film classification body" means the person or persons designated as the authority under section 4 of the Video Recordings Act 1984 (c.39) (authority to determine suitability of video works for classification).

Annex 2 – Conditions consistent with the operating Schedule

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

8. At least one member of staff on duty whilst this licence is being used shall be trained in the requirements of the Licensing Act 2003 in terms of the licensing objectives, offences committed under

- the Act and the conditions of the Premises Licence. Written record of this training shall be retained and made available to Police and authorised officers of the Licensing Authority on request.
9. All staff responsible for selling alcohol shall receive regular training in the Licensing Act 2003 in terms of the licensing objectives, offences committed under the Act and conditions of the Premises Licence. Written records of this training shall be retained and made available to Police and authorised officers of the Licensing Authority on request.
10. All staff shall be trained in how to identify drunk or drug impaired customers. This training shall be repeated on an annual basis and written records of the training kept and made available to Police and authorised officers of the Licensing Authority on request.
11. All members of staff shall have training in age restricted sales including regular refresher training. Written records of this training shall be kept on the premise and made available to the Police and authorised officers of the Licensing Authority on request.
12. The incident record shall be kept on the premises and be available for inspection by the Police or an authorised officer of the Licensing Authority at all times the premises is open.
13. A record of complaints shall be maintained on the premises to record details of any complaints received. The information to be recorded shall include the date and time of complaint and subsequent remedial action undertaken and (where disclosed) the complainant's name and location.
14. The record of complaints shall be kept for 12 months from the date of the last record made and shall be available for inspection on demand by the Police or an authorised officer of the Licensing Authority at all times the premises are open.
15. A telephone number for the premises, or a responsible member of staff on duty, shall be displayed so that it is visible from the public highway for members of the public to lodge complaints.
16. External doors shall not be propped open at any time so as to give rise to a nuisance.
17. Deliveries and collections (including refuse and/or recycling collections) associated with the premises shall be arranged between the hours of 07:00 to 20:00 only. Empty bottles and non-degradable refuse shall remain in the premises at the end of trading hours and will not be taken out to the refuse point between the hours of 23:00 and 07:00.
18. All plant and equipment shall be correctly installed, operated, maintained and regularly serviced, all in accordance with the manufacturer's instructions, to ensure that it is operating correctly and efficiently so as not to cause a nuisance to neighbours arising from noise.
19. All staff shall be trained in the Proof of Age policy and how to identify acceptable means of identification.
20. Posters shall be displayed in prominent positions around the premises advising customers of the Proof of Age policy in force at the premises.
21. A refusals record shall be kept at the premises to record details of all refusals to sell alcohol. This record shall contain the date and time of the incident, a description of the customer, the name of the staff member who refused the sale, and the reason the sale was refused. The record shall be made available to the Police and authorised officers of the Licensing Authority on request.

22. The Designated Premises Supervisor shall regularly check the refusals record to ensure it is being consistently used by all staff.
23. Any alcohol sold for consumption off the premises shall be sold in a sealed container.
24. The Licence Holder/Designated Premises Supervisor shall undertake checks that the supply of alcohol comes from a legitimate supplier and shall undertake checks to ensure legitimacy of the supplier.
25. The Licence Holder shall ensure that all invoices for alcohol goods purchased include the seller's name and address, the seller's company details (if applicable) and the seller's VAT details if applicable.
26. Legible copies of invoices relating to the purchasing of alcohol shall be retained on the premises for a period of not less than 12 months and shall be made available for inspection by the Police and authorised officers of the Licensing Authority on request.
27. Where the Licence Holder/Designated Premises Supervisor/Manager becomes aware that any alcohol on the licensed premises may not have had duty paid the Police and the Licensing Authority shall be informed within 1 working day.
28. The front outside area to the Premises shall at all times be properly supervised by members of staff when customers are present.
29. All ventilation and extraction systems and ducting shall be correctly installed, operated, maintained and regularly serviced, all in accordance with the manufacturer's instructions, to ensure that they are operating correctly and efficiently so as not to cause a nuisance to neighbours arising from noise or odour.
30. Where customers are permitted to drink alcohol outside the Premises, regular litter and glass collections shall be carried out in all areas where customers are congregating.
31. Where customers are permitted to smoke in the front outside area of the Premises smoking bins/ashtrays/receptacles should be provided.
32. A maximum of 12 customers shall be permitted in the front outside area at anyone time.
33. External lighting for the Premises shall be turned off after the Premises are closed to the Public.
34. All tables and chairs shall be removed from the front outside area by 21:30 hours each day.
35. The outside area shall be separated from the public highway by a screen, rope barrier or other means of demarcation from the public highway which shall be removed by 21:30 hours each day.
36. Signs shall be prominently displayed in the outside area reminding patrons there are residents living nearby and instructing them to respect the neighbours and to conduct their behaviour accordingly.
37. Alcohol shall not be consumed in the outside area of the Premises after 21:30 each day
38. There shall be no open glass vessels taken into the outside area of the Premises after 21:30 hours.

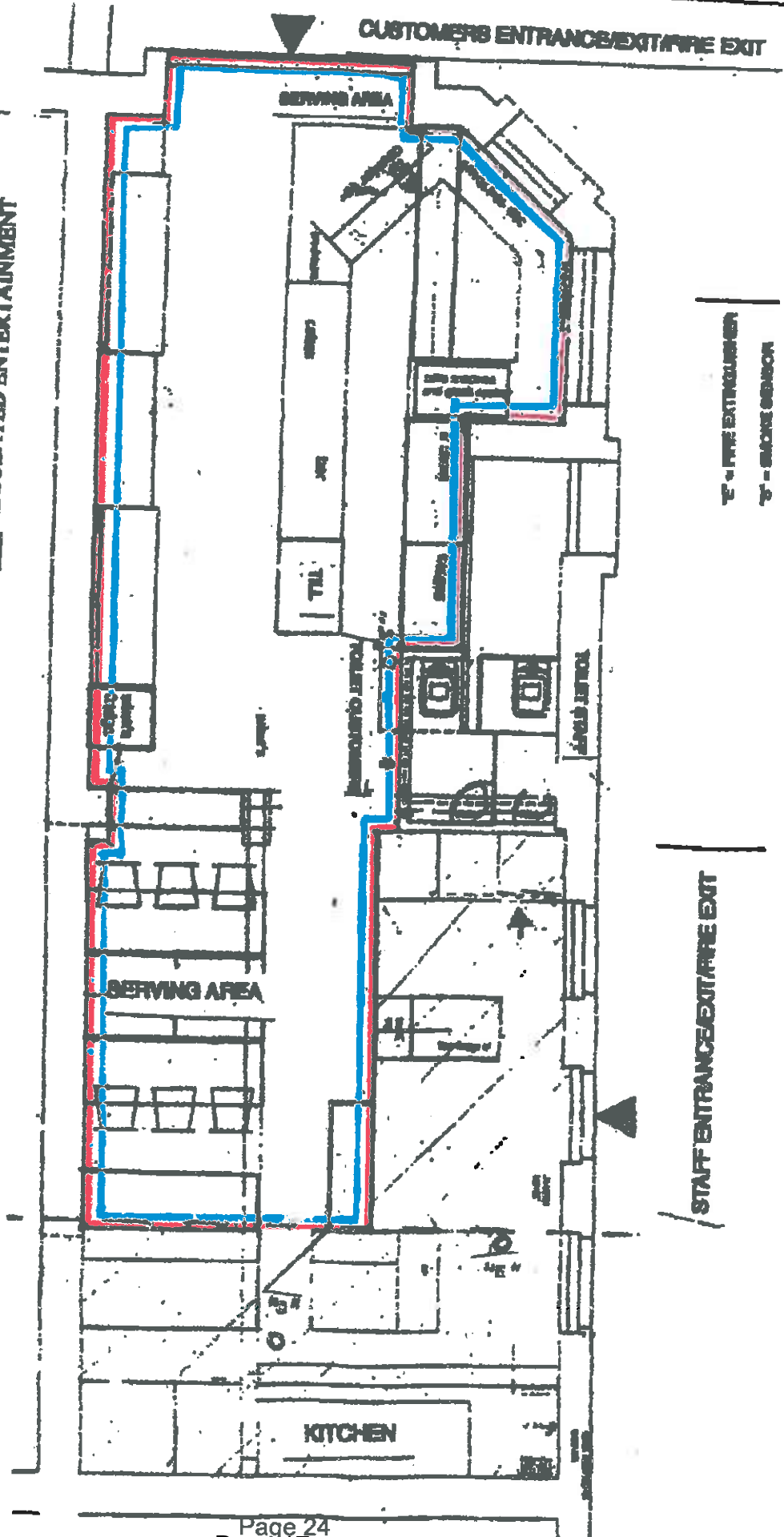
Signed: 
Authorised Officer

Date: 26.07.2017

 OFFICE/STAFF ROOM
 KITCHEN

 SALE BY RETAIL OF ALCOHOL
 REGULATED ENTERTAINMENT

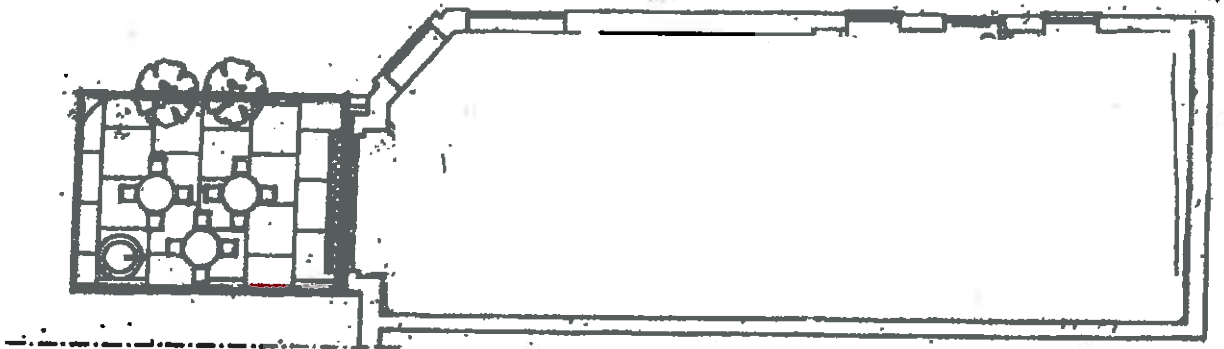
GROUND FLOOR



2" = FIRE EXTINGUISHER
 5" = SMOKE SENSOR

CHISWICK MALL SIDE

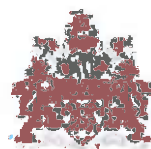
EYOT GARDENS SIDE



GARDENS AREA

AREAS FOR SALE BY RETAIL OF ALCOHOL

PLAN 2



Licensing Act 2003 Premises Licence Summary

Premises Licence Number: 2017/00402/LAPR

Premises details

**Mari Deli
1A Eyot Gardens**

Post town: **London**

Post code: **W6 9TN**

Telephone: **020 7041 9251**

Where the licence is time limited the dates:

Not Applicable

Licensable activities authorised by the licence:

**Exhibition of a Film -Indoors Only
Sale of Alcohol On and Off the Premises**

The licence authorises the carrying out of the following licensable activities on the days and at the times specified below:

**Exhibition of a Film -Indoors Only
Monday to Sunday 07:00 -23:00**

**Sale of Alcohol On and Off the Premises
Monday to Sunday 10:00 -23:00**

The opening hours of the premises:

Monday to Sunday 07:00 -23:00

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

Both on and off the premises

Name, (registered) address, of holder of premises licence:

Mr Ciro Guerra

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

Not Applicable

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

Mr Mariano Aiello

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

No Restrictions

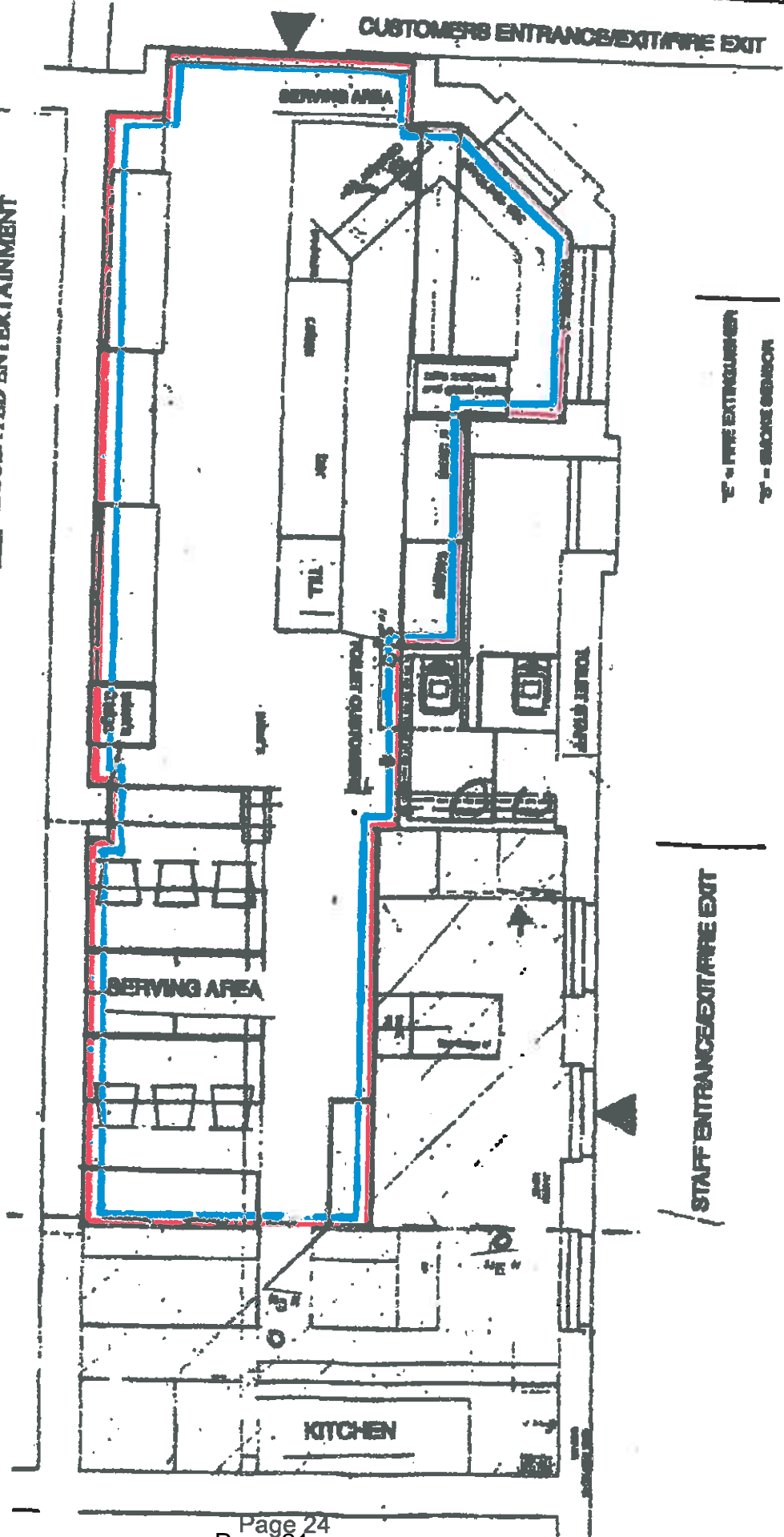
Signed: 
Authorised Officer

Date: 26.07.2017

 OFFICE/STAFF ROOM
 KITCHEN

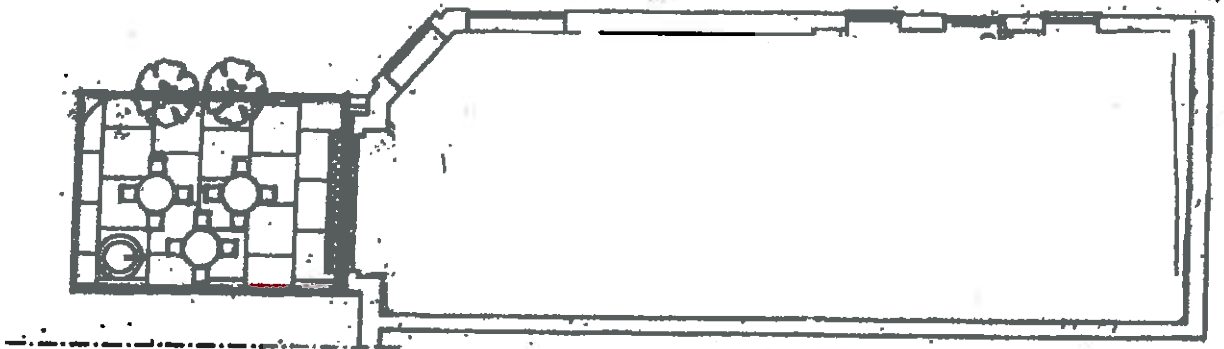
 SALE BY RETAIL OF ALCOHOL
 REGULATED ENTERTAINMENT

GROUND FLOOR



CHISWICK MALL SIDE

EYOT GARDENS SIDE



GARDENS AREA

AREAS FOR SALE BY RETAIL OF ALCOHOL

PLAN 2



Hammersmith and Fulham
Application to vary a premises licence
Licensing Act 2003

For help contact
licensing@lbhf.gov.uk
 Telephone: 020 8753 1081

* required information

Section 1 of 18

You can save the form at any time and resume it later. You do not need to be logged in when you resume.

System reference This is the unique reference for this application generated by the system.

Your reference You can put what you want here to help you track applications if you make lots of them. It is passed to the authority.

Are you an agent acting on behalf of the applicant?

- Yes No

Put "no" if you are applying on your own behalf or on behalf of a business you own or work for.

Applicant Details

* First name

* Family name

* E-mail

Main telephone number Include country code.

Other telephone number

Indicate here if you would prefer not to be contacted by telephone

Are you:

- Applying as a business or organisation, including as a sole trader
 Applying as an individual

A sole trader is a business owned by one person without any special legal structure. Applying as an individual means you are applying so you can be employed, or for some other personal reason, such as following a hobby.

Applicant Business

Is your business registered in the UK with Companies House? Yes No

Note: completing the Applicant Business section is optional in this form.

Registration number

Business name

If your business is registered, use its registered name.

VAT number

Put "none" if you are not registered for VAT.

Legal status

Continued from previous page...

Your position in the business

Home country

The country where the headquarters of your business is located.

Registered Address

Address registered with Companies House.

Building number or name

Street

District

City or town

County or administrative area

Postcode

Country

Section 2 of 18

APPLICATION DETAILS

This application cannot be used to vary the licence so as to extend the period for which the licence has effect or to vary substantially the premises to which it relates. If you wish to make that type of change to the premises licence, you should make a new premises licence application under section 17 of the Licensing Act 2003.

I/we, as named in section 1, being the premises licence holder, apply to vary a premises licence under section 34 of the Licensing Act 2003 for the premises described in section 2 below.

* Premises Licence Number

Are you able to provide a postal address, OS map reference or description of the premises?

- Address OS map reference Description

Postal Address Of Premises

Building number or name

Street

District

City or town

County or administrative area

Postcode

Country

Premises Contact Details

Telephone number

Continued from previous page...

Non-domestic rateable value of premises (£)

Section 3 of 18

VARIATION

Do you want the proposed variation to have effect as soon as possible? Yes No

Do you want the proposed variation to have effect in relation to the introduction of the late night levy?

Yes No

You do not have to pay a fee if the only purpose of the variation for which you are applying is to avoid becoming liable to the late night levy.

If your proposed variation would mean that 5,000 or more people are expected to attend the premises at any one time, state the number expected to attend

Describe Briefly The Nature Of The Proposed Variation

Describe the premises. For example the type of premises, its general situation and layout and any other information which could be relevant to the licensing objectives. Where your application includes off-supplies of alcohol and you intend to provide a place for consumption of these off-supplies, you must include a description of where the place will be and its proximity to the premises.

We are asking to extend the time limit from 9:30 PM to 10:00 PM for the following conditions of the licence :
34, 35, 37, 38

Section 4 of 18

PROVISION OF PLAYS

[See guidance on regulated entertainment](#)

Will the schedule to provide plays be subject to change if this application to vary is successful?

Yes No

Section 5 of 18

PROVISION OF FILMS

[See guidance on regulated entertainment](#)

Will the schedule to provide films be subject to change if this application to vary is successful?

Yes No

Section 6 of 18

PROVISION OF INDOOR SPORTING EVENTS

Continued from previous page...

[See guidance on regulated entertainment](#)

Will the schedule to provide indoor sporting events be subject to change if this application to vary is successful?

- Yes No

Section 7 of 18

PROVISION OF BOXING OR WRESTLING ENTERTAINMENTS

[See guidance on regulated entertainment](#)

Will the schedule to provide boxing or wrestling entertainments be subject to change if this application to vary is successful?

- Yes No

Section 8 of 18

PROVISION OF LIVE MUSIC

[See guidance on regulated entertainment](#)

Will the schedule to provide live music be subject to change if this application to vary is successful?

- Yes No

Section 9 of 18

PROVISION OF RECORDED MUSIC

[See guidance on regulated entertainment](#)

Will the schedule to provide recorded music be subject to change if this application to vary is successful?

- Yes No

Section 10 of 18

PROVISION OF PERFORMANCES OF DANCE

[See guidance on regulated entertainment](#)

Will the schedule to provide performances of dance be subject to change if this application to vary is successful?

- Yes No

Section 11 of 18

PROVISION OF ANYTHING OF A SIMILAR DESCRIPTION TO LIVE MUSIC, RECORDED MUSIC OR PERFORMANCES OF DANCE

[See guidance on regulated entertainment](#)

Will the schedule to provide anything similar to live music, recorded music or performances of dance be subject to change if this application to vary is successful?

- Yes No

Section 12 of 18

PROVISION OF LATE NIGHT REFRESHMENT

Continued from previous page...

Will the scheduled provision of late night refreshment be subject to change if this application to extend is successful?

- Yes
- No

Standard Days And Times

MONDAY

Start 08:00

End 22:00

Start

End

...the timing of the hour clock (e.g., 16:00) and provide details for the days of the week when you intend the premises to be used for the activity.

TUESDAY

Start 08:00

End 22:00

Start

End

WEDNESDAY

Start 08:00

End 22:00

Start

End

THURSDAY

Start

End 22:00

Start

End

SATURDAY

Start 08:00

End

Start

End

SUNDAY

Start

End 22:00

Start

End

Will the provision of late night refreshment take place indoors or outdoors or both?

- Indoors
- Outdoors
- Both

Where taking place indoors or other structure select as appropriate. Indoors may include a tent.

State type of activity to be authorised, if not already stated, and give relevant further details, for example (but not exclusively) whether or not music will be amplified or unamplified.

We are asking to extend the time limit from 9:30 PM to 10:00 PM for the following conditions of the licence :
34, 35, 37, 38

Continued from previous page...

State any seasonal variations.

For example (but not exclusively) where the activity will occur on additional days during the summer months.

Non standard timings. Where the premises will be used for the provision of late night refreshment at different times from those listed above, list below.

For example (but not exclusively), where you wish the activity to go on longer on a particular day e.g. Christmas Eve.

Section 13 of 18

SUPPLY OF ALCOHOL

Will the schedule to supply alcohol be subject to change if this information to vary is substantial?

- Yes No

Standard Days and Timings

MONDAY

Start 10:00

End 22:00

Timings in 24 hour clock (e.g. 01:00) and only give details for the days of the week when you intend the premises to be used for the activity.

TUESDAY

Start 10:00

End 22:00

WEDNESDAY

Start 10:00

End

THURSDAY

Start 10:00

End 22:00

FRIDAY

Start 10:00

End

Continued from previous page...

THURSDAY

Start 10:00

End 22:00

Start

End

SUNDAY

10:00

End 22:00

Start

End

Will the sale of alcohol be for consumption on the premises?

- On the premises
- Off the premises
- Both

If the sale of alcohol is for consumption on the premises select both. If the sale of alcohol is for consumption from the premises select off. If the sale of alcohol is for consumption on the premises and away from the premises select both.

State any seasonal variations.

For example (but not exclusively) where the activity will occur on additional days during the summer months.

We are asking to extend the time limit from 9:30 PM to 10:00 PM for the following conditions of the licence :
34, 35, 37, 38

Non-standard timings. Where the premises will be used for the supply of alcohol at different times from those listed above, list below.

For example (but not exclusively), where you wish the activity to go on longer on a particular day e.g. Christmas Eve.

Section 14 of 18

ADULT ENTERTAINMENT

Highlight any adult entertainment or services, activities, or other entertainment or matters ancillary to the use of the premises that may give rise to concern in respect of children.

Provide information about anything intended to occur at the premises or ancillary to the use of the premises which may give rise to concern in respect of children, regardless of whether you intend children to have access to the premises, for example (but not exclusively) nudity or semi-nudity, films for restricted age groups etc gambling machines etc.

Section 15 of 18

HOURS PREMISES ARE OPEN TO THE PUBLIC

Standard Days And Timings

Continued from previous page...

MONDAY

Start

End

Start

End

Provide timings in 24 hour clock (e.g., 16:00) and only give details for the days of the week when you intend the premises to be used for the activity.

TUESDAY

Start

End

Start

End

WEDNESDAY

Start

End

Start

End

THURSDAY

Start

End

Start

End

FRIDAY

Start

End

Start

End

SATURDAY

Start

End

Start

End

SUNDAY

Start

End

Start

End

State any seasonal variations.

For example (but not exclusively) where the activity will occur on additional days during the summer months.

Non standard timings. Where you intend to use the premises to be open to the members and guests at different times from those listed above, list below.

For example (but not exclusively), where you wish the activity to go on longer on a particular day e.g. Christmas Eve.

Continued from previous page...

Identify those conditions currently imposed on the licence which you believe could be removed as a consequence of the proposed variation you are seeking.

- I have enclosed the premises licence
- I have enclosed the relevant part of the premises licence

Reasons why I have failed to enclose the premises licence or relevant part of premises licence.

Section 16 of 18

LICENSING OBJECTIVES

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

a) General – all four licensing objectives (b,c,d,e)

List here steps you will take to promote all four licensing objectives together.

The grant of the amendment of the licence conditions regarding points 34,35,37,38 will satisfy the demand of the local community clients, help to optimize the operations of the business and which would be in accordance with the pavement licence N 4510371

b) The prevention of crime and disorder

c) Public safety

d) The prevention of public nuisance

e) The protection of children from harm

Section 17 of 18

NOTES ON REGULATED ENTERTAINMENT

In terms of specific **regulated entertainments** please note that:

- Plays: no licence is required for performances between 08:00 and 23.00 on any day, provided that the audience does not exceed 500.
- Films: no licence is required for 'not-for-profit' film exhibition held in community premises between 08.00 and 23.00 on any day provided that the audience does not exceed 500 and the organiser (a) gets consent to the screening from a person who is responsible for the premises; and (b) ensures that each such screening abides by age classification ratings.
- Indoor sporting events: no licence is required for performances between 08.00 and 23.00 on any day, provided that the audience does not exceed 1000.
- Boxing or Wrestling Entertainment: no licence is required for a contest, exhibition or display of Greco-Roman wrestling, or freestyle wrestling between 08.00 and 23.00 on any day, provided that the audience does not exceed 1000. Combined fighting sports – defined as a contest, exhibition or display which combines boxing or wrestling with one or more martial arts – are licensable as a boxing or wrestling entertainment rather than an indoor sporting event.
- Live music: no licence permission is required for:
 - o a performance of unamplified live music between 08.00 and 23.00 on any day, on any premises.
 - o a performance of amplified live music between 08.00 and 23.00 on any day on premises authorised to sell alcohol for consumption on those premises, provided that the audience does not exceed 500.
 - o a performance of amplified live music between 08.00 and 23.00 on any day, in a workplace that is not licensed to sell alcohol on those premises, provided that the audience does not exceed 500.
 - o a performance of amplified live music between 08.00 and 23.00 on any day, in a church hall, village hall, community hall, or other similar community premises, that is not licensed by a premises licence to sell alcohol, provided that (a) the audience does not exceed 500, and (b) the organiser gets consent for the performance from a person who is responsible for the premises.
 - o a performance of amplified live music between 08.00 and 23.00 on any day, at the non-residential premises of (i) a local authority, or (ii) a school, or (iii) a hospital, provided that (a) the audience does not exceed 500, and (b) the organiser gets consent for the performance on the relevant premises from: (i) the local authority concerned, or (ii) the school or (iii) the health care provider for the hospital.
- Recorded Music: no licence permission is required for:
 - o any playing of recorded music between 08.00 and 23.00 on any day on premises authorised to sell alcohol for consumption on those premises, provided that the audience does not exceed 500.
 - o any playing of recorded music between 08.00 and 23.00 on any day, in a church hall, village hall, community hall, or other similar community premises, that is not licensed by a premises licence to sell alcohol, provided that (a) the audience does not exceed 500, and (b) the organiser gets consent for the performance from a person who is responsible for the premises.
 - o any playing of recorded music between 08.00 and 23.00 on any day, at the non-residential premises of (i) a local authority, or (ii) a school, or (iii) a hospital, provided that (a) the audience does not exceed 500, and (b) the organiser gets consent for the performance on the relevant premises from: (i) the local authority concerned, or (ii) the school proprietor or (iii) the health care provider for the hospital.

Continued from previous page...

- Dance: no licence is required for performances between 08.00 and 23.00 on any day, provided that the audience does not exceed 500. However, a performance which amounts to adult entertainment remains licensable.
- Cross activity exemptions: no licence is required between 08.00 and 23.00 on any day, with no limit on audience size for:
 - o any entertainment taking place on the premises of the local authority where the entertainment is provided by or on behalf of the local authority;
 - o any entertainment taking place on the hospital premises of the health care provider where the entertainment is provided by or on behalf of the health care provider;
 - o any entertainment taking place on the premises of the school where the entertainment is provided by or on behalf of the school proprietor; and
 - o any entertainment (excluding films and a boxing or wrestling entertainment) taking place at a travelling circus, provided that (a) it takes place within a moveable structure that accommodates the audience, and (b) that the travelling circus has not been located on the same site for more than 28 consecutive days.

Section 18 of 18

PAYMENT DETAILS

This fee must be paid to the authority. If you complete the application online, you must pay it by debit or credit card.

Variation Fees are determined by the non-domestic rateable value of the premises.

To find out a premises non domestic rateable value go to the Valuation Office Agency site at http://www.voa.gov.uk/business_rates/index.htm

Band A - No RV to £4300 £100.00

Band B - £4301 to £33000 £190.00

Band C - £33001 to £8700 £315.00

Band D - £87001 to £12500 £450.00*

Band E - £125001 and over £635.00*

*If the premises rateable value is in Bands D or E and the premises is primarily used for the consumption of alcohol on the premises then your are required to pay a higher fee

Band D - £87001 to £12500 £900.00

Band E - £125001 and over £1,905.00

If you own a large premise you are subject to additional fees based upon the number in attendance at any one time

Capacity 5000-9999 £1,000.00

Capacity 10000 -14999 £2,000.00

Capacity 15000-19999 £4,000.00

Capacity 20000-29999 £8,000.00

Capacity 30000-39000 £16,000.00

Capacity 40000-49999 £24,000.00

Capacity 50000-59999 £32,000.00

Capacity 60000-69999 £40,000.00

Capacity 70000-79999 £48,000.00

Capacity 80000-89999 £56,000.00

Capacity 90000 and over £64,000.00

* Fee amount (£)

190.00

DECLARATION

* It is an offence, under section 158 of the licensing act 2003, to make a false statement in or in connection with this application. Those who make a false statement may be liable on summary conviction to a fine of any amount.

Ticking this box indicates you have read and understood the above declaration

This section should be completed by the applicant, unless you answered "Yes" to the question "Are you an agent acting on behalf of the applicant?"

Continued from previous page...

* Full name

* Capacity

* Date / /
dd mm yyyy

Once you're finished you need to do the following:

1. Save this form to your computer by clicking file/save as...
 2. Go back to <https://www.gov.uk/apply-for-a-licence/premises-licence/hammersmith-and-fulham/change-1> to upload this file and continue with your application.
- Don't forget to make sure you have all your supporting documentation to hand.

IT IS AN OFFENCE, UNDER SECTION 158 OF THE LICENSING ACT 2003, TO MAKE A FALSE STATEMENT IN OR IN CONNECTION WITH THIS APPLICATION. THOSE WHO MAKE A FALSE STATEMENT MAY BE LIABLE ON SUMMARY CONVICTION TO A FINE OF ANY AMOUNT.

OFFICE USE ONLY

Applicant reference number

Fee paid

Payment provider reference

ELMS Payment Reference

Payment status

Payment authorisation code

Payment authorisation date

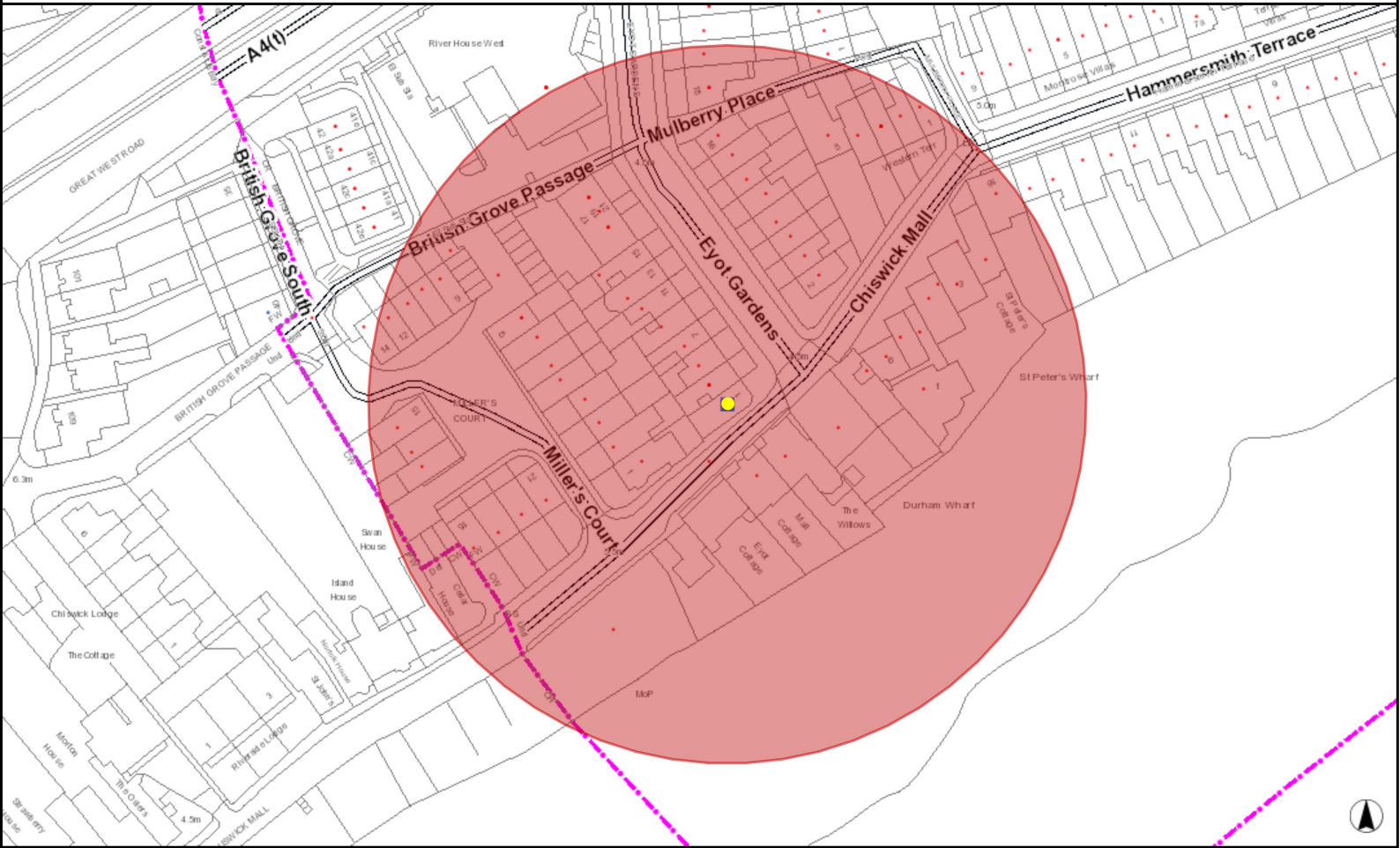
Date and time submitted

Approval deadline

Error message

Is Digitally signed

[1](#) [2](#) [3](#) [4](#) [5](#) [6](#) [7](#) [8](#) [9](#) [10](#) [11](#) [12](#) [13](#) [14](#) [15](#) [16](#) [17](#) [18](#) [Next >](#)



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From: Cllr Walsh Patrick: H&F
Sent: 29 September 2022 17:51
To: Licensing HF: H&F
Cc:
Subject: RE: Licensing Act 2003 - Reference: 2022/01281/LAPR

Dear Karen,

I hope that you are well.

I would like to call this to the licencing sub-committee.

My concern is noise and nuisance. As this is the final day and I am not informed of any response from the noise and nuisance team.

In addition, I have been informed that complaints have been made to the Noise disturbances regarding after licence hours complaints -references162753 and 163113

Officers will be aware that the immediate neighbour (Eyot Gardens) has a number of concerns that have recently been raised over excess heat from the restaurant radiating from ventilation and possible red line violations of the property.

The extension of hours would likely lead to further escalation of issues that exist and should be addressed before any extension is grated

I have been informed that in general the business enjoys good relations with other residents of the street however the proximity and impact of an extension to business hours at 1 Eyot Gardens should be awarded serious consideration.

Kind regards,

Cllr Patrick Walsh

Councillor for Ravenscourt
London Borough of Hammersmith & Fulham

From: Luke Elford

Sent: 29 September 2022 19:04

To: Licensing HF: H&F

Subject: My client: Dr Sue Thompson - Mari Deli, Eyot Gardens, London W6 - Application to Vary a Premises Licence

Importance: High

Dear Sirs,

I am instructed by Dr Sue Thompson of Eyot Gardens, London W6.

Dr Thompson wishes to make a representation in relation to the application by Mr
Ciro Guerra for the variation of a Premises Licence at Mari Deli, 1A Eyot Gardens,
London W6.

To that end, I attach Dr Thompson's representation and supporting documents.

Kindly acknowledge safe receipt.

Please send any further correspondence on this through to me. I am happy for my
details to be shared with the applicant. I would say please do not share my client's
details, but I think he has them anyway. If it could just be made clear to him that he
is to correspond via me, that would be appreciated.

Many thanks.

Kind Regards

Luke Elford

Licensing
Hammersmith & Fulham Council
London W6 9JU

Dr. Susan Thompson
Eyot Gardens
London W6

By email only to licensing@lbhf.gov.uk

29 September 2022

Dear Sirs,

Mari Deli, 1A Eyot Gardens, London W6 9TN – Application to vary a premises licence - Representation

My name is Dr Susan Thompson. I live at Eyot Gardens, London W6 (“my Flat”).

I am making this representation in relation to the application by Mr Ciro Guerra (“the Premises Licence Holder”) to vary the premises licence at Mari Deli, 1A Eyot Gardens, London W6 9TN (“the Premises”).

Background

My Flat is situated directly above the Premises with windows facing on to Eyot Gardens, Chiswick Mall, and above the rear kitchen area of the Premises. It is situated in the Chiswick Mall Conservation Area, and the whole building is one of Townscape Merit.

It is a two-floor maisonette and has all three bedrooms on the first floor, immediately above the Premises. My kitchen diner/living room is on the smaller top/second floor.

I enclose some photographs showing where my windows are located relative to the Premises, **(Photos 1 and 2)**.

I first rented my Flat in the early 1980s before purchasing it in 1998. It is my home. I have always loved the property. More recently, I have had cause to fall out of love with it and that is primarily due to the Premises and the impact that the Premises has had on my life.

When I first took on my Flat the Premises was an A1 corner shop, deli, and off-licence. It has been through several changes of ownership. I had a good relationship with the two managers of the previous businesses below me over many years, and never has any cause to complaint about nuisance. Once new owners purchased the A1 shop and off-licence in 2003 and renovated it, the Premises has been transformed into a licensed restaurant. There has been lots of building work to achieve this. I have significant concerns about the safety of a commercial kitchen running within a converted space (the Premises was never designed or adapted properly to house such) underneath my Flat. I will cover those concerns in more detail in the section of this representation marked “Public Safety.”

I am making this representation under the following of the Licensing Objectives:

- The Prevention of Crime and Disorder;
- Public Safety; and
- The Prevention of Public Nuisance.

In respect of each, I say the following

The Prevention of Crime and Disorder

There are, in my view, several the conditions of the Premises Licence that are not presently being complied with or breached by the Premises Licence Holder and his staff. For ease, I have copied the various conditions below with my commentary in *italics* underneath.

15. A telephone number for the premises, or a responsible member of staff on duty, shall be displayed so that it is visible from the public highway for members of the public to lodge complaints.

So far as I am aware, no such number is displayed on the exterior of the premises. I accept that this is something that is easily correctible, but in my view, it goes to the central issue of the general compliance of the Premises Licence Holder and his staff – if he cannot arrange something so simple as displaying a telephone number then it is unlikely that he will be able to adhere to more complicated conditions.

16. External doors shall not be propped open at any time so as to give rise to a nuisance.

There are two external doors at the Premises. One on the Chiswick Mall side and one on the Eyot Gardens side. I will call them the Chiswick Mall doorway and the Eyot Gardens doorway. respectively.

The Chiswick Mall doorway leads into the kitchens. I have on occasion noticed it to be propped open.

The Eyot Gardens doorway is more problematic. It is right underneath one of my bedrooms (at first floor level) and my living room (at second floor level). It is regularly propped open/held open all the time allowing noise from inside the premises to escape out. I will speak about my experiences of noise under the Public Nuisance heading of this representation.

*Although they are not covered by this condition, and it is my belief that they should be, windows at the Premises are regularly left open or propped open allowing noise to escape in a similar way. This is particularly true of the skylight windows directly beneath one of my bedrooms (see **Photo 3**).*

*The kitchen window below is also often propped open. It is located beneath one of my bedroom windows. This is often to accommodate the wires for the heat lamps, more on which under public safety (see **Photos 4 -6**).*

Finally, the open gazebo housing both dining tables and a stall, with the shop door invariably propped open lie directly beneath my third bedroom, also blocking the street view, as do the pavement awnings (see photos 7 - 9)

23. Any alcohol sold for consumption off the premises shall be sold in a sealed container.

Notwithstanding the Business & Planning Act 2020 and the relaxation to off-sales, it is my view that this condition has never been complied with in any meaningful sense. Any sale of alcohol for consumption in any external seating area (either authorised or unauthorised) is an "off-sale." Orders are made by customers outside and the drinks are prepared and served to them outside. The drinks are in open containers when they leave the Premises, which is not what the condition suggests.

If it was always envisaged that customers would consume food and drinks in an external seating area then this condition, as drafted, prohibits that.

I note that no request for relief from this condition has been made by way of this application.

29. All ventilation and extraction systems and ducting shall be correctly installed, operated, maintained and regularly serviced, all in accordance with the manufacturer's instructions, to ensure that they are operating correctly and efficiently so as not to cause a nuisance to neighbours arising from noise or odour.

I will deal with this in more detail under the heading "Public Nuisance", but I do not believe this condition is being complied with. The entirety of the first floor of my property is constantly subject to the cooking smells from below, which accumulate. Visitors, when I have them, have remarked upon it and it embarrasses me. The Premises was never designed to contain a commercial kitchen and I do not believe the works that have been done to create one have been done to an acceptable standard. The proprietor proposed in licensing meetings to serve reheated food only, but pizza and baked goods are cooked freshly most of the day from 6 or 7 am onwards.

I am also aware, having visited the kitchen of the Premises, that several extractor units have been installed directly beneath the stairs that lead up from my front door and my first floor landing. The most troubling extractor unit gives off a great deal of noise that is both persistent and irritating, and it runs day and night. I am in the process of arranging for an acoustic consultant to review the noise made by the extraction unit and have not been able to arrange that in time for this letter, but I believe the sound emitted exceeds acceptable sound levels at night, as commented upon by a representative of Environmental Health. At least one other extractor was installed below my bottom stair, and a further one behind the gas pipe going to my flat. This work has compromised the fire compartmentalisation between the two properties, as there are holes between my staircase and partition wall, my only fire exit. My staircase is also damaged by these installations. (Photos 10 and 11 of extractors).

Fire Safety advisors from the London Fire Brigade have recently demanded a risk assessment to assess the fire separation between the commercial and single private dwelling flat above in accordance with article 9 of the Regulatory Reform Fire Safety Order, and a 5 year electrical

wiring test for the restaurant. Along with Environmental Health, they also remarked on the noise of the ventilation cooling fan, unpleasant odour of food from the premises, and the excessive heat downstairs in my flat.

The extractors and kitchen also certainly generate enormous amounts of heat which a surveyor confirms has damaged my property and indicates the unacceptably poor insulation between the premises and residential property above. My flat is often 10-20 degrees above ambient temperature.

32. A maximum of 12 customers shall be permitted in the front outside area at anyone time.

There is an issue with the plans appended to the Premises Licence in that:

- a) They do not show the front outside area or the layout of any furniture; and*
- b) They do not accurately reflect the layout of the Premises at all.*

I understand that, during Covid, it was desirable for customers to be seated outside in a well-ventilated area. I feel that the outside area referred to in the condition above has been allowed to morph into something above and beyond the number of customers and impact of what was specifically intended when the Premises Licence was granted. This is recorded in the notes of the relevant licensing subcommittee meetings. I have included some photos (12 - 14) to demonstrate what the front/forecourt area looks like currently and you will see that the Premises Licence Holder has put up various structures to create quite a significant outside area, which includes dining tables and a food stall/takeaway counter.

This continues to increase in size, with a new large corner parasol added this year. This new parasol advertising alcohol, has been installed on the pavement in front of the food stall using a heavy concrete base, placed on the highway, well outside the forecourt of the premises. This causes more congestion on the footpath/road when there are people queueing to buy a coffee, especially at weekends. There is certainly not the 1.5 metres required width for pedestrians to pass safely.

*There is also the issue that the "front/forecourt outside area" has, by the related pavement licence, been allowed to extend down the Chiswick Mall fascia of the building, where my front door and my gas meter are located. Customers and staff have, at times, placed bicycles, bags, bins and even chairs outside my front door creating a trip hazard and significant safety issue. My front door is my only means of escape from my Flat which means that it **must** be always kept clear. I have enclosed some photos (15 -34) of what I mean in terms of the location of the tables and chairs. A van used as a stall also attracts customers to crowd the pavement outside my exit, taking photos of the van, and a blackboard is also in the residents parking space outside, which is a hazard for pedestrians and motorists. Admittedly some of the photos were taken in lockdown, when it was more common for customers to stand or sit on my doorstep, (and tables were initially placed nearer my door then relocated), but the other photos illustrate how the tables take up a significant mass on the narrow street, especially with staff serving, who **can** take up the remainder of the pavement. People still leave bikes by my exit, and crowding around the vintage van also blocks my exit on busy days. It is stressful leaving my*

home, and visitors feel nervous and self-conscious too. I have copied some photos from the Deli's facebook page to further illustrate this point.

If the plan for the proposed position of the tables and chairs in respect of the Pavement Licence renewal for the premises is examined, the plan also shows the outline of the forecourt to the east of the premises (the orientation of the plan is incorrect – north is to the left) fronting Eyot Gardens. It is the opinion of a planning consultant I have consulted that **it is this forecourt /gazebo area only** which is the subject of this application to vary the Premises Licence, not the pavement licence.

The Council's web page Pavement Licence entry ref 2020/00748/PAVE states that the tables and chairs are to be placed "outside the shop front". As there is **no** shopfront to the west of the entry door to my flat, any tables or chairs beyond this doorway should not be covered by any licence.

33. External lighting for the Premises shall be turned off after the Premises are closed to the Public.

Generally speaking the use of the outside area is not really in accordance with the rules and the conditions of the Premises Licence. The lights are often left on after the Premises has closed to the public (**Photo 34**).

34. All tables and chairs shall be removed from the front outside area by 21:30 hours each day.

As per the above, this again sees little to no compliance. The Premises seem to treat 9:30 as the point by which (sometimes) customers are required to leave their tables. It is not, I am sorry to say, treated as the time by which all tables must be removed from the highway. Indeed, some tables are never removed and are left there all night, and the gazebo is never removed (although my understanding is that it should be, by definition). (**Photos 35 – 41**)

35. The outside area shall be separated from the public highway by a screen, rope barrier or other means of demarcation from the public highway which shall be removed by 21:30 hours each day.

It is arguable that what the Premises have created constitutes a "demarcation", but I would ask whether what is in situ is within the spirit of the condition and also wish to point out that little, if anything, is removed overnight.

36. Signs shall be prominently displayed in the outside area reminding patrons there are residents living nearby and instructing them to respect the neighbours and to conduct their behaviour accordingly.

I cannot say that I have ever seen signs to this effect outside the Premises. What I would say, however, is that I have regularly been disturbed in my Flat by customer noise from both inside and outside the Premises. I have also been disturbed by staff noise until 2 am, starting again by 6.30 am.

37. Alcohol shall not be consumed in the outside area of the Premises after 21:30 each day

This, I would say is honoured in the breach and I have seen customers continuing to drink/finishing their drinks after 21:30, which it not what the condition says/envisages e.g. everything closed/removed by 21:30.

Perhaps this condition could be adjusted relative to the closure time of the area e.g. consumption to cease 30 minutes before the area closes, which would allow time for staff to close down and remove the area?

I mentioned above that the layout on the plans attached to the licence and the layout of the Premises (in reality) do not marry up. Attached is the original version of the plan and version that has been marked up to show the differences.

Public Safety

I would say that there are several public safety issues in relation to this Premises.

Two are specific to the external areas that have been developed by the Premises and one is a more general public safety concern relating to the operation of the Premises as a whole.

The two public safety concerns relating to the use of the external areas are:

1. The use of patio heaters/heat lamps under awnings/a gazebo that are not designed for such; and
2. The lack of space between the external areas and the roadway.

Patio Heaters

I completely understand that the Premises would want customers using its external areas to be as comfortable as possible. I do not believe, however, that comfort should be prioritised over customer safety, and that of nearby residents.

All the awnings and the gazebo outside the Premises have, in some form or another, got heating elements installed underneath them. These are the not the type of awnings or gazebo where these systems are “built in” and the structures rigorously fire tested – these are awnings and a gazebo where the Premises have jury-rigged or retrofitted these systems in after the fact, which I consider to be extremely dangerous. I am particularly concerned because there is only one means of escape from my Flat. If that is blocked (which it has been) or becomes unusable, then I am in significant danger.

I have contacted the manufacturer of the pavement patio heaters, and they told me that these should be wall mounted, not clamped to flammable awnings. The proprietor has been told to remove these, but promptly replaces them.

The patio heaters also possibly encourage the congregation of diners outside year-round in a manner which is not in keeping with the spirit of the pavement licence, or the number of clients proposed by the business in licensing meetings.

The internal dining space already has several tables and created a further “chef’s party table” since the premises licence was granted. I believe the number of covers is at least 21 at present.

Space to Roadway

This comment pertains to the pavement tables and chairs placed on the Chiswick Mall side of the Premises, (**see Photos 42-45**)

When in use the tables and other furniture will (and already do) severely obstruct the only available pedestrian route. This appear to be in contravention of the Ministry of Housing, Communities & Local Government Guidance: pavement licences (outdoor seating proposal). Updated 22 July 2020, which states at 1.1:

“Where a pavement licence is granted, clear access routes on the highway will need to be maintained, taking into account the needs of all users, including disabled people.”

As can be seen in the photographs below, the applicant is already using the pavement to the side of the premises for tables, chairs and other furniture and equipment. When the tables are in use, the narrow pavement is severely obstructed rendering it virtually unusable by pedestrians. At times chairs are placed right across the pavement and into the roadway. Boxes of produce displayed on the pavement cause a further obstruction.

The pavement to the front of the shop is also effectively blocked by the serving arrangements. The applicant has relocated the serving counter and entire shop front onto the forecourt restricting wheelchair access to the footpath.

The ‘pavement’ in front of the houses opposite is no more than a wide kerb, thus pedestrians are forced to use the roadway on this very narrow and quite busy corner, placing them (and in particular those with mobility problems) at risk.

Chiswick Mall is regularly used as a cut-through or rat run for drivers attempting to avoid traffic elsewhere. Those drivers, and I accept that this is not the Premises Licence Holder’s fault, often drive carelessly and at speed. I am concerned that it is only a matter of time before someone is seriously injured whereby they have entered the roadway to avoid the tables and chairs and a collision takes place. I do not think the current placement of the tables and chairs is safe.

The Prevention of Public Nuisance

I am regularly disturbed by the Premises in several ways. I would categorise the disturbances as:

- Customer noise

- Staff noise
- Plant noise
- Heat from the commercial kitchen

Customer Noise

The main outside area of the Premises is directly underneath two of my bedroom windows (first floor), and directly beneath the window of my living space (second floor). My third and final bedroom is also uninhabitable because of the noise from the open conservatory windows. The outside area under the gazebo in Eyot Gardens is invariably in use meaning that I have the noise of customers eating, drinking talking and sometimes singing directly beneath my Flat all the time. It can be relentless despite having secondary glazing throughout my maisonette. I feel unable to open windows on hot days as this exacerbates the problem.

The noise comes and goes throughout the day, but when the Premises is busy later in the evening it is particularly noticeable, especially when other ambient noise sources e.g. traffic noise, drop off. The noise was so bad at first floor level that I moved a mattress upstairs to the second-floor kitchen diner to see if that gave me some relief. It hasn't, as extractor noise is still audible in addition to customer/staff noise which only ceases 2am-6 am. More recently I have been doing all that I can to avoid staying at my Flat, as I now always ~~would~~ have to try and sleep on the sofa in my living room, as all 3 downstairs bedrooms are uninhabitable.

The noise has also disrupted my work. Like most of the country I was forced to work remotely during the various lockdowns and even now a good proportion of my work is done via remote video calls e.g. Zoom or Teams. Clients have remarked to me on the background noise level and I often have to mute out of calls when I am not speaking. The noise generated by the outside area is not conducive to a working environment which my Flat needs to be. I also find myself too tired for consultations after the limited sleep I manage to have during the early hours. Then the flat is relatively quiet, although I can still hear the overnight use of the extractor in the kitchen/diner, through a heavy fire door.

The second area of customers using the pavement tables in Chiswick Mall pavement outside area is also directly beneath one of my first-floor bedrooms, which is uninhabitable due to the smells generated from the commercial kitchen below, and the customer noise.

Staff Noise

In many respects the staff noise that I experience from the Premises is just as, if not more, intrusive than the customer noise.

I tend to be disturbed by loud staff noise later in the evening e.g. after the Premises has closed, well after midnight. It may be something as simple as a staff member conversing loudly or singing, but the noise really travels, particularly when the streets are quiet and reverberant, and the conservatory windows where the staff are situated after hours are open. Staff have also taken meals outside after closing time.

At other times it has been staff behaviour that has been the problem. I have experienced this in two ways.

Firstly, staff will move and remove rubbish from the premises late at night. This includes clinking bottles within bags which cause a real problem when they are carried and also when they are placed into the eventual receptacle. This invariably happens after midnight, (see **photo 46, taken at 0145 hours**), in contravention to the premises licence, which states that:

“Deliveries and collections (including refuse and/or recycling collections) associated with the premises shall be arranged between the hours of 07:00 to 20:00 only. Empty bottles and non-degradable refuse shall remain in the premises at the end of trading hours and will not be taken out to the refuse point between the hours of 23:00 and 07:00”.

Another issue is when staff set up for the day. Whilst the premises licence deals with when tables are to be removed from the highway (although they are not) the licence does not deal with when they can be placed out. This often means that the tables are placed out very early in the morning (from 6am).

Plant Noise

I mentioned above in relation to one of the conditions of the premises licence (condition 29) that I have had real issues with plant noise from the premises. I am sorry to say that those issues persist.

There is an extractor unit situated just underneath my entrance staircase or landing and the noise from that unit is very audible throughout my property. It ranges from a lower pitched humming sound when the unit is not operating to capacity to a much higher volume when strain is being placed on the unit. It often runs all night and is certainly noisier than acceptable noise levels.

The rear kitchen also has a couple of skylights over the Premises' kitchen (see previous photo of conservatory windows above) from which noise escapes. These skylights are located directly below one of my first-floor bedrooms and the rear window to my second floor living space (see photos). Noise escapes from these windows and can disturb me.

I have tried to resolve the issue of noise on several occasions. For example, in 2021 noise expert Richard Vivian wrote to Mariano Aiello as DPS in this regard, but no reply was received, (See letter).

Requested Outcome

I would like, please, for the application to vary the premises licence to be refused. There are several significant issues currently which, in my view, undermine the Licensing Objectives. To grant the variation would, respectfully, be a message to the Premises Licence Holder that everything is satisfactory, that he is operating in accordance with the premises licence, and that he should benefit from longer.

Additionally, no measures have been proposed to explicitly promote the four actual licensing objectives with this application, namely are the prevention of crime and disorder. public safety. the prevention of public nuisance. and the protection of children from harm.

The applicant is also requesting later hours but has not submitted a Noise Impact Assessment as a supporting document for his application.

It is also of particular concern that these issues are occurring in a conservation area, (which is primarily residential), with tables sprawling over a very narrow pavement. The premises licence may also not actually apply to these "forecourt" tables at all.

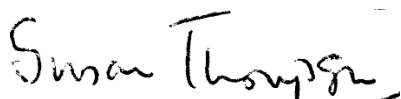
There appears to be no justification to request to serve alcohol from until 22:00 hours in a restaurant immediately adjoining residential accommodation.

There are alternative places to drink later locally, including the inside tables of the Deli which are licensed until 2300 hours, such that it appears unnecessary to extend the period that alcohol is served outside.

If the application cannot be refused, and I am not sure why it could not be, then I would ask the council to think very carefully about what changes could be made to the licence as it stands currently in view of what is being requested to alleviate the problems I have highlighted above. My quality of life has been significantly diminished as this Premises has developed and I do feel that without some sort of intervention the public safety and nuisance issues will only worsen.

Thank you for taking the time to consider my representation.

Yours faithfully,



Dr. Susan Thompson
Eyot Gardens
London

Enc.

Photos 1 and 2, showing two my bedrooms on the first floor directly over Mari Deli. You can also view the top floor which is a kitchen/diner/lounge





Photos 3 and 4, conservatory windows and kitchen windows regularly left open 24 hours a day to emit heat, and accomodate patio heater cables (Photo 5 and 6)

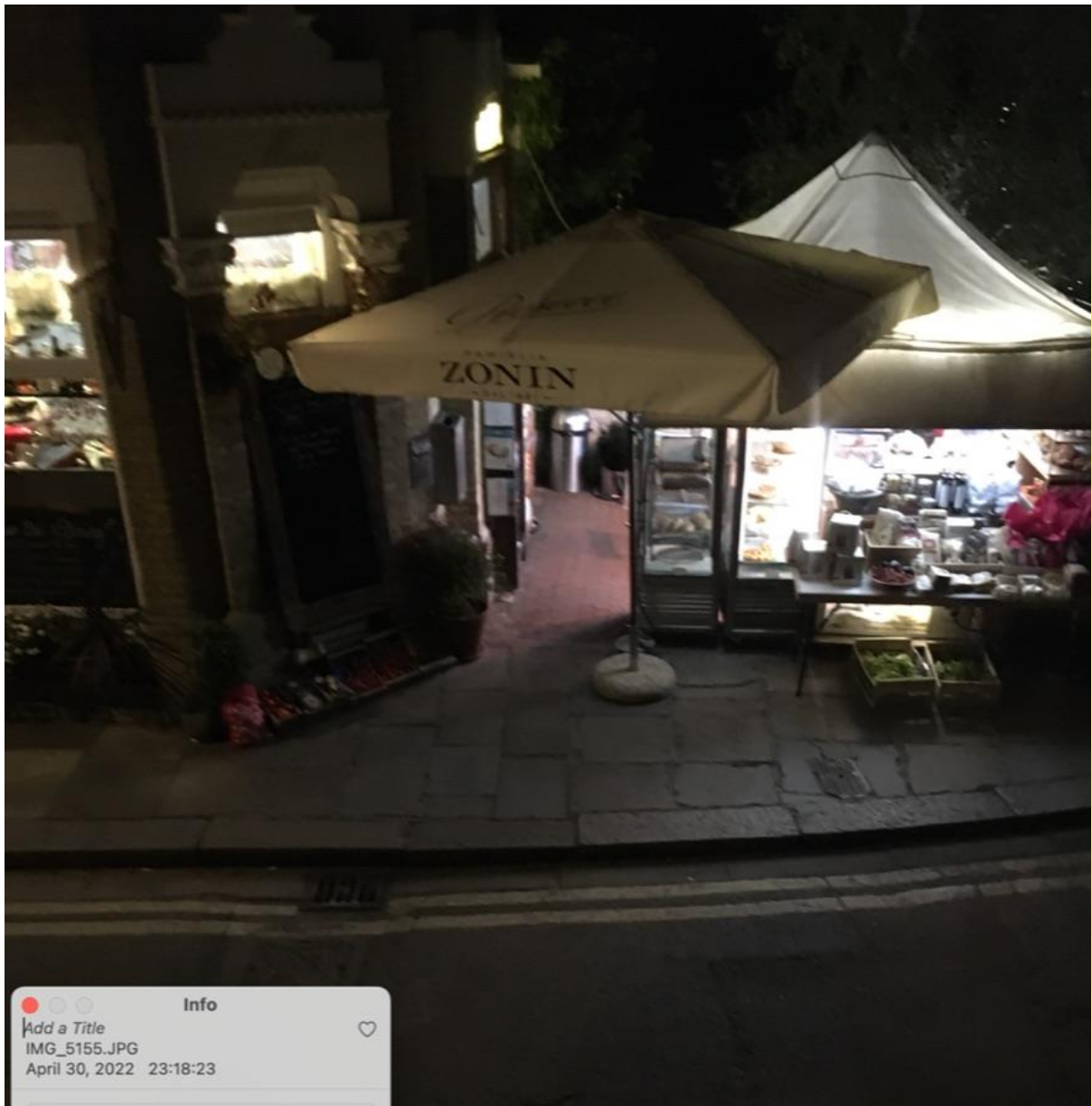






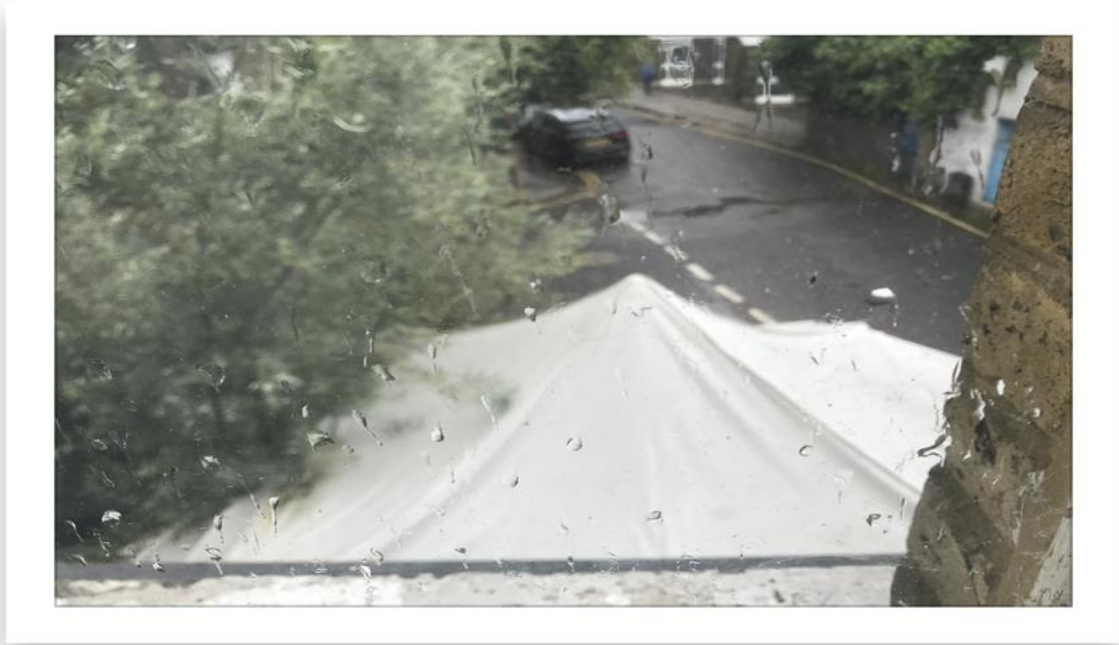


Photo 7 Gazebo, parasol and food stall/takeaway with shop door inside which is regularly both open and lit up late at night



Info
Add a Title
IMG_5155.JPG
April 30, 2022 23:18:23

Photo 8 and 9 Gazebo and pavement awnings block any view of the street scene from 2 of my 3 bedrooms





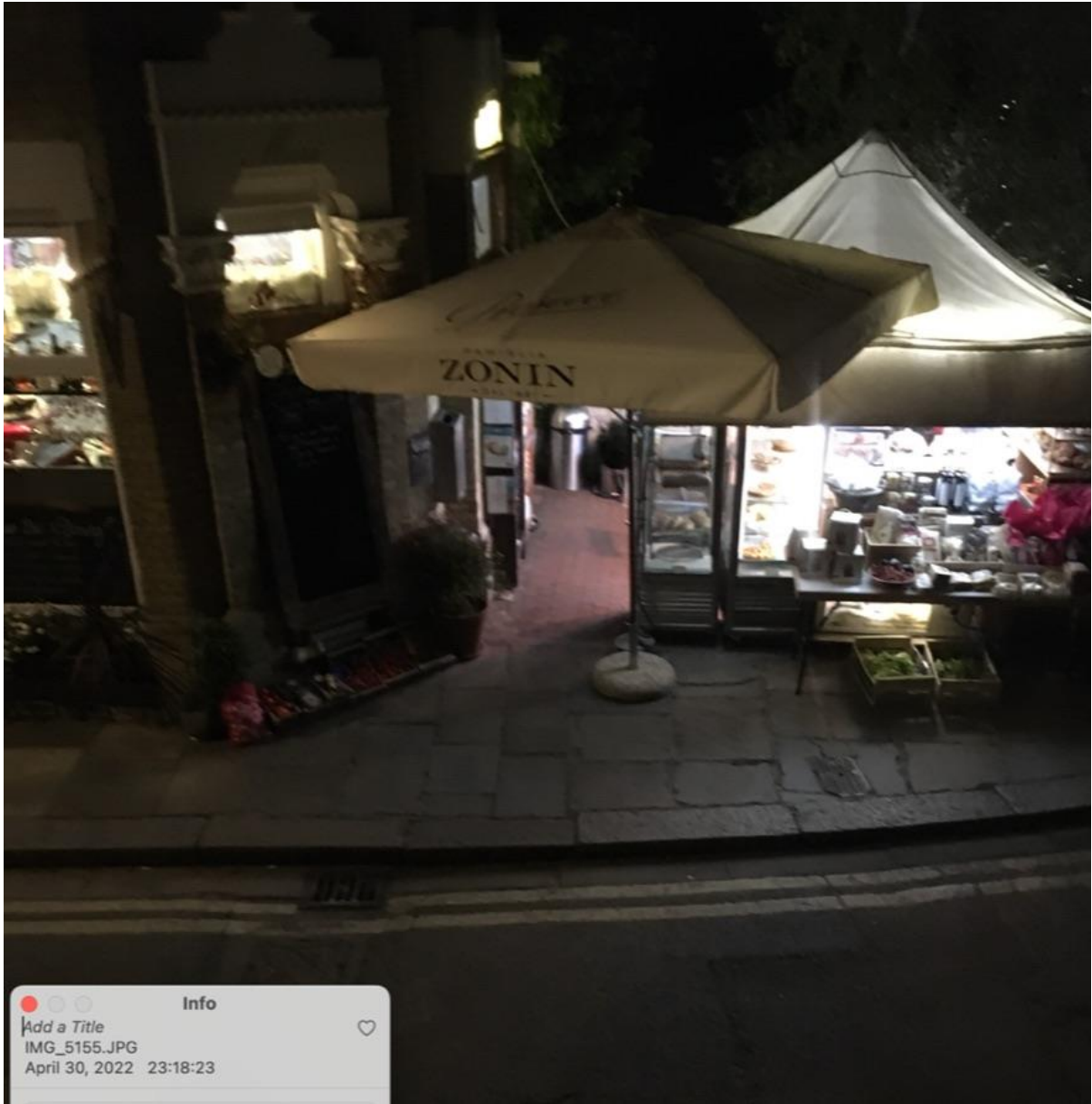
Photos 10 and 11, 2 extractors ducted through external wall in Chiswick Mall, one behind an ascending gas pipe





Photo 12, 13 and 14 gazebo plus second parasol/market stall structure on Mari Deli forecourt





Info
Add a Title
IMG_5155.JPG
April 30, 2022 23:18:23



Photo 15 to 29, pavement tables and furniture





















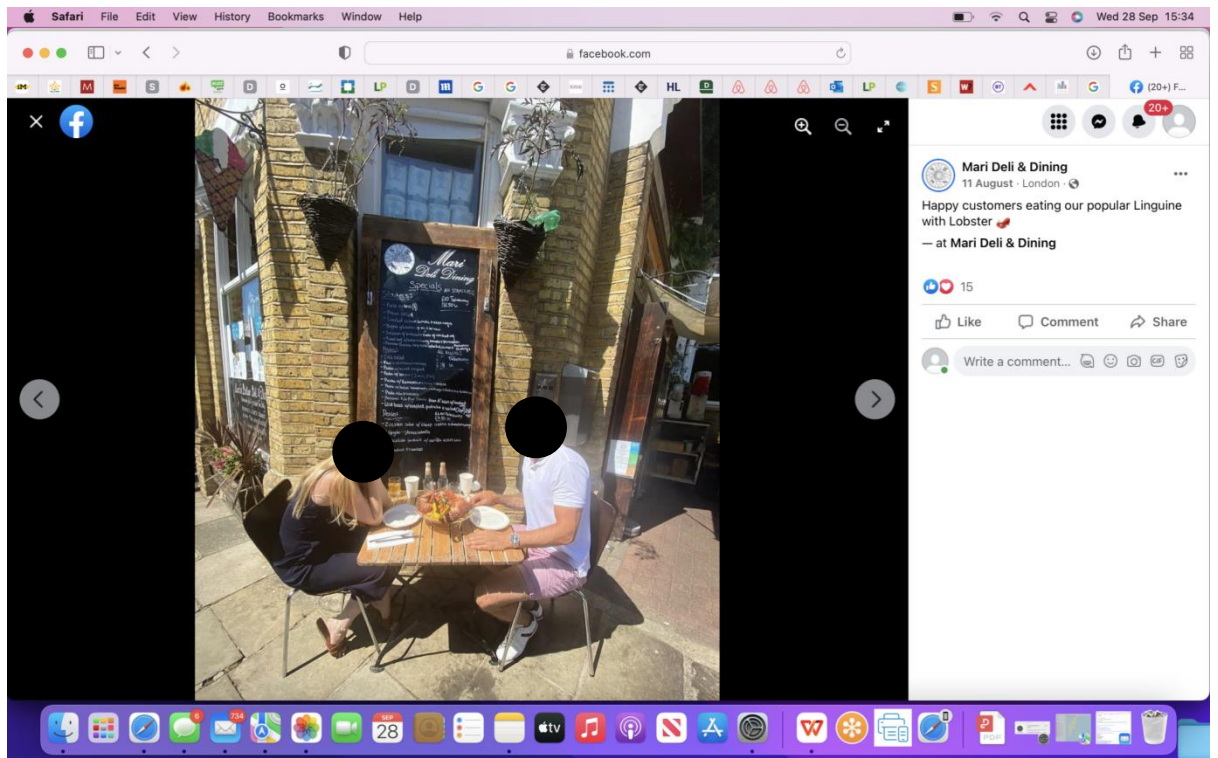
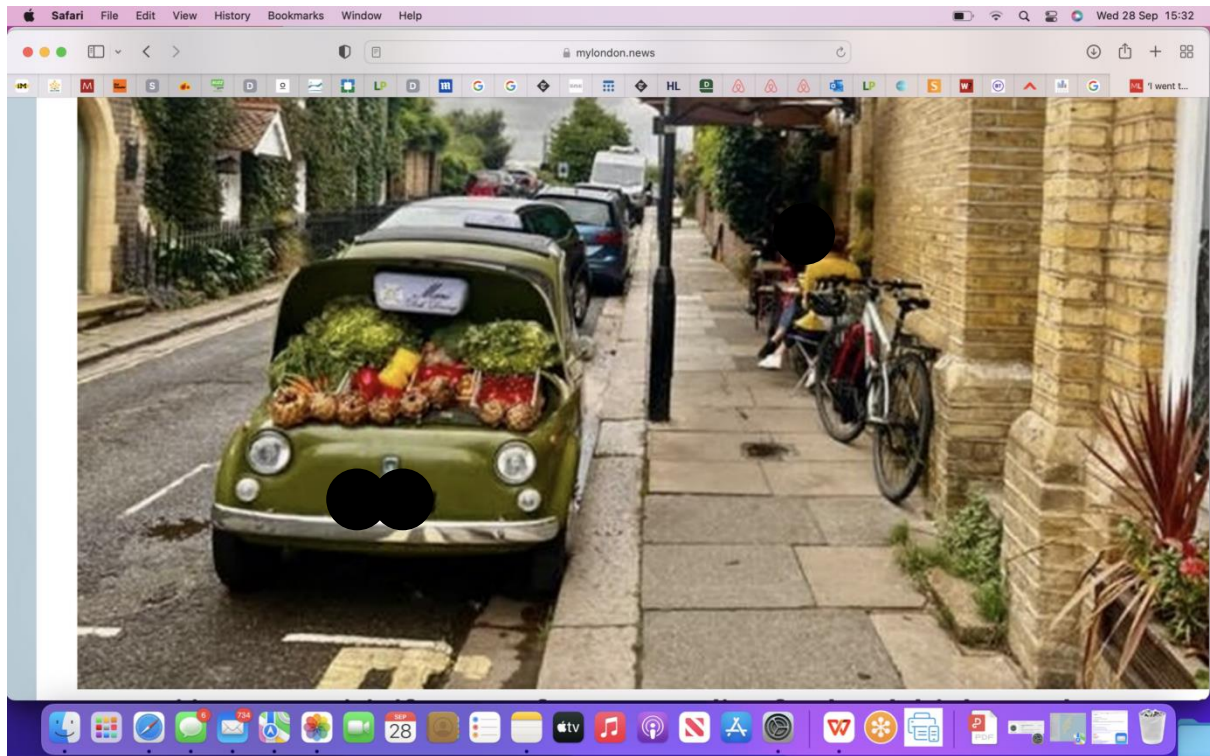


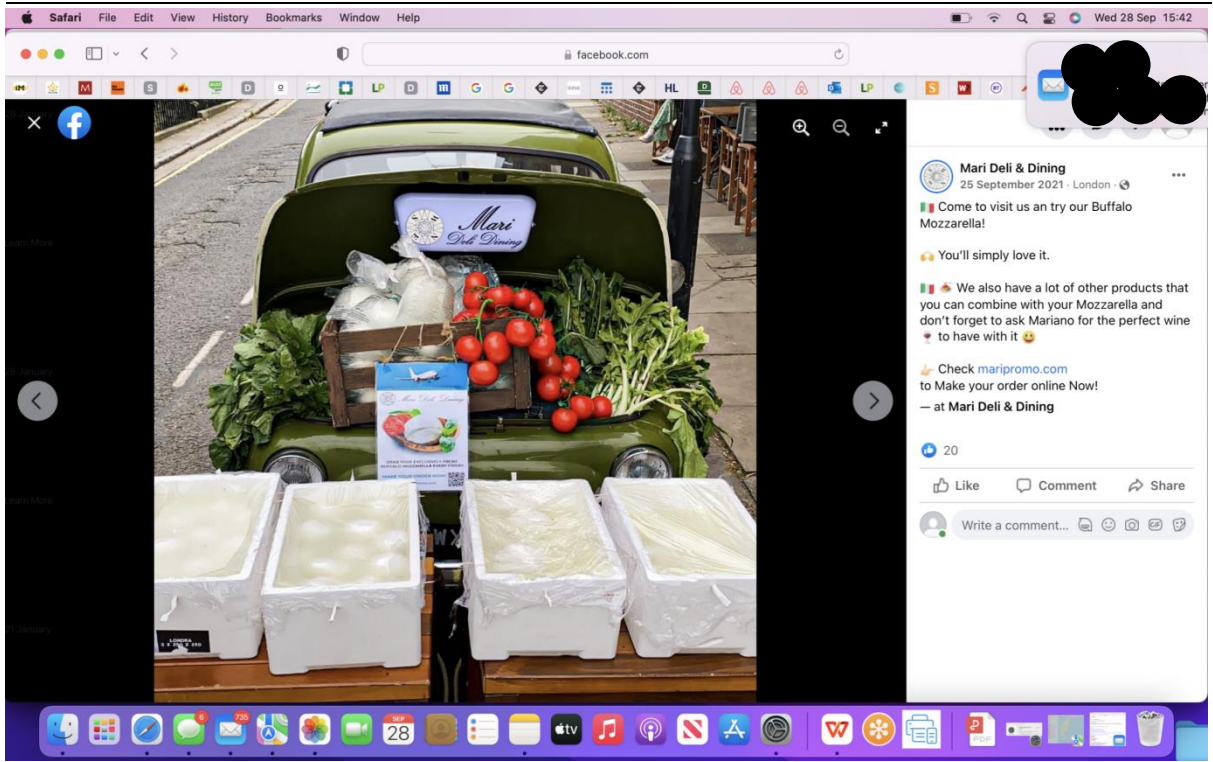
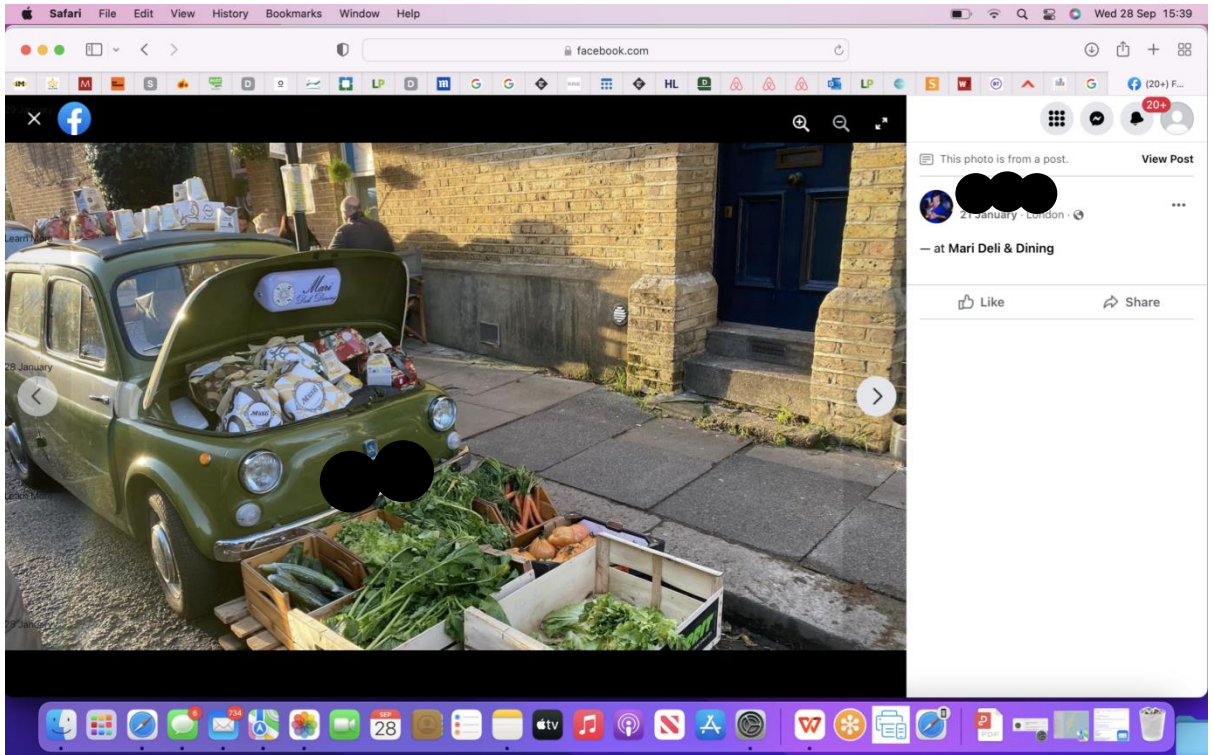







Taken from the Deli' s facebook page:





Safari File Edit View History Bookmarks Window Help Wed 28 Sep 15:41

facebook.com



This photo is from a post. View Post

21 January · London ·

— at Mari Deli & Dining

1

Like Share

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28

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Photo 34

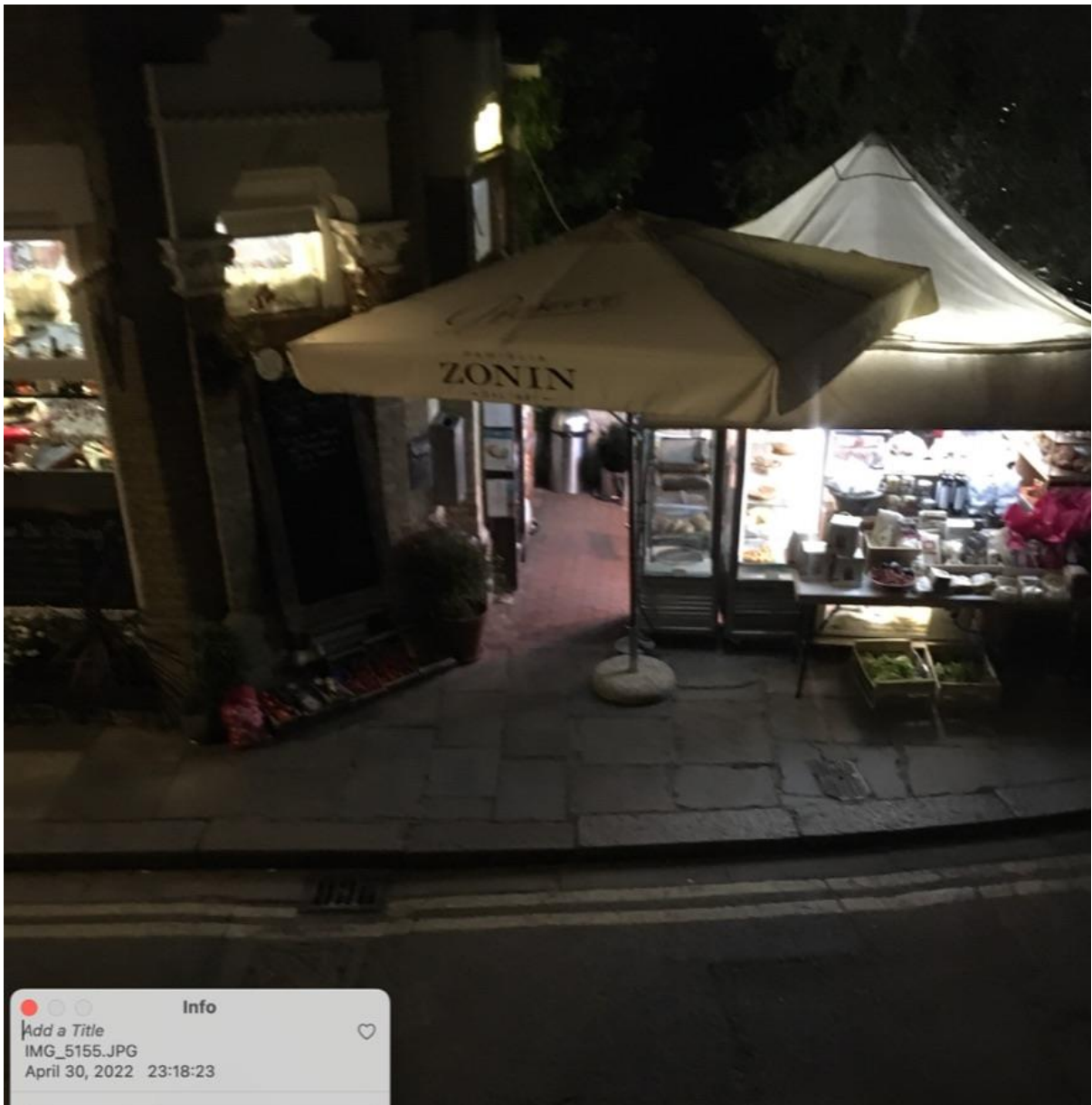
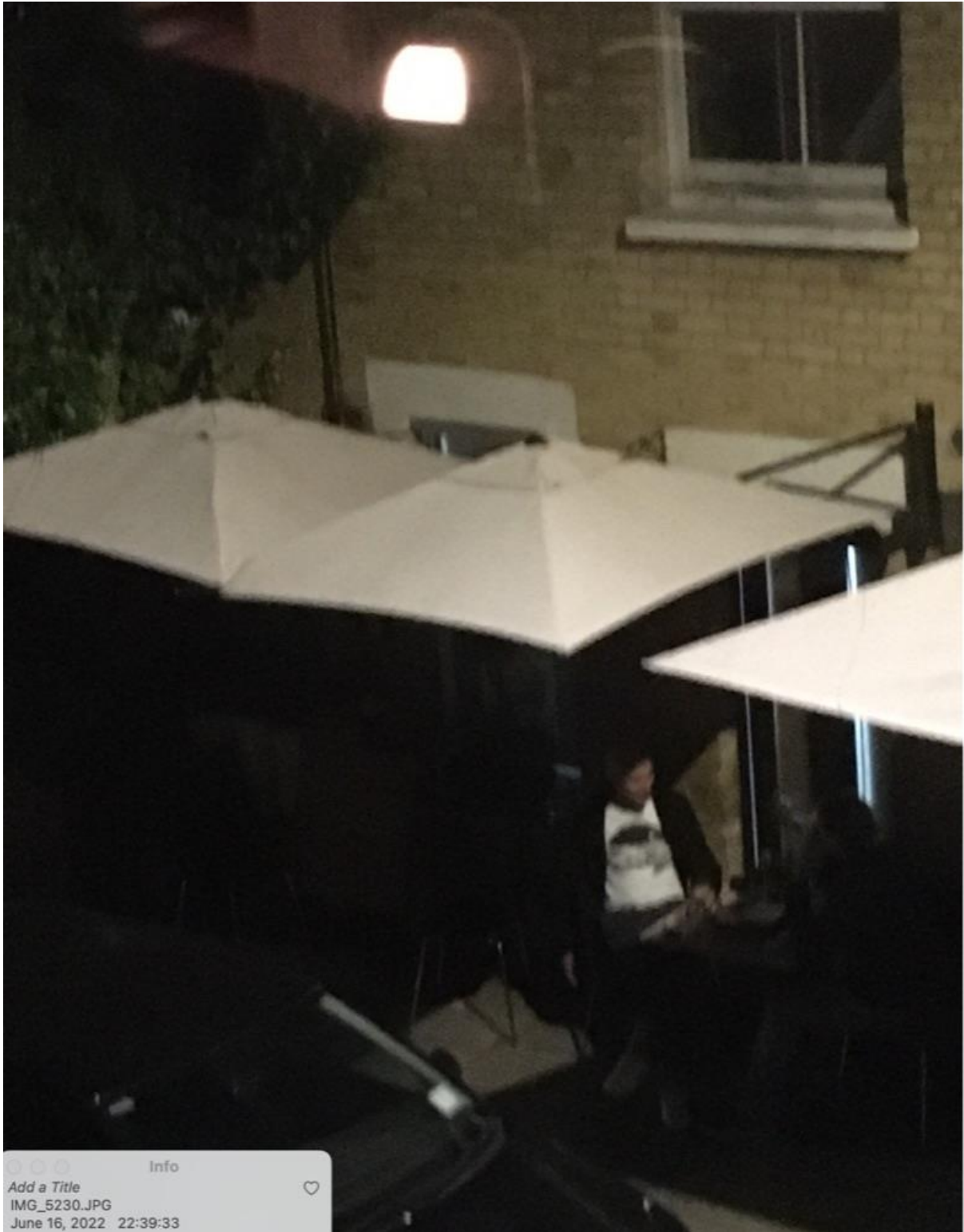


Photo 35-41, showing lack of compliance with licenced hours







Info
Add a Title
IMG_5230.JPG
June 16, 2022 22:39:33

September 16, 2022 at 21:30:19
2,216 of 2,217



LIVE



17 Sep 2022 at 21:28:08
Hammersmith and Fulham



19 Sep 2022 at 21:31:46
Hammersmith and Fulham









Add a Caption

Friday • 9 Sep 2022 •
07:04

Adjust

Photos 42-45, the pavement/traffic/potential public safety issues









Photo 46, bottles being dragged out noisily at 01.45 hours



17 June 2021

Mr Mariano Aiello
Designated Premises Supervisor
Mari Deli
1A Eyot Gardens
London
W6 9TN

By email to: [redacted]
Our ref: 21060993

Dear Mr Aiello

Please allow me to introduce myself: my name is Richard Vivian and I am an acoustic consultant specialising in the control of noise from licensed premises. I have recently been instructed by Dr S Thompson to provide expert advice with regard to the noise experienced in her property at Eyot Gardens.

My qualifications and expertise are a matter of public record. I have thirty years of experience in the acoustics industry and have been involved in acoustic measurement, assessment, and building acoustics design throughout my career. I have carried out assessments of noise in connection with planning, licensing and environmental protection matters at sites throughout the UK. I have given expert evidence in the courts, in licensing hearings, in planning hearings and at public inquiries on numerous occasions.

My recommendation to Dr Thompson is that, in the first instance, I make an open approach to you in the hope that we can quickly, and efficiently, resolve at least some of the noise issues at Eyot Gardens. This is important as this is the first time that a technical expert has been appointed by Dr Thompson, or by you to address the noise breakout from your premises.

From my investigation so far it appears that noise complaints can be classified into three areas of concern:

1. Noise from the commercial use of the outside space
2. Noise from the commercial use of internal areas (including noise from amplified music, customer noise, staff noise, and noise from kitchen equipment)
3. Noise from commercial kitchen mechanical plant

Outside space

The use of outside space is regulated by your premises licence (2017/00402/LAPR) which permits a maximum of 12 customers in the front of the premises. The area must be cleared of both customers and all tables and chairs by 21:30 each day. Some conditions from your premises licence are shown below for your convenience:

28. The front outside area to the Premises shall at all times be properly supervised by members of staff when customers are present.

30. Where customers are permitted to drink alcohol outside the Premises, regular litter and glass collections shall be carried out in all areas where customers are congregating.

31. Where customers are permitted to smoke in the front outside area of the Premises smoking bins/ashtrays/receptacles should be provided.

32. A maximum of 12 customers shall be permitted in the front outside area at anyone time.

34. All tables and chairs shall be removed from the front outside area by 21:30 hours each day.

35. The outside area shall be separated from the public highway by a screen, rope barrier or other means of demarcation from the public highway which shall be removed by 21:30 hours each day.

36. Signs shall be prominently displayed in the outside area reminding patrons there are residents living nearby and instructing them to respect the neighbours and to conduct their behaviour accordingly.

37. Alcohol shall not be consumed in the outside area of the Premises after 21:30 each day

38. There shall be no open glass vessels taken into the outside area of the Premises after 21:30 hours.

You also have a temporary pavement licence (2020/00748/PAVE) granted under the Business and Planning Act 2020. This allows you to place *4 small tables and 8 chairs outside the shop front of the premises from 08:00hrs to 22:00hrs Monday-Saturday, and from 09:00hrs to 21:00hrs on a Sunday.*

It is important to note the grant of a pavement licence only permits the placing of furniture and that the conditions on your premises licence still apply. The Business and Planning Act 2020 also sets out conditions which apply to all applications including a no-obstruction condition summarised by the London Borough of Hammersmith and Fulham as follows:

It is a condition that clear routes of access along the highway must be maintained, taking into account the needs of disabled people, and the recommended minimum footway widths and distances required for access by mobility impaired and visually impaired people as set out in Section 3.1 of Inclusive Mobility.

Section 3.1 of Inclusive Mobility sets out a range of recommended widths which would be required, depending on the needs of particular pavement users, but is clear that *in most circumstances 1500mm clear space should be regarded as the minimum acceptable distance between the obstacle and the edge of the footway.*

The London Borough of Hammersmith & Fulham also require that *the licence is exercised in such a manner as not to cause a nuisance, disturbance or danger to the occupiers of adjoining properties or the users of the highway.*

Internal noise/sound insulation

My client can hear noise from customers within your premises, from your staff, from kitchen equipment and also from your amplified music system. This observation, combined with the presence of heat and fumes from your kitchen, is an indication that the separating floor between ground and first floor is not adequate. This has implications for both acoustic separation and fire compartmentalisation, and therefore I urge you to check the specification and workmanship of the separating floor and confirm that it meets building regulations requirements.

Having inspected the planning file I can find no details relating to the building construction or soundproofing works. Do you have this information available? There should be details of the type of ceiling construction used including material specifications, thickness of plasterboard and the fire rating of the finished construction. The ceiling must not be breached so as to weaken the fire rating.

One other obvious noise transmission path is through the rear conservatory roof, and the open windows and doors, which results in airborne noise that affects the bedrooms of my client's property. She is unable to open the bedroom windows for ventilation because of the noise. The closing of windows and doors, particularly the roof windows in the rear section of your premises, would go some way to reduce this impact.

I also ask you to consider respecifying your sound system and fitting a limiter device so that noise from amplified music is not noticeable in the flat above.

Mechanical plant

My client has recorded sounds of a commercial washing equipment, of refrigerator alarms, and other plant noise which should be contained by the sound insulation of the separating floor if it was of adequate construction. She also experiences noise from kitchen extraction plant. A planning application is normally required for commercial kitchen extraction plant but having inspected the planning file it appears that the kitchen extraction system does not benefit from planning consent. Whilst plant of this type and size can be installed to operate without impact on neighbouring properties it requires the correct specification of that plant including size and type, location, operating mode, anti-vibration mounting, filtration and attenuation. It would be helpful if you could provide details of the plant specification and the noise impact assessment that will ultimately be required for your planning application to lawfully use this mechanical plant. It may be that a simple adjustment, or minor change to the specification, could resolve the noise issue and you should seek specialist advice on this.

It is also relevant to highlight the following conditions from your premises licence:

18. All plant and equipment shall be correctly installed, operated, maintained and regularly serviced, all in accordance with the manufacturer's instructions, to ensure that it is operating correctly and efficiently so as not to cause a nuisance to neighbours arising from noise.

29. All ventilation and extraction systems and ducting shall be correctly installed, operated, maintained and regularly serviced, all in accordance with the manufacturer's instructions, to ensure that they are operating correctly and efficiently so as not to cause a nuisance to neighbours arising from noise or odour.

Summary

Outside space - The use of the outside space is regulated both by the premises licence granted under the Licensing Act 2003, and the temporary permission of the Business and Planning Act 2020. I hope that the highlighting of relevant conditions will assist you in ensuring the use of this area complies with the relevant legal requirements.

Inside space - Closing windows and doors will reduce noise breakout. Adjusting your sound system so that music cannot be heard in the flat above will eliminate further complaints about music noise. However the integrity of the separating floor is in serious doubt and I urge you to check the specification and workmanship meets building regulations requirements for acoustic and, even more importantly, fire separation. Any weaknesses in the fire resistance of the construction, including breaches for services, air-paths and incorrect materials specification, could have tragic consequences.

Plant noise - If you could please submit the plant specification and Noise Impact Assessment in relation to the kitchen extraction plant that would be helpful. Some changes are required to reduce the noise level but these may be relatively straightforward to implement.

I trust this letter usefully highlights the key issues of noise from your premises and will assist you in ensuring that, in future, the premises is fully compliant with all its legal obligations and noise does not impact on residential amenity of adjacent residential properties. It seems reasonable to allow you a period of time to respond to my requests for information relating to the plant specification and the construction of the separating floor and I respectfully ask you reply within the next 28 days.

Yours sincerely



Richard Vivian BEng(Hons) MIET MIOA MAES MIOL
Director, Big Sky Acoustics Ltd

Licensing Team
London Borough of Hammersmith and Fulham
licensing@lbhf.gov.uk

The London Fire Commissioner is the
fire and rescue authority for London

Date 6 October 2022
Our Ref 11/223366/PG

Dear Sir/Madam

FIRE SAFETY INSPECTION

Premises: Shop, 1a Eyot Gardens, London, W6 9TN

The London Fire Commissioner (the Commissioner) is the fire and rescue authority for London. The Commissioner is responsible for enforcing the Regulatory Reform (Fire Safety) Order 2005 (as amended) in London.

An authorised officer has recently carried out an inspection of the above mentioned premises.

During the inspection, deficiencies relating to public safety were noted. These matters are specified in the schedule attached to this letter. The Commissioner recommends that, before renewing/granting the licence, you take action to ensure that the applicant has resolved these matters.

If there are specific fire safety matters about which you are concerned or you have any queries regarding this letter, please contact the person named below. If you are dissatisfied in any way with the response given, please ask to speak to the Team Leader quoting our reference.

Yours faithfully

PP Peter Godfrey

for Assistant Commissioner (Fire Safety)

Directorate of Operations

FSR-AdminSupport@london-fire.gov.uk

Reply to Fire Safety Advisor Alfie Whitbread

Enc: Notification of fire safety deficiencies letter
Form FS03_01b Legislation Extracts
Form FS03_06 Definitions of standard terms

The Commissioner promotes the installation of sprinkler suppression systems, as there is clear evidence that they are effective in suppressing and extinguishing fires; they can help reduce the numbers of deaths and injuries from fire, and the risk to firefighters.

The Company Secretary
Mame Limited
585a Fulham Road
London
SW6 5UA

The London Fire Commissioner is the
fire and rescue authority for London

Date 6 October 2022
Our Ref 11/223366/PG

Dear Sir/Madam

REGULATORY REFORM (FIRE SAFETY) ORDER 2005 (AS AMENDED): NOTIFICATION OF FIRE SAFETY DEFICIENCIES

Premises: Shop, 1a Eyot Gardens, London, W6 9TN

The London Fire Commissioner (the Commissioner) is the fire and rescue authority for London. The Commissioner is responsible for enforcing the Regulatory Reform (Fire Safety) Order 2005 (as amended) hereafter the Fire Safety Order (as amended) in London.

The Commissioner's Inspectors have recently carried out an inspection of the above mentioned premises. During the inspection, it was noted that some fire safety matters require attention to reduce the risk of fire and/or reasonably ensure the safety of people using the premises. These matters need to be addressed in order to comply with the Fire Safety Order (as amended).

The matters that need to be addressed, together with the Commissioner's recommendations about the actions you should take are explained in the attached schedule. We recommend that action should be taken by **29 December 2022**.

If you are in any doubt about what you need to do to comply with the Fire Safety Order (as amended); or if there is anything in the schedule that you do not understand or need further explanation of then please contact the Inspector named at the end of this letter. If you are dissatisfied in any way with the response given please ask to speak to the Team Leader quoting the above reference.

You may also wish to know that fire safety guidance for businesses can be found on the Commissioner's website at www.london-fire.gov.uk under the heading 'Fire safety at work'. Additionally, guidance on general fire precautions and how to comply with the Fire Safety Order (as amended) can be found at www.Gov.uk under the heading 'Fire safety law and guidance documents for business'.

When undertaking fire safety works at your premises you may need to seek approval for what you are going to do. Examples of this would include:

- any building works for which you are obliged to notify or seek the approval of Building Control;
- if your premises have a listed heritage status, approval from the local authority conservation officer; or
- if your premises are licenced then you may need to consult the relevant licensing or approvals authority.
- It is your responsibility to consult the relevant bodies and obtain any necessary approvals.

I would ask you to note that as well as placing people at risk, operating premises without having adequate general fire precaution in place to remove or reduce fire risk and to ensure people can safely escape if a fire does occur can result in a criminal offence being committed. This letter and its associated schedule are consequently issued without prejudice to any legal action the Commissioner may subsequently take regarding failures to comply with the Fire Safety Order (as amended).

Yours faithfully

PP Peter Godfrey

for Assistant Commissioner (Fire Safety)

Directorate of Operations

FSR-AdminSupport@london-fire.gov.uk

Reply to Fire Safety Advisor Alfie Whitbread

Enc: Form FS03_01b Legislation Extracts
Form FS03_06 Definitions of standard terms

Cc: Licensing Team, London Borough of Hammersmith and Fulham: licensing@lbhf.gov.uk

Notes to accompany the Notification of Deficiencies schedule.

Important information to consider before taking remedial steps:

1. Certain terms written in BLOCK CAPITALS in the attached schedule are standard terms defined in “Definitions of standard terms used in means of escape requirements” which form part of this schedule.
2. Officers of the Commissioner may visit your premises again to check on the action you have taken.
3. **Notwithstanding any consultation undertaken by the Commissioner, before you make any alterations to the premises, you must apply for local authority building control department approval (and/or the approval of any other bodies having a statutory interest in the premises) if their permission is required for those alterations to be made.**
4. There may be suitable alternative safety measures to those detailed in this schedule, which would meet the requirements of the Order. If you wish to propose or discuss any alternative measures you should get in touch with the person named as the contact above, before you take any action, to ensure that your proposed measures are deemed satisfactory by the Commissioner.
5. Remedial steps must be undertaken by a competent person who has sufficient training, experience, knowledge or other qualities to enable him or her to properly undertake them.
6. We recommend that remedial steps are undertaken in accordance with the appropriate British or European Standards, or recognised industry guidance.

THE REGULATORY REFORM (FIRE SAFETY) ORDER 2005

Your rights when Fire Safety Inspecting Officers take action.

The Commissioner has a duty to enforce the Regulatory Reform (Fire Safety) Order 2005.

If an Inspector:

tells you to do something - you have a right to a verbal and written explanation of what needs to be done and why.

Intends to take immediate action - for example by issuing an enforcement notice this will include a written explanation either forming part of the notice or by separate letter.

Issues a formal notice - you will be told in writing about your right to appeal to a magistrates’ court. You will be told:

- ◆ how to appeal;
- ◆ where and within what period an appeal may be brought; and
- ◆ that action required by a prohibition/restriction notice is not suspended while an appeal is pending unless the court so directs.
- ◆ that action required by an enforcement notice is suspended while an appeal is pending.

Issues a Notification of Fire Safety Deficiencies - full discussion should have taken place and agreed improvements to bring the premises up to minimal standards should be formulated. A Notification

of Fire Safety Deficiencies carries no statutory force but may result in formal action being considered if the agreed improvements do not take place.

The procedures and rights above provide ways for you to have your views heard. If you are not happy with the inspecting officer's action you should contact the Team Leader on the telephone number shown at the head of the covering letter in the first instance.

ENVIRONMENT AND SAFETY INFORMATION ACT 1988
SECTION 4 - PROTECTION OF TRADE SECRETS

The above Act requires the London Fire Commissioner to maintain public registers of notices issued under Article 30 of the Regulatory Reform (Fire Safety) Order 2005, (other than those which impose requirements or prohibitions solely for the protection of persons at work) and Sections 21 and 22 of the Health and Safety at Work etc, Act 1974.

Provisions are made within the Act for persons on whom the above notices are served to appeal against any proposed entry in the register which may disclose "trade secrets" or "secret manufacturing processes".

Entries in the register are required to be made after the period for appeal against the notice expires or after any appeal is disposed of.

If you feel that any such entry would disclose information about a trade secret or secret manufacturing process you may write to the Commissioner within a period of 14 days following the service of the notice, requesting exclusion of these details (see Section 4 of the 1988 Act).

SCHEDULE

PREMISES: Shop, 1a Eyot Gardens, London, W6 9TN

FILE NUMBER: 11/223366

This schedule should be read in conjunction with the Commissioner's letter dated **6 October 2022**.

The condition(s) specified in the Regulatory Reform (Fire Safety) Order 2005, were being contravened and the following step(s) need(s) to be taken in order to comply with the above legislation:

Article	Area of Concern	Steps Considered necessary to remedy the contravention.
Article 10	<p>At the time of the audit the risk reduction and prevention principles of the Order had not been applied in the correct sequence. It was found that:</p> <ol style="list-style-type: none">1) There was evidence of multiple electrical cables in the kitchen storage area, and it has not been controlled.2) The canopy outside had a mixture of electrics with rainwater dripping near the socket and it has not been controlled to ensure the safety of all relevant persons.3) There was evidence of a burnt extension cable where the CCTV monitor is located with overloaded plugs. This has to be removed and replaced with suitable wall plugs and have all electrics assessed by a competent electrician or contractor.	<p>Apply the principles of prevention contained in schedule 1 part 3 of the Order in the priority set out in that schedule. In particular ensuring all electrical appliances and electric cabling in the premises are reviewed by a competent person.</p>
Article 11	<p>At the time of the audit your preventative and protective measures had not been planned, organised, controlled, monitored or reviewed where required. It was found that:</p> <ol style="list-style-type: none">1) Nominating fire marshals has not effectively been planned or organised.	<p>Arrangements identified as not suitably addressed must be effectively planned, organised, controlled, monitored or reviewed.</p>

<p>Article 11 (Cont'd)</p>	<p>2) Management controls of overloaded electrical appliances have not effectively been controlled, monitored or reviewed.</p> <p>3) The 5 year electrical wiring survey has not effectively been planned or organised.</p> <p>4) Basic fire safety awareness training given to staff has not effectively been controlled, monitored or reviewed.</p>	
<p>Article 15</p>	<p>At the time of the audit your procedures to be followed in the event of serious and imminent danger were inadequate. It was found that sufficient numbers of competent persons had not been nominated to act as fire wardens.</p>	<p>Adequate procedures for serious and imminent danger and for danger areas should be established and followed. This can be achieved by nominating and training suitable persons to carry out the duties of a fire warden.</p>
<p>Article 21</p>	<p>At the time of the audit your employees had not been provided with adequate safety training. It was found that new/existing employees had not been given appropriate training on the precautions to be taken in the event of an emergency.</p>	<p>Provide your staff with adequate safety training. In particular new/existing employees should be given appropriate fire safety training including procedures for emergency evacuation.</p>
<p>Article 9</p>	<p>At the time of the audit the fire risk assessment for your premises has not been subject to a suitable system of review. It was found that:</p> <p>1) The compartmentation between the commercial restaurant and the single private dwelling above has not been risk assessed to confirm the level of 60 minute FIRE RESISTING construction.</p> <p>2) A 5 year electrical wiring survey has not been carried out, i.e. overloaded plug sockets with cabling running throughout the premises.</p>	<p>The fire risk assessment should be reviewed.</p>

*****RECOMMENDATIONS NOT FORMING REQUIREMENTS OF THE SCHEDULE*****

The Commissioner would strongly urge that you consider the presence of combustible façade cladding materials as part of the risk assessment process for these premises. All relevant information about any replacement window and facade schemes should be made fully available to fire risk assessors. Where no reliable information is available for a given property, a strategy to assess the risk and where necessary implement short, medium and long term actions to address the risk should be implemented.

Where remedial measures are to be undertaken to which consultation requirements under Section 20 of the Landlord and Tenant Act 1985 will apply, the Commissioner would urge you to consider application of the disapplication provisions under Section 20ZA of that Act.

REGULATORY REFORM (FIRE SAFETY) ORDER 2005

Article 8 - Duty to take general fire precautions

- (1) The responsible person must—
- (a) take such general fire precautions as will ensure, so far as is reasonably practicable, the safety of any of his employees; and
 - (b) in relation to relevant persons who are not his employees, take such general fire precautions as may reasonably be required in the circumstances of the case to ensure that the premises are safe.

Article 9 - Risk assessment

(1) The responsible person must make a suitable and sufficient assessment of the risks to which relevant persons are exposed for the purpose of identifying the general fire precautions he needs to take to comply with the requirements and prohibitions imposed on him by or under this Order.

(2) Where a dangerous substance is or is liable to be present in or on the premises, the risk assessment must include consideration of the matters set out in Part 1 of Schedule 1 (of the Regulatory Reform (Fire Safety) Order 2005).

(3) Any such assessment must be reviewed by the responsible person regularly so as to keep it up to date and particularly if—

- (a) there is reason to suspect that it is no longer valid; or
- (b) there has been a significant change in the matters to which it relates including when the premises, special, technical and organisational measures, or organisation of the work undergo significant changes, extensions, or conversions,

and where changes to an assessment are required as a result of any such review, the responsible person must make them.

(4) The responsible person must not employ a young person unless he has, in relation to risks to young persons, made or reviewed an assessment in accordance with paragraphs (1) and (5).

(5) In making or reviewing the assessment, the responsible person who employs or is to employ a young person must take particular account of the matters set out in Part 2 of Schedule 1 (of the Regulatory Reform (Fire Safety) Order 2005).

(6) As soon as practicable after the assessment is made or reviewed, the responsible person must record the information prescribed by paragraph (7) where—

- (a) he employs five or more employees;
- (b) a licence under an enactment is in force in relation to the premises; or
- (c) an alterations notice requiring this is in force in relation to the premises.

(7) The prescribed information is—

- (a) the significant findings of the assessment, including the measures which have been or will be taken by the responsible person pursuant to this Order; and
- (b) any group of persons identified by the assessment as being especially at risk.

(8) No new work activity involving a dangerous substance may commence unless—

- (a) the risk assessment has been made; and
- (b) the measures required by or under this Order have been implemented.

Article 10 - Principles of prevention to be applied

Where the responsible person implements any preventive and protective measures he must do so on the basis of the principles specified in Part 3 of Schedule 1 (of the Regulatory Reform (Fire Safety) Order 2005).

Article 11 - Fire safety arrangements

(1) The responsible person must make and give effect to such arrangements as are appropriate, having regard to the size of his undertaking and the nature of its activities, for the effective planning, organisation, control, monitoring and review of the preventive and protective measures.

(2) The responsible person must record the arrangements referred to in paragraph (1) where—

- (a) he employs five or more employees;
- (b) a licence under an enactment is in force in relation to the premises; or
- (c) an alterations notice requiring a record to be made of those arrangements is in force in relation to the premises.

Article 12 - Elimination or reduction of risks from dangerous substances

(1) Where a dangerous substance is present in or on the premises, the responsible person must ensure that risk to relevant persons related to the presence of the substance is either eliminated or reduced so far as is reasonably practicable.

(2) In complying with his duty under paragraph (1), the responsible person must, so far as is reasonably practicable, replace a dangerous substance, or the use of a dangerous substance, with a substance or process which either eliminates or reduces the risk to relevant persons.

(3) Where it is not reasonably practicable to eliminate risk pursuant to paragraphs (1) and (2), the responsible person must, so far as is reasonably practicable, apply measures consistent with the risk assessment and appropriate to the nature of the activity or operation, including the measures specified in Part 4 of Schedule 1 to this Order to—

- (a) control the risk, and
- (b) mitigate the detrimental effects of a fire.

(4) The responsible person must—

- (a) arrange for the safe handling, storage and transport of dangerous substances and waste containing dangerous substances; and
- (b) ensure that any conditions necessary pursuant to this Order for ensuring the elimination or reduction of risk are maintained.

Article 13 - Fire-fighting and fire detection

(1) Where necessary (whether due to the features of the premises, the activity carried on there, any hazard present or any other relevant circumstances) in order to safeguard the safety of relevant persons, the responsible person must ensure that—

- (a) the premises are, to the extent that it is appropriate, equipped with appropriate fire-fighting equipment and with fire detectors and alarms; and
- (b) any non-automatic fire-fighting equipment so provided is easily accessible, simple to use and indicated by signs.

(2) For the purposes of paragraph (1) what is appropriate is to be determined having regard to the dimensions and use of the premises, the equipment contained on the premises, the physical and chemical properties of the substances likely to be present and the maximum number of persons who may be present at any one time.

(3) The responsible person must, where necessary—

- (a) take measures for fire-fighting in the premises, adapted to the nature of the activities carried on there and the size of the undertaking and of the premises concerned;
- (b) nominate competent persons to implement those measures and ensure that the number of such persons, their training and the equipment available to them are adequate, taking into account the size of, and the specific hazards involved in, the premises concerned; and
- (c) arrange any necessary contacts with external emergency services, particularly as regards fire-fighting, rescue work, first-aid and emergency medical care.

(4) A person is to be regarded as competent for the purposes of paragraph (3)(b) where he has sufficient training and experience or knowledge and other qualities to enable him properly to implement the measures referred to in that paragraph.

Article 14 - Emergency routes and exits

(1) Where necessary in order to safeguard the safety of relevant persons, the responsible person must ensure that routes to emergency exits from premises and the exits themselves are kept clear at all times.

(2) The following requirements must be complied with in respect of premises where necessary (whether due to the features of the premises, the activity carried on there, any hazard present or any other relevant circumstances) in order to safeguard the safety of relevant persons—

- (a) emergency routes and exits must lead as directly as possible to a place of safety;
- (b) in the event of danger, it must be possible for persons to evacuate the premises as quickly and as safely as possible;
- (c) the number, distribution and dimensions of emergency routes and exits must be adequate having regard to the use, equipment and dimensions of the premises and the maximum number of persons who may be present there at any one time;
- (d) emergency doors must open in the direction of escape;
- (e) sliding or revolving doors must not be used for exits specifically intended as emergency exits;
- (f) emergency doors must not be so locked or fastened that they cannot be easily and immediately opened by any person who may require to use them in an emergency;
- (g) emergency routes and exits must be indicated by signs; and
- (h) emergency routes and exits requiring illumination must be provided with emergency lighting of adequate intensity in the case of failure of their normal lighting.

Article 15 - Procedures for serious and imminent danger and for danger areas

(1) The responsible person must—

- (a) establish and, where necessary, give effect to appropriate procedures, including safety drills, to be followed in the event of serious and imminent danger to relevant persons;
- (b) nominate a sufficient number of competent persons to implement those procedures in so far as they relate to the evacuation of relevant persons from the premises; and
- (c) ensure that no relevant person has access to any area to which it is necessary to restrict access on grounds of safety, unless the person concerned has received adequate safety instruction.

(2) Without prejudice to the generality of paragraph (1)(a), the procedures referred to in that sub-paragraph must—

- (a) so far as is practicable, require any relevant persons who are exposed to serious and imminent danger to be informed of the nature of the hazard and of the steps taken or to be taken to protect them from it;

- (b) enable the persons concerned (if necessary by taking appropriate steps in the absence of guidance or instruction and in the light of their knowledge and the technical means at their disposal) to stop work and immediately proceed to a place of safety in the event of their being exposed to serious, imminent and unavoidable danger; and
- (c) save in exceptional cases for reasons duly substantiated (which cases and reasons must be specified in those procedures), require the persons concerned to be prevented from resuming work in any situation where there is still a serious and imminent danger.

(3) A person is to be regarded as competent for the purposes of paragraph (1) where he has sufficient training and experience or knowledge and other qualities to enable him properly to implement the evacuation procedures referred to in that paragraph.

Article 16 - Additional emergency measures in respect of dangerous substances

(1) Subject to paragraph (4), in order to safeguard the safety of relevant persons arising from an accident, incident or emergency related to the presence of a dangerous substance in or on the premises, the responsible person must ensure that—

- (a) information on emergency arrangements is available, including—
 - (i) details of relevant work hazards and hazard identification arrangements; and
 - (ii) specific hazards likely to arise at the time of an accident, incident or emergency;
- (b) suitable warning and other communication systems are established to enable an appropriate response, including remedial actions and rescue operations, to be made immediately when such an event occurs;
- (c) where necessary, before any explosion conditions are reached, visual or audible warnings are given and relevant persons withdrawn; and
- (d) where the risk assessment indicates it is necessary, escape facilities are provided and maintained to ensure that, in the event of danger, relevant persons can leave endangered places promptly and safely.

(2) Subject to paragraph (4), the responsible person must ensure that the information required by article 15(1)(a) and paragraph (1)(a) of this article, together with information on the matters referred to in paragraph (1)(b) and (d) is—

- (a) made available to relevant accident and emergency services to enable those services, whether internal or external to the premises, to prepare their own response procedures and precautionary measures; and
- (b) displayed at the premises, unless the results of the risk assessment make this unnecessary.

(3) Subject to paragraph (4), in the event of a fire arising from an accident, incident or emergency related to the presence of a dangerous substance in or on the premises, the responsible person must ensure that—

- (a) immediate steps are taken to—
 - (i) mitigate the effects of the fire;
 - (ii) restore the situation to normal; and
 - (iii) inform those relevant persons who may be affected; and
- (b) only those persons who are essential for the carrying out of repairs and other necessary work are permitted in the affected area and they are provided with—
 - (i) appropriate personal protective equipment and protective clothing; and
 - (ii) any necessary specialised safety equipment and plant,

which must be used until the situation is restored to normal.

(4) Paragraphs (1) to (3) do not apply where—

- (a) the results of the risk assessment show that, because of the quantity of each dangerous substance in or on the premises, there is only a slight risk to relevant persons; and
- (b) the measures taken by the responsible person to comply with his duty under article 12 are sufficient to control that risk.

Article 17 – Maintenance

- (1) Where necessary in order to safeguard the safety of relevant persons the responsible person must ensure that the premises and any facilities, equipment and devices provided in respect of the premises under this Order or, subject to paragraph (6), under any other enactment, including any enactment repealed or revoked by this Order, are subject to a suitable system of maintenance and are maintained in an efficient state, in efficient working order and in good repair.
- (2) Where the premises form part of a building, the responsible person may make arrangements with the occupier of any other premises forming part of the building for the purpose of ensuring that the requirements of paragraph (1) are met.
- (3) Paragraph (2) applies even if the other premises are not premises to which this Order applies.
- (4) The occupier of the other premises must co-operate with the responsible person for the purposes of paragraph (2).
- (5) Where the occupier of the other premises is not also the owner of those premises, the references to the occupier in paragraphs (2) and (4) are to be taken to be references to both the occupier and the owner.
- (6) Paragraph (1) only applies to facilities, equipment and devices provided under other enactments where they are provided in connection with general fire precautions.

Article 18 - Safety assistance

- (1) The responsible person must, subject to paragraphs (6) and (7), appoint one or more competent persons to assist him in undertaking the preventive and protective measures.
- (2) Where the responsible person appoints persons in accordance with paragraph (1), he must make arrangements for ensuring adequate co-operation between them.
- (3) The responsible person must ensure that the number of persons appointed under paragraph (1), the time available for them to fulfil their functions and the means at their disposal are adequate having regard to the size of the premises, the risks to which relevant persons are exposed and the distribution of those risks throughout the premises.
- (4) The responsible person must ensure that—
 - (a) any person appointed by him in accordance with paragraph (1) who is not in his employment—
 - (i) is informed of the factors known by him to affect, or suspected by him of affecting, the safety of any other person who may be affected by the conduct of his undertaking; and
 - (ii) has access to the information referred to in article 19(3); and
 - (b) any person appointed by him in accordance with paragraph (1) is given such information about any person working in his undertaking who is—
 - (i) employed by him under a fixed-term contract of employment, or
 - (ii) employed in an employment business,as is necessary to enable that person properly to carry out the function specified in that paragraph.
- (5) A person is to be regarded as competent for the purposes of this article where he has sufficient training and experience or knowledge and other qualities to enable him properly to assist in undertaking the preventive and protective measures.
- (6) Paragraph (1) does not apply to a self-employed employer who is not in partnership with any other person, where he has sufficient training and experience or knowledge and other qualities properly to assist in undertaking the preventive and protective measures.
- (7) Paragraph (1) does not apply to individuals who are employers and who are together carrying on business in

partnership, where at least one of the individuals concerned has sufficient training and experience or knowledge and other qualities—

- (a) properly to undertake the preventive and protective measures; and
- (b) properly to assist his fellow partners in undertaking those measures.

(8) Where there is a competent person in the responsible person's employment, that person must be appointed for the purposes of paragraph (1) in preference to a competent person not in his employment.

Article 19 - Provision of information to employees

(1) The responsible person must provide his employees with comprehensible and relevant information on—

- (a) the risks to them identified by the risk assessment;
- (b) the preventive and protective measures;
- (c) the procedures and the measures referred to in article 15(1)(a);
- (d) the identities of those persons nominated by him in accordance with article 13(3)(b) or appointed in accordance with article 15(1)(b) ; and
- (e) the risks notified to him in accordance with article 22(1)(c).

(2) The responsible person must, before employing a child, provide a parent of the child with comprehensible and relevant information on—

- (a) the risks to that child identified by the risk assessment;
- (b) the preventive and protective measures; and
- (c) the risks notified to him in accordance with article 22(1)(c),

and for the purposes of this paragraph, "parent of the child" includes a person who has parental responsibility, within the meaning of section 3 of the Children Act 1989, for the child.

(3) Where a dangerous substance is present in or on the premises, the responsible person must, in addition to the information provided under paragraph (1) provide his employees with —

- (a) the details of any such substance including—
 - (i) the name of the substance and the risk which it presents;
 - (ii) access to any relevant safety data sheet; and
 - (iii) legislative provisions (concerning the hazardous properties of any such substance) which apply to the substance; and
- (b) the significant findings of the risk assessment.

(4) The information required by paragraph (3) must be—

- (a) adapted to take account of significant changes in the activity carried out or methods or work used by the responsible person; and
- (b) provided in a manner appropriate to the risk identified by the risk assessment.

Article 20 - Provision of information to employers and the self-employed from outside undertakings

(1) The responsible person must ensure that the employer of any employees from an outside undertaking who are working in or on the premises is provided with comprehensible and relevant information on—

- (a) the risks to those employees; and
- (b) the preventive and protective measures taken by the responsible person.

(2) The responsible person must ensure that any person working in his undertaking who is not his employee is provided with appropriate instructions and comprehensible and relevant information regarding any risks to that person.

(3) The responsible person must—

- (a) ensure that the employer of any employees from an outside undertaking who are working in or on the premises is provided with sufficient information to enable that employer to identify any person nominated by the responsible person in accordance with article 15 (1)(b) to implement evacuation procedures as far as those employees are concerned; and
- (b) take all reasonable steps to ensure that any person from an outside undertaking who is working in or on the premises receives sufficient information to enable that person to identify any person nominated by the responsible person in accordance with article 15 (1)(b) to implement evacuation procedures as far as they are concerned.

Article 21 – Training

(1) The responsible person must ensure that his employees are provided with adequate safety training—

- (a) at the time when they are first employed; and
- (b) on their being exposed to new or increased risks because of—
 - (i) their being transferred or given a change of responsibilities within the responsible person's undertaking;
 - (ii) the introduction of new work equipment into, or a change respecting work equipment already in use within, the responsible person's undertaking;
 - (iii) the introduction of new technology into the responsible person's undertaking; or
 - (iv) the introduction of a new system of work into, or a change respecting a system of work already in use within, the responsible person's undertaking.

(2) The training referred to in paragraph (1) must—

- (a) include suitable and sufficient instruction and training on the appropriate precautions and actions to be taken by the employee in order to safeguard himself and other relevant persons on the premises;
- (b) be repeated periodically where appropriate;
- (c) be adapted to take account of any new or changed risks to the safety of the employees concerned;
- (d) be provided in a manner appropriate to the risk identified by the risk assessment; and
- (e) take place during working hours.

Article 22 - Co-operation and co-ordination

(1) Where two or more responsible persons share, or have duties in respect of, premises (whether on a temporary or a permanent basis) each such person must—

- (a) co-operate with the other responsible person concerned so far as is necessary to enable them to comply with the requirements and prohibitions imposed on them by or under this Order;
- (b) (taking into account the nature of his activities) take all reasonable steps to co-ordinate the measures he takes to comply with the requirements and prohibitions imposed on him by or under this Order with the measures the other responsible persons are taking to comply with the requirements and prohibitions imposed on them by or under this Order; and
- (c) take all reasonable steps to inform the other responsible persons concerned of the risks to relevant persons arising out of or in connection with the conduct by him of his undertaking.

(2) Where two or more responsible persons share premises (whether on a temporary or a permanent basis) where an explosive atmosphere may occur, the responsible person who has overall responsibility for the premises must co-ordinate the implementation of all the measures required by this Part to be taken to protect relevant persons from any risk from the explosive atmosphere.

Article 23 - General duties of employees at work

(1) Every employee must, while at work—

- (a) take reasonable care for the safety of himself and of other relevant persons who may be affected by his acts or omissions at work;
- (b) as regards any duty or requirement imposed on his employer by or under any provision of this Order, co-operate with him so far as is necessary to enable that duty or requirement to be performed or complied with; and
- (c) inform his employer or any other employee with specific responsibility for the safety of his fellow employees—
 - (i) of any work situation which a person with the first-mentioned employee's training and instruction would reasonably consider represented a serious and immediate danger to safety; and
 - (ii) of any matter which a person with the first-mentioned employee's training and instruction would reasonably consider represented a shortcoming in the employer's protection arrangements for safety,

in so far as that situation or matter either affects the safety of that first-mentioned employee or arises out of or in connection with his own activities at work, and has not previously been reported to his employer or to any other employee of that employer in accordance with this sub-paragraph.

Article 38 - Maintenance of measures provided for protection of fire-fighters

(1) Where necessary in order to safeguard the safety of fire-fighters in the event of a fire, the responsible person must ensure that the premises and any facilities, equipment and devices provided in respect of the premises for the use by or protection of fire-fighters under this Order or under any other enactment, including any enactment repealed or revoked by this Order, are subject to a suitable system of maintenance and are maintained in an efficient state, in efficient working order and in good repair.

(2) Where the premises form part of a building, the responsible person may make arrangements with the occupier of any premises forming part of the building for the purpose of ensuring that the requirements of paragraph (1) are met.

(3) Paragraph (2) applies even if the other premises are not premises to which this Order applies.

(4) The occupier of the other premises must co-operate with the responsible person for the purposes of paragraph (2).

(5) Where the occupier of the other premises is not also the owner of those premises, the reference to the occupier in paragraphs (2) and (4) are to be taken to be references to both the occupier and the owner.

Definitions of standard terms used in means of escape requirements

The London Fire Commissioner (the Commissioner) is the fire and rescue authority for London. The Commissioner is responsible for enforcing the Regulatory Reform (Fire Safety) Order 2005 (The Order) in London.

Fire Resisting

1. FIRE RESISTING means construction capable of resisting the action of fire for not less than thirty minutes under the prescribed conditions of test appropriate to such construction in accordance with the provisions of the current British Standard 476 and that:

- a) whatsoever is so designated gives effective separation between those parts of the premises on each side of it;
- b) where the word 'enclosed' is used in connection with this term, the room, escape route or other space so described is completely enclosed with walls, ceilings and floors of FIRE RESISTING construction except for that part of the enclosure consisting of a roof, external wall, or the lowest floor of a building;
- c) where the construction consists of or incorporates a door, the door together with its frame complies with Table A below; and the door
 - i) is effectively self closing by means of an automatic self closing device and the device is to conform to BS EN 1154. As an alternative, where the door is to a duct, shaft or cupboard, it may be locked shut and provided with a notice to this effect:
 - ii) is free from any means of holding the door in an open position except, where permitted an electro-magnetic or electro-mechanical door holder device. BS 7273-4 is the applicable document with regard to these devices.
 - iii) is close fitting to both the frame and, where there are two leaves, between the leaves;
 - iv) is hung on hinges no part of which is made either of combustible material or of non-combustible material having a melting point less than 800°C;
 - v) is permanently marked 'Fire door keep shut' in a conspicuous position except whether the

door is to a bedroom or to or within a dwelling (including a flat or maisonette);

vi) is imperforate except for the minimum perforations necessary for the fitting of locks and door furniture;

d) where the construction incorporates glazing, in addition to comply with this definition, the glazing is in a frame fixed shut.

2. Where existing ceilings, soffits, walls, partitions, floors and doorsets are not already FIRE RESISTING and are required to be made FIRE RESISTING the following constructions will be accepted as complying with the definition:

a) CEILINGS AND SOFFITS

The ceilings and soffits covered with lath and plaster in good condition, or with plasterboard or FIRE PROTECTIVE BOARDING with sheets closely butted together and securely nailed or screwed to joints/nogging pieces, as appropriate.

b) WALLS AND PARTITIONS

All perforations and gaps sealed with FIRE RESISTING construction. Partitions made flush with timber or FIRE PROTECTIVE BOARDING and covered with plasterboard, or FIRE PROTECTIVE BOARDING butted together, securely nailed or screwed in position.

c) DOORSETS

See Table B below.

Notes:

- i) Protection to partitions, ceilings and doors shall be on the risk side, e.g. on the side remote from an escape route, or, in the case of a screen separating an escape route from the lower part of the building, on the side exposed to the lower part of the building. Where a lobby or screen is not carried up to the main ceiling and a false ceiling is provided to complete the separation, it may be necessary

to protect the upper surface of the ceiling construction.

- ii) Where the risk is on both sides, the construction shall be protected on both sides.

Fire Protective Boarding

3. Attention is drawn to the desirability of effectively sealing the exposed surface of FIRE PROTECTIVE BOARDING by paint or other suitable methods and protecting exposed edges against damage.

Non Combustible Material

4. NON COMBUSTIBLE MATERIAL means material which satisfies the test for non combustibility prescribed in the current British Standard 476: Part 4 and is deemed to include plasterboard.

Protected Route

5. PROTECTED ROUTE means a route enclosed with FIRE RESISTING construction and which complies with the following conditions.

- a) service, ventilating and other similar ducts or shafts which pass into or out of the enclosure are FIRE RESISTING within the enclosure;
- b) cupboards are enclosed with FIRE RESISTING construction (except where premises are provided with a single staircase only, in which case cupboards are not accepted and must be taken out of use and sealed with FIRE RESISTING construction on the inside);
- c) no combustible storage is allowed other than in cupboards described in (b) above;
- d) stairs and landings are provided with handrails and are adequately guarded on any open side;
- e) sufficient and suitable artificial lighting is provided for the purpose of means of escape; and
- f) the linings have a surface spread of flame classification not inferior to 'Class 0' when tested in accordance with the provisions of the current British Standard 476: Part 7.

Note:

Lavatories and sanitary accommodation which are neither cloakrooms nor contain gas or portable heating appliances other than water heaters and incinerators may be contained within a PROTECTED ROUTE.

Inherently Non-Flammable Material

6. INHERENTLY NON-FLAMMABLE MATERIAL means material which, although non non-combustible and not submitted to a flame-proofing process nor provided with a flame resistant finish is, in fact, non-flammable throughout its thickness.

The standard for fabrics is 'flameproof' when tested in accordance with the provisions of the current British Standard.

The standard for material other than fabrics is 'Class 1' surface spread of flame when tested in accordance with the provisions of the current British Standard 476: Part 7.

Durably Flame Proofed Fabric

7. DURABLY FLAME PROOFED FABRIC means flame-proofed fabric which after being submitted to a washing treatment remains flame-proof as determined by the method of test prescribed in the current British Standard.

Table A - Minimum requires for Construction and materials of doorsets capable of resisting the action of fire for a period of thirty minutes

1. Doors, including frames, are to be tested and installed in accordance with the current British Standard 476: Part 22 (and BS 476: Section 31.1 where the 'S' specification requires smoke stopping) or BS EN 1634 and are to be certified as being capable of resisting the action of fire for a period of not less than thirty minutes as regards the passage of flame (integrity). There are no requirements as to stability or insulation for doorsets. Doors which met the requirements for resisting the action of fire in the British Standard in force at the time the door was manufactured may be accepted.

2. Doors which open into a corridor or lobby with enclosures capable of resisting the action of fire for a period of not less than thirty minutes may open in two directions provided a maximum clearance of 3mm is achieved at the meeting edges.

Any door capable of being opened in both directions shall be fitted with a vision panel of clear fire resisting glazing.

3. Glazing fixed shut may be incorporated in a door if it is capable of resisting the action of fire in accordance with the current British Standard 476: Part 22. Glazing should be fixed either;

- a) in timber frames with wood or metal beads or with a glazing compound in conjunction with springs or clips in panels not exceeding 0.4m² in area; or
- b) in metal frames with metal beads in panels not exceeding 1.2m² in area, all metal having a melting point not lower than 900°C;

The area of glazing shall also satisfy the provisions of any requirements in the accompanying schedule.

Table B - Upgrading existing doorsets to achieve a fire resisting standard of thirty minutes

1. In general, the upgrading of existing doorsets to achieve a standard of fire resistance of thirty minutes is not recommended except in the case of historic buildings. It is preferable that new doorsets are installed.

2. If a doorset is to be upgraded, a test report will be required confirming that the door and frame are capable of resisting the action of fire for not less than thirty minutes when tested in accordance with the current British Standard 476: Part 22 (and BS 476: Section 31.1 when the 'S' specification requires smoke stopping).

Cupboard doors required to be fire resisting

3. Cupboard doors of standard size shall be replaced with new doors capable of resisting the action of fire for not less than thirty minutes when tested in accordance with the current British Standard 476: Part 22 (and BS 476: Section 31.1 when the 'S' specification requires smoke stopping).

4. For cupboard doors of less than standard size, a suitable fire resisting door shall be cut to size and fitted with an intumescent strip channelled into the top, hinge and closing edges to resist fire when tested in accordance with the current British Standard 476: Part 22.