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**Bola 8 Ltd T/A Faktory**

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### **Amendments to Operating Schedule:**

#### **Sundays to Thursdays:**

Sale of alcohol – 11 am until 02.00

Regulated entertainment and Late Night Refreshment until 02.30

Live Music until 00.00

Closing time 11.00 until 03.00

#### **Fridays and Saturdays:**

Sale of alcohol – 11 am until 04.30

Regulated entertainment and Late Night Refreshment until 05.00

Live Music until 00.00

Closing time 11.00 until 05.30

*To preserve the existing permitted hours for all licensable activities and opening hours on the morning that British Summertime commences*

#### **Crime and Disorder**

1. That a CCTV system be installed at the premises and be maintained in good working order and be continually recording at all times the premises are in use under the licence. The CCTV System must be capable of capturing a clear facial image of every person who enters the licenced area and all areas used for licensable activities.
2. All CCTV footage be kept for a period of 31 days and shall on request be made immediately available to officers of the police and the council. There will be at least one person on duty at all times that is familiar with the operation of the CCTV and able to download the footage upon request.
3. That all staff involved in the sale of alcohol are trained in their responsibilities under the licensing act 2003 and training records to be kept and updated every 6 months and shall, upon request, be made immediately available to Officers of the Police and the Council.
4. That two SIA registered door supervisors will be engaged when the premises are in operation after 22.00hrs and will be employed at all times the licence is in operation until 30 minutes after end of business and all patrons have vacated the premises they will be engaged to monitor admission and re-admissions to the premises, security, protection, screening and dealing with conflict.

5. That no spirits (alcohol containing more than 20% ABV) shall be sold by the bottle or half bottle unless served by a waitress in the designated VIP area and the bottle be in control of the waitress.
6. That all spirits (alcohol containing more than 20% ABV) shall be sold by the measure of 25ml or 35ml at a maximum of two measures per container/glass unless served by a waitress in the VIP area.
7. The VIP area should be clearly defined and entry and exit should be managed by staff or security
8. An ID scanning system to the reasonable satisfaction of Police be installed and maintained. The system should be capable of sharing information about banned customers with other venues, identify the hologram of an ID and read both passports and ID cards, able to identify fake or forged ID documents to a reasonable standard. The system will be in operation at all times after 22.00hrs whilst the premises are in operation under the premises licence. All persons that enter the premises including staff, Patrons, DJ's and associated staff will be scanned and have their details recorded on the system. The details shall be stored and made available on request for a period of no less than 31 days.
9. Customers shall use no outside area on Elephant Road after 22.00hrs other than those who temporarily leave the premises to smoke a cigarette and No more than 5 people at one any time.
10. That suitable notices shall be displayed and announcements made requesting people to leave the premises in a quiet and orderly manner so as not to disturb local residents

#### **Prevention of Public Nuisance**

1. No licensable activities shall take place at the premises under this Premises Licence until Premises Licence number 835450 has been surrendered.
2. No noise generated on the premises, shall emanate from the premises nor vibration be transmitted through the structure of the premises which gives rise to a nuisance.

#### **Public Safety (See conditions under all headings.)**

1. The Premises will, comply with a written dispersal policy which will be made available to the Licensing and police licensing authority on request.
2. The Premises will display the contact details of taxi firms for use by their customers.
3. The use of the outside smoking area will be monitored by door staff.

## **Protection of Children**

1. That a challenge 25 scheme shall be maintained at the premises requiring that staff selling alcohol request that any customer who looks under 25 years old, and who is attempting to purchase alcohol, provides valid photographic identification proving that the customer is at least 18 years old. Valid photographic identification is composed of, for example, a driving licence, passport, UK armed services ID card and any Proof of Age Standards Scheme (PASS) accredited card such as the Proof of Age London (PAL) card.
2. That all staff involved in the sale of alcohol shall be trained in the prevention of sales of alcohol to underage persons, and the challenge 25 scheme in operation at the premises. A record of such training shall be kept / be accessible at the premises at all times and be made immediately available for inspection at the premises to council or police officers on request. The training record shall include the trainee's name (in block capitals), the trainer's name (in block capitals), the signature of the trainee, the signature of the trainer, the date(s) of training and a declaration that the training has been received.
3. That clearly legible signs shall be prominently displayed where they can easily be seen and read by customers stating to the effect that a challenge 25 policy is in operation at the premises, that customers may be asked to provide proof of age and stating what the acceptable forms of proof of age are. Such signage shall be displayed at all entrances, points of sale and in all areas where alcohol is displayed for sale. The signage shall be kept free from obstructions at all times.
4. That a register of refused sales of alcohol shall be maintained in order to demonstrate effective operation of the challenge 25 policy. The register shall be clearly and legibly marked on the front cover as a register of refused sales, with the address of the premises and with the name and address of the licence holder. The register shall be kept / be accessible at the premises at all times. On a monthly basis, the Designated Premises Supervisor (DPS) shall check the register to ensure it is being properly completed. The DPS shall sign and date the register to that effect and where appropriate take corrective action in a timely manner if the register is not being completed correctly. The register shall be made immediately available for inspection at the premises to council or police officers on request.
5. Any children must be accompanied and supervised by a responsible adult.
6. There shall be no children on the premise after 10pm.



#### Minimising noise on exit

Where possible, a manager will be in the area close to the main exit to oversee the end of night departure period. DJ announcements will be made to remind customers to be considerate on leaving the premises. Signage will be placed in the foyer requesting exiting customers to leave quietly in respect of neighbours and their property.

#### Road safety

The separation of customers and traffic will be achieved by the existing barriers and vigilant Door Staff assisting on the dispersal of the remaining customers.

#### Door staff

Door team will play a key role in the implementation of the policy by:

- Encouraging customers to drink up and progress to the exits throughout the latter part of the end of night 30 min prior to closing time.
- Drawing the attention of the exiting customers to the notices in relation to noise, cab service and ask them to be considerate
- Ensuring the removal of bottles and glasses from departing customers
- Actively encouraging customers not to congregate outside the premises once the doors are closed
- Directing customers to the cabs with the contracted cab company and away from the area

#### Litter

A member of staff will carry out rubbish patrol at the end of a trading session, picking up bottles, flyers etc in the immediate vicinity of the premises, as well as clearing rubbish the patrol acts as another set of eyes and ears identifying potential disorder.

#### Parking

Staff and customers will be encouraged to use the car parks close by and public transport.

A cab ordering service will also be in operation to prevent people waiting in the street.



## Customer Dispersal policy

### Intro

For each day the last alcohol sale 60 min before closing time, followed by any licensable activity finishing latest 30 min before closing time i.e. Recorded music, at least two Door staff will then proceed at closing time to clear out any remaining customers from the inside of premises while the remaining Door staff proceeds to the final dispersal from the vicinity

### Breakdown

#### 30 min wind down period

The implementation of a wind down period 30 mins prior to closing will gently wind down the trading session rather than bringing it to an abrupt halt and encouraging customers to leave over a longer period of time, reducing the risk of flash points and minimizing disturbance to local residents.

#### Staffing

During the last 30mins the service points in each bar will be reduced and staff relocated to collect glasses or work in the cloak room, assisting customer departure and reducing potential for people carrying glassware or drinks out of the premises.

#### Lighting and music

During the last 20 minutes of recorded music being played, the DJ will play typically slower music and reduce the volume of music being played. In addition lighting levels will be increased encouraging gradual disperse of customers during the last part of trading.

#### Bottles and glasses

Signage making clear that customers will not be allowed to leave the premises with bottles or glasses. This policy will be supported by vigilant door staff searching customers where necessary. Bins will be provided at exits for use by customers.

16 December 2016

### **Personal Statement**

Dear Sirs,

My name is Ricardo G Medina, [REDACTED]

This personal statement is to bring some of my background to your knowledge for the proposed operation of Bola 8 Ltd T/A Faktory in Elephant and Castle having me as DPS and Manager of the premises.

I have been in the UK since March 2003 and have been working in late night operation since June 2006, below listed are the details of the venues I have managed over the last 10 years.

**Number 1 Bar Ltd (London – UK)**

Employment length: June 2006 – May 2016

Venue Capacity: 350 - 400

Licensed Hours: sale of alcohol and regulated entertainment until 6 am on weekends and 3 am Sunday to Wednesday.

DPS: 2009 – 2016 (General Manager)

Staff levels: max 35

History of issues: no reviews, interviews or warnings

**Number 1 Bar Tenerife (Canary Islands - Spain)**

Employment length: December 2014 – August 2015

Venue Capacity: 850 - 900

Licensed Hours: sale of alcohol and regulated entertainment until 6 am Thursday to Sunday

DPS: 2014 – 2015 (General Manager)

Staff levels: max 45

History of issues: no reviews, interviews or warnings.

**El Barrio London (London – UK)**

Employment length: May 2016 – August 2016

Venue Capacity: 450 - 500

Licensed Hours: sale of alcohol until 3am and regulated entertainment until 4 am Thursday to Sunday

DPS: May 2016 – August 2016 (General Manager)

Staff levels: max 20

History of issues: no reviews, interviews or warnings. (Major variation done by myself to better the hours of operation and remove conditions on license)

Through the years working in these venues I have been in charge of looking after the license and developing the business forward, for the opening of El Barrio London I had to do a series of meetings with the authorities and do a major variation to remove a lot of conditions that were imposed on the license with the previous owners and put the right system in place for the license to be looked after and comply with the 4 licensing objectives.

I hope this statement helps the members of the committee see that this operation will be ran by already experienced operators to provide a much needed kind of venue in the area for the new upcoming developments and residents.

Kind Regards,  
Ricardo G Medina  
General Manager  
Bola 8 Ltd



16<sup>th</sup> December 16

Dear Sirs,

My name is Vivian M Rodriguez. [REDACTED]  
[REDACTED] am a personal licence holder since 2014.

I am based in London since 2010, since then I have always been working in the hospitality Industry.

My first job in this industry was in a sports and nightclub in London Bridge called Number 1 bar where I have giving the opportunity to apply my administration, customer service and HR knowledge into practice. For the first year, I mainly worked in the back office but slowly I started getting involved in the operation as an assistant general manager with a 7 days venue with some days of 16 hours operation and about 35 staffs.

In 2015, Number 1 decided to open another nightclub in Canary Islands, Spain venue with 850 people capacity and around 40 staff members for a year. I have to say that it was a great experience on a personal and professional level.

On April 2016, I left Number 1 and take part in a new project in Lewisham for Mambo Bars and Clubs, a chain company based in Edinburgh and Glasgow with three nightclubs and one restaurant. Their London Venue (450 Capacity) where I had the opportunity to implement the knowledge management learned in the last six years.

On August 2016, I finished at Mambo bars and clubs so I started the new venture with my colleague Ricardo G Medina to start and operate Bola 8 Ltd with a new concept over the two floors.

I would like to highlight that no reviews, interviews or warnings have ever been given to any of the premises I have operated while I was part of the management.

Kind Regards,

Vivian Rodriguez

AGM Bola 8 Ltd



**NOISEWISE**

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## The Agent of Change Principle, Noise from Music Venues and Recent Case Law

**HUMAN RIGHTS, LIVE MUSIC, NOISEWISE, NUISANCE LAW,  
STATUTORY NUISANCE, TECHNICAL**

### The Agent of Change Principle, Noise from Music Venues and Recent Case Law

by Gwyn © 28th April 2015

A lot of noise is now being made by representatives of live music venues about the impact they perceive noise regulation is having on their business. The Music Venue Trust was set up last year to represent them, and is calling for changes to the law. They argue current law is unjust to their business and open to abuse from malicious complaints. The Introduction the Agent of Change Principle to nuisance law is proposed as the answer.

Representatives of venues argue that noise regulation is a threat to a thriving creative industry. Their argument goes something like this:

*"Is it fair that established pubs and clubs that have been holding live music events for years are forced to control their noise if neighbouring land is redeveloped for residential use and the new occupants complain about the noise? Surely those moving in would see that a pub was next door and accept some noise?"*

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While on the face of it this might sound sensible, the law is not so black and white. In *Sturges vs. Bridgman* (1879), a common law nuisance case, found a defendant could not rely on the defence that the complainant came to the nuisance. In this instance case law found it doesn't matter who was there first. The overriding concern is whether the noise maker is being unreasonable.

Some restrictions were placed on this rule by this case, the most notable of which is that the complainant has 20 years after being made aware they had an actionable nuisance to sue. But generally, it is well established that it is no defence against a nuisance claim that neighbour came to the nuisance.

### Business vs. housing

The judge in the *Sturges vs. Bridgman* case, perhaps anticipating the controversy of his decision, made the following statement:

*"Individual cases of hardship may occur in the strict carrying out the principle upon which we found our judgement, but the negation of the principle would lead even more to individual hardship, and would at the same time produce a prejudicial effect upon the development of land for residential purposes."*

So, back in 1879 housing was given a priority over placing a *cordon sanitaire* around a noise making business – a comment that remains pertinent in the context of the chronic housing shortage in the UK today. The *cordon sanitaire* approach might be more workable in Australia or the USA where there is more available land. However in the UK, especially the South East of England where land is at a premium, this would exacerbate an already low housing supply and be at odds with policy of developing brownfield (previously developed) land first.

### An Agent of Change Principle

A recent common law nuisance case, *Coventry vs. Lawrence* (2014), re-examined the judgment of *Sturges vs. Bridgman* and made some changes to the way in which nuisance law is operated. The judges in *Coventry vs. Lawrence* (2014) confirmed that complainant coming to the nuisance was no defence against nuisance action, so, for example, a new occupier who had moved in to a 50 year old house had the same rights to complain against a noisy pub that had been operating unchanged for 50 years as the previous occupier of the house.

However, the judges thought it was necessary to distinguish between this situation and one where the complainant has actively done something to make the situation they were experiencing worse, such as develop their land and build new houses. Lord Neuberger, in his summing up, states:

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*"Where a claimant builds on, or changes the use of, her land. I would suggest that it may well be wrong to hold that a defendant's pre-existing activity gives rise to a nuisance provided that:*

- It can only be said to be a nuisance because it affects the senses of those on the claimant's land;*
- it was not a nuisance before the building or change of use of the claimant's land;*
- It is or has been, a reasonable and otherwise lawful use of the defendant's land;*
- It is carried out in a reasonable way; and*
- it causes no greater nuisance than when the claimant first carried out the building or changed the use.*

*"is not intended to imply that in any case where one or more of these requirements is not satisfied, a claim in nuisance would be bound to succeed."*

So, where does that leave us? Well, Coventry vs. Lawrence has, in effect, delivered what the Music Venue Trust want. There is no longer a rigid rule that allows neighbours to do what they want on their land to the detriment of existing noise sources, subject to some important rules. In plain English, these rules are:

- The existing noise source are not allowed to cause physical damage to persons or property to the neighbours, even if the damage occurred at the changed part of the neighbouring premises;
- The existing noise source must not be a nuisance before the change in neighbouring premises;
- The existing noise source must be and has been in the past operating reasonably and lawfully;
- The existing noise source needs to be managed in a considerate and effective way;
- There has been no increase in noise from the existing noise source since the change at the neighbouring premises occurred.

(if all of these conditions are met, the noise cannot be a nuisance from land that has changed its use.)

This is a sensible, pragmatic approach that balances the needs of both parties, reinforcing the point of nuisance law.

### Principles in law

Having considered nuisance law and the rule set out by Covenry vs. Lawrence, the following section discusses some other legal systems and principles that would apply to loud music from music venues.

#### 1. The Polluter Pays Principle

The polluter pays principle is the concept that the person causing a problem is required to sort the problem out. So far so simple, but who

The Agent of Change Principle,  
Noise from Music Venues and  
Recent Case Law  
Counting the cost of Noise  
Complaints  
Live music venues can be good  
neighbours  
BS4142: 2014 – A Dissection – Part  
6 of 6 – Overarching Conclusions  
BS4142: 2014 – A Dissection – Part  
5 of 6 – Acoustic Feature  
Corrections

### ARCHIVES

April 2015  
January 2015  
December 2014

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whole.

Is the polluter in the example above? Are the pub/club the polluter for creating the loud music or are developers the polluters for putting people in harm's way on their own land? Some would argue that the developer is the polluter as the sound can't be considered to be pollution before development as no one was there to be bothered by it. In other words, noise pollution is only pollution when there is someone there to hear it. This anthropocentric view of noise pollution, apart from being likely to exacerbate the housing crisis also undermines concerns about noise creep, concepts of quiet areas protection, the impact of noise on wildlife and the impact of underwater (marine) noise.

A Noisewise view is that the pub/club is the polluter as they are producing noise that is being emitted into the environment, i.e. audible beyond their site boundary. Whether the pollution is significant or not would depend on a variety of circumstances, including whether there is someone or something there to be bothered by it, but it is pollution.

This being the case, the philosophical question "if a pub emits loud music into the local environment, but no one is there to hear it does it make a noise?" can be answered with a resounding "Yes".

Having established that the noise source is the polluter, the polluter pays principle makes it clear that it is their responsibility to cover the cost of mitigation. However, the rules introduced by Coventry vs. Lawrence allow for the cost of mitigation to be transferred to the Agent of Change in limited circumstances.

## 2. Prevention of Public Nuisance

One of the objectives of the Licensing Act 2003 is the "Prevention of Public Nuisance". Public Nuisance defined in Paragraph 2.19 of Revised Home Office Guidance made under s182 of the Licensing Act 2003 (2014) as: "Public nuisance is given a statutory meaning in many pieces of legislation. It is however not narrowly defined in the 2003 Act and retains its broad common law meaning. It is important to remember that the prevention of public nuisance could therefore include low-level nuisance, perhaps affecting a few people living locally, as well as major disturbance affecting the whole community. It may also include in appropriate circumstances the reduction of the living and working amenity and environment of other persons living and working in the area of licensed premises."

In other words, the Licensing Act 2003 requires licensed premises to keep noise affecting neighbours to a standard lower than that required by nuisance law, meaning that neither the Agent of Change principle nor the rules established by Coventry vs. Lawrence will affect how the Licensing Act considers noise. Penalties for non-compliance with a licence typically involve a review of a licence, which could result in the pub/club losing their ability to trade.

#### Prejudicial to Health or a Nuisance

The definition of statutory nuisance in section 79 (1) of the Environmental Protection Act 1990 (as amended) (EPA'90) describes various issues as constituting a statutory nuisance if they are 'prejudicial to health or a nuisance.' The term 'prejudicial to health' is defined by the EPA as meaning 'injuriously, or likely to cause injury, to health.' The term 'nuisance' is not defined, but is understood to be given its common law meaning, i.e. whether the issue is reasonable or not. When the Agent of Change principle or the Covenants vs. Lawrence rules are talking about bringing about change, they are talking about changing when noise is considered unreasonable by changing how nuisance is judged in common law (and thereby in statutory nuisance). What neither does is to change whether noise would be considered to be prejudicial to health. Therefore, a complaint of noise late at night would need to be investigated by environmental health departments. If the noise was found to interfere with the ability of a neighbour to rest or sleep it could be considered a statutory nuisance under the prejudicial to health limb. As a result, the noise source would be liable to the full range of enforcement powers available under the EPA which include prosecution and/or the seizure of noise making equipment.

There is a very real probability that, the use of the prejudicial to health limb will increase which would negate the change made by the Covenants vs. Lawrence rules.

#### 1. Night Noise Offence

The Night Noise Offence as described by the Noise Act 1996 requires that noise from licensed premises does not exceed a specified noise level in a habitable room of a neighbouring premises between the hours of 23:00 and 07:00. Fixed penalty notices, prosecution and/or the seizure of noise making equipment may result in non-compliance from this discretionary local authority power. Neither the Agent of Change principle nor the Covenants vs. Lawrence rules will have any bearing on the operation of the Night Noise Offence.

#### 5. Anti-social Behaviour

In September 2014 the Anti-social Behaviour Crime and Policing Act 2014 came in to force. It introduced a raft of powers that allow the police, local authorities and social landlords to tackle anti-social behaviour issues, including noise. It is still early days, but some of the powers, such as Community Protection Notices and the closure power are pitched at a standard lower than that required by nuisance law. The closure power in particular could be a significant problem to pubs/clubs that are triggering noise complaints as the pub/club could be closed for up to 48 hours at a time, without appeal, for causing nuisance to the public. It is very unlikely that the Agent of Change principle or the Covenants vs. Lawrence rules will affect the operation of these anti-social behaviour powers.

#### 6. Planning

Having considered the Agent of Change principle and its implications for noise management via nuisance and other regulatory systems, we now examine the role of planning in minimising the impact of noise from pubs/clubs. In England, the planning system is currently holding diametrically opposed approaches at the same time. On the one hand, permitted development (automatic planning permission) for the conversion of offices to residential accommodation regardless of what premises are nearby have been introduced indicating a strict adoption of the coming to the nuisance principle and no consideration of the Coventry vs. Lawrence rules.

While on the other hand, a bullet point of paragraph 123 of the National Planning Policy Framework (NPPF) states that planning policies should aim to:

*"...recognise that development will often create some noise and existing businesses wanting to develop in continuance of their business should not have unreasonable restrictions placed on them because of changes in nearby land uses since they were established."*

This point has been confirmed by recent edits to the Planning Practice Guidance for Noise (PPGN), confirmed by FOI as the result of pressure by advocates of the live music industry, which states:

*"The potential effect of a new residential development being located close to an existing business that gives rise to noise should be carefully considered. This is because existing noise levels from the business even if intermittent (for example, a live music venue) may be regarded as unacceptable by the new residents and subject to enforcement action. To help avoid such instances, appropriate mitigation should be considered, including optimising the sound insulation provided by the new development's building envelope."*

Both of the NPPF and PPGN points suggest the use of an approach that is in keeping with the Coventry vs. Lawrence rules but directly contrary to the permitted development policy.

Happily, the situation in Wales is much less confused and therefore much more sensible. Technical Advice Note 11 – Planning and Noise considers non-transportation noise sources in its "Mixed Sources" Noise Exposure Category. This allows developments to be refused or mitigated if the noise levels from industry (or music venues) are excessive.

#### Conclusions

So, having looked at the Agent of Change principle campaigners are calling for in the context the law, past and recent judgements and planning, what is the Noisewise conclusion?

Well, there has been an Agent of Change principle in English common law since the Coventry vs. Lawrence ruling in February 2014.

The *Covenant vs. Lawrence* rules may not go far enough to stop neighbours of pubs from complaining about noise, but they do provide a pragmatic and sensible compromise that is based as much upon the lawful and responsible management of pubs as it is upon good design of new residential dwellings next to the pubs.

Despite the National Policy Statement for England declaring noise is the "inevitable consequence of a mature and vibrant society", noise really is the inevitable consequence of poor design and irresponsible behaviour. As long as new dwellings are designed properly to minimise the effects of noise and the people responsible for creating noise act lawfully and responsibly then problems should be avoided in the vast majority of cases.

For those cases where noise from a venue is still a problem, it is very likely that the application of the *Covenant vs. Lawrence* rules would have no ability to allow the venue to continue causing noise problems. The Licensing Act, the prejudicial to health limb of statutory nuisance, the night noise offence and Anti-social Behaviour powers could all be deployed to control the noise. It is also extremely unlikely that any extension of the *Covenant vs. Lawrence* rules would affect the operation of these laws.

On that issue, I do not think it would be Noisewise to extend the Agent of Change Principle beyond the *Covenant vs. Lawrence* rules unless it is determined that the continued operation of a particular noise source or industry is considered to be Nationally Significant, in the same way that major roads, major railways, ports and airports are for planning purposes.

In relation to the planning system, it is clearly not Noisewise for it to absolve itself from all responsibility for the potential noise impact on new residential developments sited next to existing noise sources. The permitted development policy of England, as mentioned above, risks allowing development that will lead to the contravention of existing licensing and nuisance laws – in the interest of neither the existing business nor incoming residents.

#### A Noisewise solution to live music noise

It should go without saying that live music venues, like any other business, need to operate within the law. This means that the Licensing Act, statutory nuisance and the night noise offence all need to be adhered to.

Also, live music venues, in addition to acting lawfully, need to act reasonably to their neighbours and be considerate and responsive to concerns. Neighbours are usually not NIMBYs or whingers, but generally have legitimate concerns, particularly if they are living in dwellings that are older than the history of live music at the venue.

Neighbours who build new houses or flats closer to the live music venue than previous flats or houses have a responsibility to design their new dwellings so that the live music is not a problem to them. Changing plans including room



configuration and introducing sound insulation at the design stage is considerably cheaper than making changes after the dwellings have been built.

Consultation and cooperation is the key to a mature and vibrant community.

(i) *Sturges vs. Bridgman* (1879) 11 Ch D. 852

(ii) *Coventry & Ors v Lawrence & Anor* [2014] UKSC 13

accusations agent of change principle Human Rights  
live music noise Music Venues Trust noise NPPF NPPGN  
noise nuisance planning statutory nuisance

- Counting the cost of Noise Complaints

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**MAYOR OF LONDON**

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**DRAFT**  
**CENTRAL ACTIVITIES ZONE**  
**SUPPLEMENTARY PLANNING GUIDANCE**

**SEPTEMBER 2015**

**LONDON PLAN 2015**  
**IMPLEMENTATION FRAMEWORK**

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# DRAFT CENTRAL ACTIVITIES ZONE

## SUPPLEMENTARY PLANNING GUIDANCE

**SEPTEMBER 2015**

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2.2.3 Similarly, the number and range of cultural attractions within the CAZ also helps to secure London's status as a world leading city in terms of economic growth, job creation and investment<sup>55</sup>. Research shows that, at both a national and global scale, businesses who are reliant on highly skilled workers tend to cluster in locations which offer employees proximity to cultural and leisure amenities<sup>56</sup>. The agglomeration of similar companies and workers in the same area provides productivity benefits for businesses through access to a large talent pool and potential customers and through the sharing of ideas and resources. To sustain London's competitive advantages in this respect in relation to other world cities, it is strategically important to support and maintain the variety and richness of the cultural and entertainment offer within the CAZ, together with its distinct character and mix of daytime and evening uses.

**Managing the cultural attractions of CAZ as a global visitor destination**

2.2.4 The London Plan identifies a number of strategic cultural areas within the CAZ, which contain the most significant clusters of cultural and entertainment uses and visitor attractions. These are shown on Map 4.2 of the London Plan and on the CAZ diagram and include:

- the West End, covering 'theatreland' and areas around Soho, Covent Garden, Haymarket, and Shaftsbury Avenue;
- the South Bank, including areas around Bankside and London Bridge;
- the North Bank, including Millbank, Tate Britain and Somerset House;
- areas of the City of London, including St Paul's, the Tower of London and the Barbican complex; and
- Knightsbridge and South Kensington museum quarter<sup>57</sup>



2.2.5 Boroughs should identify, promote and protect the special cultural and heritage value of these major clusters in their Local Plans and seek to enhance the surrounding environment, in line with Policies 4.5Af and 2.11Af of the London Plan. Within the CAZ, it should also be recognised that substantial numbers of cultural assets also exist outside of these identified areas, which boroughs should manage, promote and develop, for example, the emerging clusters of cultural activities and creative industries around Kings Cross Granary Square, Angel, Old

<sup>55</sup> Mayor of London, Cultural Metropolis - the Mayor's cultural strategy - 2012 and beyond, 2012, GLA

<sup>56</sup> NLP, Workspace Futures, The changing dynamics of office locations, 2015

<sup>57</sup> Mayor of London, London Plan 2015, GLA, page 163

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Street and Shoreditch<sup>68</sup>. Mixed use development in opportunity areas including Vauxhall Nine Elms Battersea, Elephant and Castle and Kings Cross should support new cultural attractions in line with Policies 4.6Cd and 4.6Cg of the London Plan and support the emergence of new clusters of cultural activities within the CAZ.

2.2.6 In preparing and applying planning policies which relate to cultural venues, boroughs should avoid defining cultural activities too narrowly in terms of more conventional cultural institutions (eg. theatres, galleries, museums and concert halls), but should also include dedicated live music, comedy and dance venues. Boroughs should also consider applying cultural policies to specifically identified pubs, restaurants or clubs which provide opportunities for transitory and informal creative and cultural performances, eg. fringe theatre, live music, or comedy, alongside primary uses. Whilst these activities may be less frequent and smaller in scale, they can be of a comparable cultural, social and heritage value to the character of particular areas of the CAZ and in terms of the development of emerging artists.

2.2.7 To inform local plans and planning decisions, boroughs should consider undertaking audits of cultural venues and activities in their areas, engaging with industry stakeholders and the local community. Boroughs should enhance and protect existing

cultural venues and performance spaces in line with Policies 4.6Ca of the London Plan. This includes cultural venues which are identified through the neighbourhood planning process or registered as assets of community value (London Plan Policy 4.8Bc).

2.2.8 Boroughs are encouraged to designate and promote existing or emerging clusters of cultural activities and related uses as 'cultural quarters' in order to further develop the range of cultural attractions on offer within the CAZ and accommodate new arts, cultural and entertainment activities (London Plan Policy 4.6Cc). The Town Centres SPG provides further guidance on cultural quarters, which boroughs should draw on when preparing plans and frameworks<sup>69</sup>. Of particular relevance to the CAZ is the need for successful cultural quarters to:

- provide an authentic cultural and visitor experience
- encourage a mix of supporting daytime and evening uses including restaurants/bars, pubs, music and performing arts venues, clubs as well as retail
- encourage the supply of workspace suitable for creative industries
- provide a stimulating, legible and high quality environment
- enhance the economic vitality of the area and contribute to urban regeneration and economic development
- optimise potential synergies between major creative or cultural

<sup>68</sup> CBRE, Creative London, 2014

<sup>69</sup> Mayor of London, Town Centres Supplementary Planning Guidance, GLA, 2014, paragraphs 1.2.7-8

- clusters/anchors, including related Higher Educational Institutions
- draw positively on local heritage and townscape assets and
- where possible, include transitory and informal cultural activities, such as festivals and/or temporary performance and exhibition space.

#### **Managing potential pressures on cultural venues**

- 2.2.9 Proximity to cultural and entertainment activities and central London's globally iconic core can mean that a number of strategic cultural areas in the CAZ are highly attractive locations for mixed use residential development. Whilst residential accommodation can enhance the mixed use character of a number of strategic cultural areas (for example along Southbank, Bankside and in the Barbican centre), it is important to manage residential development sensitively in locations like the West End to ensure that residential uses do not predominate or strategically constrain the varied mix of commercial, cultural, entertainment, leisure and evening activities in the area. In particular, there should be recognition that Covent Garden and Soho contains the country's largest concentration of evening activities and is defined in the London Plan as a night time economy cluster of international importance<sup>60</sup>. In this and other strategic clusters within the CAZ the location, layout and design of residential development should be complementary to strategic cultural and evening activities and mixed use character of the CAZ.

<sup>60</sup> Mayor of London, London Plan, 2015, GLA, Map 4.3 & Table A2.1

- 2.2.10 Increasing property values, development pressures and permitted development rights can mean cultural activities may be at risk of being squeezed out and replaced with higher value uses either through redevelopment or change of use. The Mayor's Music Venues Taskforce shows that there has been a significant decline in the number of grassroots<sup>61</sup> music venues in London, with 24 venues (including a number of pubs) having closed within the CAZ between 2007 and 2015. Only 51% of the grassroots music venues that traded in the CAZ between 2007 and 2015 remain open. In addition, a further five venues closed during the same period in Camden and Chalk Farm - which lies just outside the CAZ boundary but is an important cultural and tourist destination. Whilst there are a number of reasons for music venues and pubs closing, the planning system can provide more effective and practical support to help sustain these uses where they remain viable.



- 2.2.11 Sustaining and protecting noise generating cultural venues such as theatres, concert halls and,

<sup>61</sup> A definition for small, medium and large grassroots music venues is provided in the Mayor's Music Venues Taskforce Report

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in particular, live music venues requires a sensitive approach to manage change in the surrounding area. This should ensure adjacent development and land uses are brought forward and designed in ways which ensures that established cultural venues remain viable and can be continued in their present form, without the prospect of neighbour complaints, licensing restrictions or the threat of closure. In justified circumstances, residential development proposed within the vicinity of an existing cultural venue should include necessary acoustic design measures to ensure residential units are provided with effective sound insulation in order to mitigate and minimise potential noise impacts or neighbour amenity issues. An important reason to incorporate mitigation measures within new residential development is to avoid established venues being subject to unreasonable restrictions, administrative burdens, costs or enforcement action as a result of changes in nearby land uses since venues were established – a key principle that is set out in the NPPF<sup>22</sup> and London Plan Policy 7.15Bb.

- 2.2.12 Where appropriate, mitigation measures should be explored at an early design stage, with necessary and appropriate provisions secured through planning obligations<sup>23</sup>. In line with the NPPG<sup>24</sup>, decisions

should take into account the economic and social benefits being derived from the cultural activity associated with any noise impacts and ensure appropriate mitigation is secured so that businesses can be continued. It should be recognised that the Mayor's Housing SPG requires the impact of noise to be considered in the layout and placement of dwellings, rooms and private open spaces within new development<sup>25</sup>. Boroughs and developers should note that the Housing SPG confirms that enclosing balconies as glazed winter gardens can be considered an acceptable alternative to open balconies where dwellings may be exposed to noise.

- 2.2.13 London Plan Policy 4.6Cb supports boroughs in encouraging the temporary use of vacant buildings or land for arts and cultural exhibitions, live performances and creative work spaces. Temporary uses or activities can help sustain and enhance the character and vitality of an area, particularly on large, multi-phased development sites. However, such activities, being temporary in function, should not conflict with the longer term, planned regeneration and redevelopment of a site or area.

### Leisure uses and the evening economy

- 2.2.14 A diverse range of day-time and evening leisure uses including restaurants, cafes, pubs, bars, cinemas, and performing arts venues plays an important role

<sup>22</sup> DCLG, National Planning Policy Framework, 2012, paragraph 123, 3<sup>rd</sup> bullet point

<sup>23</sup> DCLG, National Planning Policy Framework, 2012, paragraph 204

<sup>24</sup> DCLG, National Planning Practice Guidance, Paragraph: 005 Reference ID: 30-005-20140306

<sup>25</sup> Mayor of London, Housing Supplementary Planning Guidance, Standard 5.3.1, page 79, GLA, 2012

in generating the vibrant and 'mixed' character of much of the CAZ and generates substantial numbers of jobs and expenditure<sup>66</sup>. The London Plan recognises that central London's evening economy makes an important contribution to London's world city offer, helping to sustain the capital's position as a major visitor destination. The range of evening attractions within the West End, especially around Soho and Covent Garden, is a particular magnet for visitors, as well as meeting Londoners' needs, which boroughs should recognise, manage and improve in line with policies 2.11Ae and 4.6.

2.2.15 Boroughs should identify and manage strategic and local clusters of evening activities within the CAZ in order to address need, whilst seeking to minimise potential impacts on other land uses and taking into account any cumulative effects of particular concentrations of night time uses (Policy 4.6Cf). It should be recognised that addressing cumulative effects does not necessarily require boroughs to reduce or restrict evening uses within existing or emerging clusters. Sensitive management is, however, required to ensure that a balanced and complementary provision of day and evening uses is provided in order to sustain the social and economic strategic functions of the CAZ. Further relevant guidance on London Plan Policy 4.6 is provided in the Town Centres SPG<sup>67</sup>.

2.2.16 The CAZ contains a number of important clusters of leisure and evening uses including the country's largest concentration of evening activities in Soho/Covent Garden – a strategic asset which should be managed and improved in line with Policy 2.10Ae of the London Plan – together with other clusters of evening uses such as those in Shoreditch, Knightsbridge, Angel and Kings Cross. The West End as a whole is home to over 3,000 licensed premises, which includes a diverse range of evening activities. These play an important role in attracting approximately 200 million visitors a year to the West End<sup>68</sup>. Managing this concentration of evening uses poses unique challenges and opportunities, with some streets busier during the evening and night, than during the day<sup>69</sup>. The introduction of 24 hour tube provision on Friday and Saturday nights will have implications for how evening activities are managed and phased.

2.2.17 Sensitive management of evening uses within the CAZ should recognise the synergies between central London's attraction as a major cultural, visitor and retail destination and the range of supporting leisure uses<sup>70</sup>. It should also be recognised that, from an economic perspective, a range of day and evening amenities can be an important attractor for business and employees, especially within the creative sector, encouraging the

<sup>66</sup> GLA Economics, Working Paper 47 – Spending time 2011 update, Mayor of London, 2011

<sup>67</sup> Mayor of London, Town Centres SPG, 2014, paragraphs 2.2.14 to 2.2.16 and Annex A

<sup>68</sup> West End Commission Final Report, 2013

<sup>69</sup> City of Westminster, The West End, 2015

<sup>70</sup> Mayor of London, London Plan, 2015, policies 4.5, 4.6, 4.7, 2.15



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clustering of particular businesses<sup>71</sup> (see paragraph 2.2.19). This trend can be observed around Soho, Old Street and London Bridge.

### Creative Industries

2.2.18 London has established itself as a world leader for creative industries with particular strengths in advertising, architecture, fashion design, film/TV and music production, visual and performing arts, publishing, and digital technology based industries. A number of highly successful clusters of creative industries are found in the CAZ, including those at Soho/the West End and Tech-City/Silicon Roundabout, together with other important and emerging clusters around Farringdon, Kings Cross, London Bridge/Southbank and 'Mid-Town' (Holborn, Bloomsbury)<sup>72</sup>. As a whole, London's creative industries generate over £21billion turnover, helping to provide 697,000 jobs - around one in every six jobs in the capital<sup>73</sup>. However, a combination of rising occupational costs and a growing shortage of suitable workspace, especially more affordable workspace, could be a significant constraint on future growth of this sector within the CAZ, which should be monitored and managed sensitively.

2.2.19 Boroughs should support and sustain existing and emerging clusters of creative industries within

the CAZ, in line with policies 2.11, 4.6 and 4.11 of the London Plan. It should be recognised that the term 'creative industries' covers a broad and diverse range of sectors, which may require tailored local approaches to address the particular characteristics and uses found within different creative clusters. For example, where there is a defined need for visual and performing arts spaces within cultural quarters, boroughs should seek to enhance and protect creative workplaces and performances spaces (Policy 4.6Ca) and support the temporary use of vacant buildings for performance and creative work (Policy 4.6Cb). Promoting more office based clusters of creative industries within the CAZ will necessitate boroughs to follow a more focused approach on the type, size and affordability of office accommodation, including the provision of flexible and appropriately sized office floorspace suitable for a range of small and medium sized enterprises and start-up companies. In promoting creative industries within the CAZ, boroughs are encouraged to:

- provide protection for existing small scale offices (under 500sqm or a justified local threshold), where this is justified by local and strategic evidence of supply and demand (Policy 4.3Bc).
- require residential proposals which would result in the loss of office space, to make a proportionate contribution to the provision of new office space within, or nearby, the development (Policy 4.3Bd).

<sup>71</sup> NLP, Workspace Futures, The changing dynamics of office locations, 2016

<sup>72</sup> CBRE, Creative London, 2014

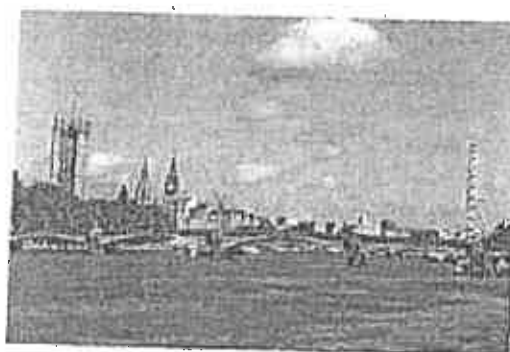
<sup>73</sup> Mayor of London, Cultural Metropolis - The Mayor's Culture Strategy - Achievements and next steps, GLA, 2014

- ensure cultural and economic regeneration objectives are addressed in major development proposals, including the need for suitable and, where necessary, more affordable workspace that is suitable for creative industries. In justified circumstances, these should be secured through Section 106 agreements, taking account of the Mayor's strategic priorities for planning obligations (Policy 8.2)<sup>74</sup>.
- sensitively manage the balance between residential and employment uses in appropriate parts of the CAZ to ensure, as a result of higher land values and redevelopment, that residential uses do not predominate or strategically constrain the provision of office floorspace in areas with a particular employment focus (Policies 2.10Ae, 4.2). This should take into account the supply and demand for employment floorspace and the potential for mixed use development to secure new office floorspace.

2.2.20 Research suggests that London's comparative advantages as a centre for creative industries in relation to other European rivals is to a large extent based on London's broad range of social and cultural attractions<sup>75</sup>. These play an important role in the clustering of creative industries and, overall, help to make London a highly desirable location for businesses and employees. Boroughs should consider how these attractors and a vibrant mix of day and evening uses can be managed positively within certain areas of the CAZ, for

example strategic cultural areas or cultural quarters, taking into account other local and strategic planning considerations.

## 2.3 Tourism



2.3.1 At present, the capital is one of the most popular tourist destinations in the world, attracting around 17 million international visitors a year, together with a further 12 million domestic visitors<sup>76</sup>. Overall, these visitors generate around £14 billion in expenditure, helping to support a wide range of jobs, businesses and cultural and visitor attractions<sup>77</sup>. Consequently, the provision of an adequate supply of visitor accommodation is of critical importance to London's future success as a global visitor destination, as is recognised in Policy 4.6 of the London Plan. In addition to this, GLA research<sup>78</sup> shows that London also receives nearly 300 million tourism day visitors a year, who contribute over £10 billion to London's economy

<sup>74</sup> Mayor of London, A cultural tourism vision for London 2015 – 2017, GLA

<sup>77</sup> *ibid*

<sup>78</sup> Great Britain Day Visitor Survey 2011 (note definition is wider than previous LDA survey). For further details see GLA Economics, Current Issues Note 38, The Great Britain Day Visitor Survey 2011 – a London analysis, GLA, 2012

<sup>74</sup> Mayor of London, London Plan, GLA, 2015, paragraph 4.36

<sup>78</sup> CBRE, Creative London – Pushing the boundaries, CBRE Global Research, 2014

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in terms of spending. Over 40% of these day visits are concentrated in London's CAZ boroughs, which also account for around half of all spending. To sustain London's attraction as a hub for domestic and overseas visitors, boroughs should promote, enhance and protect major clusters of visitor attractions (Policy 4.5Af). This includes but is not limited to the Strategic Cultural Areas identified on Map 4.2 of the London Plan.

- 2.3.2 Policy 4.5 of the London Plan requires boroughs to support the capital's visitor economy and improve the range and quality of hotel provision. To ensure there is sufficient hotel provision in London over the next 20 years, the London Plan sets out a strategic benchmark target for 40,000 net additional hotel bedrooms by 2036 (of which 10% should be wheelchair accessible). This strategic benchmark target is based on GLA projections, taking into account the anticipated demand for the supply of hotel bedrooms in London<sup>79</sup>. Whilst, it is unclear how changes to legislation on short-term lettings will impact anticipated demand for hotel provision in London, the Plan's strategic benchmark will be reviewed as part of the Full Review of the London Plan.

- 2.3.3 The London Plan sets out broad spatial principles to guide hotel developments within the CAZ to ensure new hotel provision is located in accessible locations

<sup>79</sup> GLA Economics, Understanding the demand for and supply of visitor accommodation in London to 2036, GLA, 2013

and avoid concentrations of hotel uses within parts of the CAZ that might constrain other important strategic activities and land uses (for example office and other commercial and leisure uses). Policy 4.5Ac therefore requires strategically important hotel development to be focussed in opportunity areas and for smaller scale provision to be guided to CAZ fringe locations with good public transport accessibility. In terms of defining 'strategically important hotel development', the Plan confirms that this corresponds with the thresholds set out in Category 1B of the Mayor of London Order<sup>80</sup> - eg development exceeding 100,000 sqm in the City of London and 20,000 sqm in Central London<sup>81</sup>. However, Policy 4.5 provides flexibility for boroughs to apply lower thresholds depending on particular local circumstances. 'CAZ fringe locations' should be considered to be areas just outside the CAZ boundary, together with areas within the CAZ which are close to the edge of the CAZ boundary.

- 2.3.4 Policy 4.5Ac recognises that within the CAZ it may exceptionally be appropriate to locate hotel accommodation outside of opportunity areas and CAZ fringe locations with good accessibility, where it is robustly demonstrated that:

- there is a clear and close

<sup>80</sup> The Town and Country Planning (Mayor of London) Order 2008

<sup>81</sup> Note that 'Central London' is defined in the 2008 Order on a map. This boundary corresponds closely to that of the CAZ, albeit with some notable differences.