

07/01/2021

Application for a review of a premises licence or club premises certificate under the Licensing Act
Ref No. 1592457

Please enter the name of applicant who is applying for the review of a premises licence under section 51/
applying for the review of a club premises certificate under section 87 of the Licensing Act 2003 for the
premises described in part 1

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Notes for Guidance

1. A responsible authority includes the local police, fire and rescue authority and other statutory bodies which exercise specific functions in the local area.
2. The ground(s) for review must be based on one of the licensing objectives.
3. Please list any additional information or details for example dates of problems which are included in the grounds for review if available.
4. The application form must be signed.
5. An applicant's agent (for example solicitor) may sign the form on their behalf provided that they have actual authority to do so.
6. This is the address which we shall use to correspond with you about this application.

Please submit the completed form to along with the payment either by cheque or postal order made payable to London Borough of Southwark and dispatch to the following address below.

Environment and Social Regeneration
Regulatory Services – Licensing Team
160 Tooley Street
3rd Floor Hub 1
PO Box 64529
London
SE1P 5LX
E-mail: licensing@southwark.gov.uk
Tel 020 7525 4261

Postal address of premises or club premises, or if none, ordnance survey map reference or description

| | |
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| Address Line 1 | |
| Address Line 2 | |
| Town | |
| County | |
| Post code | |
| Ordnance survey map reference or description | 59-61 Lant Street |

Name of premises licence holder or club holding club premises certificate (if known)

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| | David Wilcock |
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Number of premises licence or club premises certificate (if known)

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| | 866850 |
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Application for a review of a premises licence or club premises certificate under the Licensing Act

I am

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| | 1) an individual, body or business which is not a responsible authority (please read guidance note 1) |
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Notes for Guidance

1. A responsible authority includes the local police, fire and rescue authority and other statutory bodies which exercise specific functions in the local area.

Personal Details

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| Title | Mr |
| If other, please specify | |
| Surname | |
| Forenames | |
| I am 18 years old or over | Yes |

Current Address

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|----------------|--|
| Address Line 1 | |
| Address Line 2 | |
| Town | |
| County | |
| Post code | |

Contact Details

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| Daytime contact telephone number | |
| E-mail address (optional) | |

Would you like to add a second applicant?

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| | No |
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This application to review relates to the following licensing objective(s)

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| | Please select one or more as appropriate |
| | 1) the prevention of crime and disorder 3) the prevention of public nuisance |

Please state the ground(s) for review (please read guidance note 2)

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| | <p>Introduction On 8th April 2019, Southwark Council as licencing authority granted the Lant Street Wine Company ("the company") a premises licence Ref. 866850 at 59-61 Lant Street, London SE1 1QN. The application was to vary premises licence 847526.</p> <p>In June 2019, without planning permission, the company established an unlawful drinking establishment in the ground floor and basement of the warehouse 59 Lant Street directly beneath my home causing severe noise and disturbance to my residential amenity. A Noise Abatement Notice was served on 11th November 2019 due to "statutory nuisance" in breach of the Environmental Protection Act. An Enforcement Notice under the Town and Country Planning Act was served on 19th November 2020 (Ref.19/EN/0482) requiring the company to "Cease bar use at the Land".</p> <p>Application for Premises Licence Ref. 866850 The application for the premises licence was unlawfully made as the company failed to comply with the Secretary of State's publicity requirements. The premises has a frontage to two highways and the advertisement required under Regulation 25 of The (Premises licences and club premises certificates) Regulations 2005 was not displayed in Vine Yard SE1, where the entrance to the residential accommodation in the building is located. I was not made aware of the application and consequently unable to make a representation.</p> <p>On 13th November 2020, the licensing authority acknowledged the failure to undertake statutory publicity requirements blaming the company.</p> <p>Reasons for Review of the Licence The grant of the premises licence breached the Premises (Licensing) Act 2003 as the application was not properly assessed against Southwark's Statement of Licencing Policy (for 2019–2021), a statutory requirement under section 5 of the Act. This was partially due to the company's failure to properly publicise the application.</p> <p>The use of the premises licence at 59 Lant Street conflicts with other material licencing considerations namely Southwark's published Technical Guidance for Noise, the Southwark Local Plan, the London Plan 2016, the National Planning Policy Framework and Home Office Revised Guidance issued in April 2018 under section 182 of the Licensing Act.</p> <p>The use of premises licence has:</p> <ul style="list-style-type: none"> Failed to promote two of the Act's licencing objectives: <ul style="list-style-type: none"> (a) the prevention of crime and disorder; and (c) the prevention of public nuisance, Resulted in the use of premises unsuitable for the licensed activities, Resulted in the unlawful use of premises without planning permission. <p>The premises licence allows the use of 59 Lant Street 7 days a week between 8.00 and 23.00 hours and includes the playing of amplified music and films. The company has confirmed their intention to operate accordingly. From summer 2019, except during Covid 19 directions, the drinking establishment has typically opened two nights a week sometimes more driving me from my home.</p> <p>Conditions on the premises licence have been persistently breached with non-compliance of the licenced hours, the licenced number of patrons and outside smokers, unsupervised access and entrance door left open.</p> <p>Large-scale temporary events have been held without the necessary Temporary Event Notices given to the licencing authority that have further breached conditions of the licence. Capacity of 80 persons in the warehouse at 59 has been advertised on the company's web site.</p> <p>The drinking establishment has caused or necessitated:</p> <ul style="list-style-type: none"> Persistent Southwark Noise Team call outs, Ward member visit to my home and the bar, On-going involvement by the Metropolitan Police due to anti-social behaviour, Physical threats against me by the company recorded by the Metropolitan |
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| | <p>Police as public order offences,</p> <ul style="list-style-type: none"> • “Common assault” by a director of the company recorded as a crime by the Metropolitan Police, • 15 months of correspondence with my MP, ward councillors, Southwark’s Noise Team, Licencing Unit, Planning Department, Access for Information Team and Customer Resolutions, • Significant on-going stress and anxiety over an extensive period. |
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Please provide as much information as possible to support the application (please read guidance note 3)

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| | <p>Licencing Objective a) the prevention of crime and disorder</p> <p>On 18th March 1986, the Council as local planning authority granted planning permission to use the building 59 Lant Street / 6 Vine Yard as a wine warehouse with residential flats above (Ref: 745-86, case file TP/1140/222). No subsequent planning permission has been granted for the change of use of the ground floor and basement of 59 to a bar and the lawful use as a wine warehouse has not been supplanted.</p> <p>On 18th February 2019, on application for the premises licence, the applicant certified: “I understand that I must now advertise my application”. The company failed to comply with the Secretary of State’s Regulations and the application was not lawfully made in accordance with the Licensing Act. Under section 158 of the Act, a person commits an offence if he knowingly or recklessly makes a false statement in or in connection with an application for the grant, variation, transfer or review of a premises licence.</p> <p>The licence was then unlawfully used in the absence of planning permission contravening section 57 of the Town and Country Planning Act 1990.</p> <p>Use of the premises licence has further failed to promote Licencing Objective a) resulting in crime & disorder namely:</p> <ol style="list-style-type: none"> 1. On 26th October 2019 and 31st March 2020, following objections to the licencing authority about the use of 59, the company’s staff twice physically threatened me and also threatened future intimidation. The Metropolitan Police have recorded these incidents as section 4A Public Order Offences – Crime Nos. 3042016/19 & 3022425/20. 2. It is an offence not to comply with a Noise Abatement Notice. I contend the company unlawfully breached the Noise Abatement Notice served on 11th November 2019 on at least: Thursday 14th November 2019, Sunday 8th December 2019, Saturday 14th December 2019, Thursday 27th January 2020, Tuesday 18th August 2020, Thursday 24th September 2020, Thursday 8th October 2020, Friday 16th October 2020, Thursday 22nd October 2020, Friday 23rd October 2020 and Wednesday 4th November 2020 (11 occasions). 3. Despite warnings from the licencing authority, the company held large scale Temporary Events on Saturday 12th October 2019, Sunday 8th December 2019, Saturday 14th December 2019 & Tuesday 18th August 2020 without the necessary notices given to the licencing authority. These events also breached conditions on the premises licence. The Metropolitan Police attended the event on Tuesday 18th August 2020 due to public nuisance and anti social behaviour (Police Report No. 7963 18/08/2020). An undertaking given to the Police about closing was broken with the bar open until 12.30am beyond licenced hours with loud amplified music played. 4. On 7th May 2020, on retrospective application for planning permission, the company made a false declaration that notice had been served on owners of the building. A similar false statement was made in a covering letter dated 15th May 2020. Under section 65(6) of the Town and Country Planning Act it is an offence to issue a false ownership certificate knowingly or recklessly. 5. On Wednesday 4th November 2020, Covid 19 Restrictions were ignored with the drinking establishment open until 10.45pm beyond the 10.00pm closing time. 6. Also on Wednesday 4th November 2020, at 9.15pm, the son of the Premises Licence holder and a director of the company, obstructed me in Sanctuary Street SE1, made deliberate bodily contact and threatened future assault. This incident has been recorded and is being investigated by the Metropolitan Police as “Common Assault” Crime No. |
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| | <p>3030859/20.</p> <p>7. The company has illegally installed an illuminated projecting sign reading “Bar” on the front elevation of 59 Lant Street within the Council’s Liberty of the Mint Conservation Area contrary to the Town and Country (Control of Advertisements) Regulations 2007 amounting to an offence under section 224(3) of the Town and Country Planning Act (see the Council’s Enforcement Notice further below).</p> <p>8. The company is also displaying a ‘sandwich board’ on Borough High Street advertising the bar, possibly without the local authority’s permission as landowner.</p> <p>Licencing Objective c) - the prevention of public nuisance</p> <p>Use of the premises licence has caused public nuisance failing to promote Licencing Objective c). 59 Lant Street is physically unsuitable for the licenced activities, as is the location of the premises. These matters are demonstrated by:</p> <p>1. The Noise Abatement Notice served on 11th November 2019 due to “Statutory nuisance” that has been persistently breached at least eleven times (item 2 above).</p> <p>2. Noise measurements taken within Flat 1, 6 Vine Yard on Friday 18th October 2019 at 19.53 hours with 43 patrons within the bar were:</p> <ul style="list-style-type: none"> • Average 57.6dB, • Max 75.0 dB, • Peak 80.6dB. <p>These far exceed W.H.O. guideline of 35dB, Southwark’s “Technical Guidance for Noise” & British Standard 8233 that both adopt indoor ambient noise levels for dwellings of 35dB-40dB between 07.00 to 23.00 hours.</p> <p>3. Despite warnings from Southwark Licensing Unit, conditions on the premises licence have been persistently breached with non-compliance of licenced hours, the number of patrons and outside smokers, unsupervised access and entrance door left open. This has caused public nuisance from patrons directly beneath my residential windows and cumulative impact with the Gladstone Public House diagonally opposite.</p> <p>4. With the existing separating floor/ceiling construction, 59 Lant is incapable of being used for the licenced activities without causing public nuisance. Condition 5 of the Council’s planning permission on 18th March 1986 to use the building as a wine warehouse and residential flats was conditional upon the installation of sound attenuation to shield the upper floor flats against noise from the permitted ground floor warehouse not from a drinking establishment.</p> <p>5. The company has not demonstrated that the licenced activities can be mitigated. This includes an inadequate Noise Report supporting their retrospective application for planning permission made on 7th May 2020. The council has treated the application as withdrawn “as it would never be determined”.</p> <p>6. Lant Street is on the fringe of the Bankside and Borough Cumulative Impact Zone (CIZ). CIZs are designated areas saturated by premises licensed to sell alcohol and empower local authorities to better control the number and type of licensed outlets. Events since the bar at 59 opened in 2019 demonstrate that the bar, together with the cumulative impact with the Gladstone Public House, causes unacceptable loss of amenity and public nuisance within this predominantly residential street. There is no justification to extend the saturation zone further south. Further public nuisance only ensues.</p> <p>7. Confirming the public nuisance; on 19th November 2020, the council served a Town Planning Enforcement Notice (Ref.19/EN/0482) against the ground floor and basement of 59-61 Lant Street due to the following breaches of planning control:</p> <ul style="list-style-type: none"> • “Without planning permission, the material change of use of the Land to a mixed bar / shop / warehouse use (‘the Unauthorised Use’). • Without planning permission, the erection of an illuminated projecting sign on the front elevation of the Land (‘the Unauthorised Works’).” <p>The Reasons for issuing the Notice are:</p> <p>“The Unauthorised Use causes significant harm to neighbouring residents amenity through disturbance and noise spill which has not been properly assessed or mitigated</p> |
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| | <p>against.”</p> <p>“The use is considered to be contrary to Chapter 8 [Promoting healthy and safe communities] of the NPPF 2019; Policy 7.15 [Reducing and managing noise, improving and enhancing the acoustic environment and promoting appropriate soundscapes] of the London Plan 2016; Strategic Policy 13 [High Environmental Standards] of the Core Strategy 2011; Saved Policy 3.2 [Protection of amenity] of the Southwark Plan 2007; P54: Protection of amenity and P67: Reducing noise pollution and enhancing soundscapes of the emerging New Southwark Plan.”</p> <p>“The Unauthorised Works are incongruous and cause harm to the character and appearance of the Land and surrounding area and its appropriateness in the context of the Land being in the Liberty of the Mint Conservation Area. The sign is considered to be contrary to Chapter 16 [Conserving and enhancing the historic environment] of the NPPF 2019; Policy 3.23 [Outdoor Advertisements and Signage] of the Southwark Plan 2007 and P40: Outdoor advertisements and signage of the emerging New Southwark Plan. “</p> <p>For the above reasons the premises licence should be revoked. A Monitoring Log commencing 11th October 2019 detailing activity undertaken at 59 Lant Street and demonstrating breaches the licencing objectives can be provided to assist the licencing authority.</p> |
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Notes for Guidance

2. The ground(s) for review must be based on one of the licensing objectives.
3. Please list any additional information or details for example dates of problems which are included in the grounds for review if available.

Have you made an application for review relating to this premises before?

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| | No |
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If yes, please state the date of the application

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If you have made representations before relating to these premises please state what they were and when you made them

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Checklist

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| | <p>I have sent copies of this form and enclosures to the responsible authorities and the premises licence holder or club holding the club premises certificate, as appropriate</p> <p>I understand that if I do not comply with the above requirements my application will be rejected</p> |
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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 CONVICTION TO A FINE OF ANY AMOUNT

Declaration (please read guidance note 5)

Application for a review of a premises licence or club premises certificate under the Licensing Act

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| Applicant Full Name | |
| Applicant or Applicant's solicitor or other duly authorised agent | |
| Date | 07/01/2020 |
| Capacity | |

Notes for guidance

5. An applicant's agent (for example solicitor) may sign the form on their behalf provided that they have actual authority to do so.

Contact name (where not previously given) and postal address for correspondence associated with this application (please read guidance note 6)

| | |
|-----------|--|
| Full name | |
|-----------|--|

Address (please read guidance note 6)

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|---------------------------|--|
| Address Line 1 | |
| Address Line 2 | |
| Town | |
| County | |
| Postcode | |
| Telephone number (if any) | |
| Email | |

Notes for Guidance

6. This is the address which we shall use to correspond with you about this application.

Bar & showroom operated by Lant Street Wine Company, 59 Lant Street, SE1 1QN

Impact on Flat [REDACTED] [REDACTED] [REDACTED])

Monitoring Log from 11 October 2019

| Date | Conditions |
|--------------------------|---|
| Friday 11 October 2019 | <p>Premises License Holder absent.</p> <p>Front door unmanaged permanently open. Far more than 4 smokers outside breaching licenced limit.</p> <p>36 customers at 8.00 pm exceeding licensed limit of 32.</p> <p>Visit by Southwark Noise Team:</p> <p><i>"attended 21.56 com[plaint] lives in large open plan loft apart[ment]. Noise from bar directly underneath - could hear a continual babble of voices emanating from bar. No raised voices or LAM witnessed - Comp [plaint] said tonight is much quieter than normally however."</i></p> <p>Noise Team verbally confirmed disturbance considered a statutory nuisance.</p> <p>Licensed hours met.</p> |
| Saturday 12 October 2019 | <p>Private event. Estimated 70-80 people present breaching license conditions.</p> <p>Noise disturbance intolerable - loud voices and amplified music.</p> <p>Licensed hours met.</p> |
| Thursday 17 October 2019 | <p>Bar closed.</p> |
| Friday 18 October 2019 | <p>43 patrons counted at 7.45 pm. Front door permanently open and unmanaged. More than 4 smokers outside.</p> <p>Unpleasant meeting with [REDACTED] who objected to visit by Southwark "Noise Police."</p> <p>Noise measurements taken within my flat at 19.53 hours.</p> <p>Average 57.6 dB, Max 75.0 dB, Peak 80.6 dB far exceeding WHO 35 dB guideline, Southwark's <i>"Technical Guidance for Noise January 2017"</i> & British Standard 8233:2014 that recommends indoor ambient noise levels for dwellings between 35 dB-40 dB between 07.00 to 23.00 hours.</p> <p>Licensed hours met</p> |
| Thursday 24 October 2019 | <p>Severe disturbance from constant loud voices and amplified music.</p> <p>Licensed hours met.</p> |
| Friday 25 October 2019 | <p>Severe disturbance from constant loud voices and amplified music.</p> <p>Licensed hours met.</p> |
| Saturday 26 | <p>Severe disturbance from constant loud voices and amplified</p> |

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| October 2019 | <p>music.</p> <p>Licensed hours exceeded. Bar still open at 23.20 hours beyond licensed hours. Got out of bed to complain. Physically intimidated and threatened by [REDACTED] of the Premises License Holder. Witnessed by the Premises License Holder David Wilcock who did not intervene. Subsequently unable to enter the bar to accurately assess patron numbers.</p> |
| Thursday 31 October 2019 | <p>Constant babble of loud voices and singing. No music. Licensed hours met.</p> |
| Friday 1 November 2019 | <p>I was out. Bar was closing at 11.10 pm when I returned home.</p> |
| Thursday 7 November 2019 | <p>Moderate disturbance from babble of voices and amplified music. Front door left open. Bar appeared almost empty & closed before 10.00 pm</p> |
| 8 November 2019 | <p>Southwark Council Planning Enforcement serves a Planning Contravention Notice.</p> |
| Friday 8 November 2019 | <p>Meeting with Councillor Adele Morris who entered the bar alone and assessed 23 patrons present at 7.15 pm. Music playing. C’lir agreed noise within Flat 1 was excessive & advised that I contact the Noise Team. Conditions worsened later.</p> <p>Noise Team contacted at 8.45 pm ref. SW7-1181144. Unable to hold a proper telephone conversation. Noise Team attended 9.35 pm – 9.42 pm.</p> |
| Tuesday 12 November 2019 | <p>Southwark Council letter 12th November confirms the noise is considered a “statutory nuisance” and a Noise Abatement Notice has been served. Notice served 10th November 2019.</p> |
| Thursday 14 November 2019 | <p>Constant loud voices and amplified music. Conditions no different to those prior to Abatement Notice. Licensed hours met.</p> |
| Friday 15 November 2019 | <p>Visit to my home at 5.15pm by David Wilcock Premises License Holder. He said approximately 20 people were in the bar (doubtful). Conditions not representative. Music switched off although he claimed it was playing. Conditions worsened later with constant babble of loud, raised voices and shouting. Driven out of my home at 9.30pm due to noise. Outside smokers within limit. Licensed hours met.</p> |
| Thursday 21 November 2019 | <p>Constant babble of loud voices. No music. Outside smokers within limit. Licensed hours met. Awaiting copy of the Noise Abatement Notice before contacting</p> |

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| | the Noise Team again. |
| Friday 22 November 2019 | Constant babble of loud voices. No music. Viewed through door at 10.15 pm estimated number of patrons far in excess of licensed numbers. Outside smokers within limit. Licensed hours met. Still awaiting copy of the Noise Abatement Notice. |
| Thursday 28 November 2019 | Returned home at 10.40 pm. Bar was closing. Few patrons. |
| Friday 29 November 2019 | Bar closed. |
| Thursday 5 December 2019 | Returned home at 10.15 pm. Bar closed. |
| Friday 6 December 2019 | Bar open. Intolerable noise from constant babble of loud voices. No music. Estimated number of patrons far exceeding licensed numbers, unable to check due to fear of intimidation. Front door closed. 10 smokers outside at 10.40pm. Bar closed 11.20 pm beyond licensed hours. Still awaiting copy of the Noise Abatement Notice. |
| Sunday 8 December 2019 | I returned home at 3.15 pm. Bar open, a special event attended by a large number of people. Amplified music played loudly until 7.00 pm. Afterwards, loud singing, shouting and blowing of a trumpet. Noise conditions worse than when the Noise Abatement Notice was issued. Tried to phone Southwark Noise Team. Could not get through. Six attempts. Telephone clicked to engaged. Completed on-line antisocial behaviour form. Bar finally closed at 8.15pm. |
| Monday 9 December 2019 | Spoke to David Wilcock Premises License Holder. Told him Sunday was “criminal.” He replied – “That was a private event, we are a bar, we have to do that to survive.” |
| Thursday 12 December 2019 | Bar open. Weather bad - raining. General election night. Very few customers but voices clearly audible. Door closed. No smokers outside at 9.45 pm Licensed hours met. |
| Friday 13 December 2019 | Bar open. Intolerable noise from constant loud voices. No music. Estimated number of patrons far exceeding licensed numbers, unable to check due to fear of intimidation. Front door closed. Outside smokers within limit at 8.00 pm. Licensed hours met. Still awaiting copy of the Noise Abatement Notice. |
| Saturday 14 | Another private event started 7.30 pm. |

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| December 2019 | Constant loud voices and amplified music. Driven from my home at 9.30pm. Difficult to estimate numbers of patrons. Raining – door closed no outside smokers. Bar closed at 11.10 pm. Still awaiting copy of the Noise Abatement Notice. |
| Monday 16 December 2019 | Southwark Licensing Enforcement Officer confirms no “TENS” (temporary events notice) given for events held 12th October and 8th December. |
| Tuesday 17 December 2019 | Following instruction from Southwark Council, reported the threatening incident on Saturday 26 October to the Metropolitan Police who categorized it as a section 4A Public Order Act Offence – Crime No. 3042016/19. |
| Friday 20 December 2019 | Visit by Justin Williams, Southwark Licencing Enforcement Officer to the Lant Street Wine Company to discuss the recent licensing breaches and un-notified temporary events. |
| Thursday 27 January 2020 | Bar reopened. Intolerable noise from constant loud voices and loud amplified music. Bar closed 11.00 pm. |
| Tuesday 31 March 2020 | Morning delivery by truck to the Lant Street warehouse Deliveries for 33 years have been via Vine Yard. Attempting to view what was being delivered I was verbally abused, swore at and physically threatened by [REDACTED] [REDACTED] They asserted: <i>“We are an off-license”</i> and threatened future intimidation – <i>“We are going to get you”</i> . This incident was reported to the Metropolitan Police on 20th August 2020 who recorded it as a section 4A Public Order Offence – Crime No. 3022425 / 20. |
| Friday 15 May 2020 | Lant Street Wine Company submit unlawful planning application Ref. 20/AP/1372. False ownership declaration with no statutory notice served on the owners of the building. Application wrongly validated by LB Southwark Thursday 13 ^h August 2020. |
| Tuesday 18 August 2020 | Bar open. Private event. Intolerable noise from constant babble of voices, loud amplified music and singing. Noise level worse than when the Abatement Notice was served. Phoned Southwark Noise Team at 7.15 pm. No answer. The Council’s web site says: <i>“Due to the Covid 19 emergency the Council has reduced the noise nuisance service to fall in line with Public Health England guidelines. This means that the noise team are unable to offer a call out service or attend when a noise nuisance is occurring.”</i> Estimated number of patrons far exceeding 32. Outside smokers well into double figures at 9.15 pm. Front door unmanaged |

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| | <p>permanently open.</p> <p>Phoned Metropolitan Police at 9.45 pm. Report No. 7963 18/08/2020. Conditions no better at 10.45 pm. Metropolitan Police phoned again who said they had attended and were told the event would close within half an hour. Conditions no better at 11.45 pm. Metropolitan Police phoned again. Phone rang for 45 minutes but went unanswered. Music stopped approx 12.15am.</p> <p>Bar closed 12.30 am outside licenced hours and more than 2 hours later then stated to the Metropolitan Police.</p> |
| Thursday 20 August 2020 | <p>Stopped in the street by David Wilcock (Premises Licence Holder) who said because I had phoned the Police on 18th August <i>"I am minded to make a complaint against you for harassment. If you are saying we can't use the premises for that it's ridiculous."</i></p> |
| Friday 21 August 2020 | <p>Reported Incident on Tuesday 31 March 2020 to the Metropolitan Police see entry above. Recorded as a section 4 Public Order Offence Crime No. 3022425/20. Unable to report incident at the time due to Covid19 lockdown.</p> |
| Monday 31 August 2020 | <p>Excessive noise from amplified music from the A1 showroom. Reported to the Metropolitan Police at 3.40 pm as anti-social behaviour.</p> |
| Sunday 6 September 2020 | <p>Excessive noise from the constant playing of piano music from 11.30 am onwards. Reported to Southwark Noise Team 12.40 pm Ref. SWK-1239179. I had to go out at 1.00 pm. Noise Team unable to visit.</p> |
| Thursday 10 September 2020 | <p>Bar open. Excessive noise caused by constant babble of voices. Estimated number of patrons within licensed limit. No smokers outside at 7.30 pm. Door left open. No 'social distancing' or face coverings evident.</p> <p>Phoned Southwark Noise Team at 7.55 pm Ref. SWK1240297. Officer unable to witness the noise from within my flat due to Covid restrictions but offered to visit 59. Bar closed at 9.30 pm before the officer could attend.</p> |
| Thursday 24 September 2020 | <p>'Wine Club' event held in the rear room of 61 Lant Street between 6.00 pm to 8.00 pm without problem. Afterwards Lant Street Wine Company staff moved to 59. Significant noise disturbance until 12.00 midnight caused by rowdy drinking, shouting, singing and playing a radio.</p> |
| Friday 25 September 2020 | <p>Southwark Council withdraws unlawfully made planning application 20/AP/1372 on the ground that it would <i>"never be determined."</i></p> |
| Thursday 8 October 2020 | <p>Bar at 59 and 61 both open between 6.00 pm to 10.00 pm. Both front doors permanently open and unsupervised. Six smokers</p> |

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| | <p>outside at 9.15 pm. Constant babble of voices and loud amplified music.</p> <p>On line complaint to Metropolitan Police at 7.00pm. Southwark Noise Team contacted at 7.10pm. Ref. 1245233. Officer visited and estimated in excess of 20 patrons but unable to enter the bar or my home due Covid 19. Officer advised the incident would be reported to Southwark Council's Licencing Unit and town planning enforcement.</p> |
| Saturday 10 October 2020 | Loud amplified music played within the A1 showroom 6.00 pm to 7.30 pm. |
| Friday 16 October 2020 | <p>Bar open between 5.30 pm and 10.00 pm. Both 59 and 61 used. Both front doors left open.</p> <p>Constant disturbance from a babble of voices and shouting, a piano and amplified music. Estimated 20-30 patrons. No outside smokers at 9.00 pm.</p> <p>Southwark Noise Team contacted at 7.15 pm Ref. 1246439 but unable to attend due to the number of complaints that evening.</p> |
| Thursday 22 October 2020 | <p>Bar opened at 6.00 pm. Both 59 and 61 used. Both front doors permanently open.</p> <p>Very few patrons but voices and amplified music clearly audible. No outside smokers at 7.00 pm. Bar closed at 8.15 pm.</p> |
| Friday 23 October 2020 | <p>Bar opened at 6.00pm. Both 59 and 61 again used. Sandwich board on Council land on Borough High Street advertises public admission. Both front doors open.</p> <p>Estimated 20-30 patrons. Voices and amplified music clearly audible. 4 outside smokers at 7.00 pm. Bar closed at 10.00 pm.</p> |
| Friday 30 October 2020 | <p>Bar opened at 6.00 pm advertised to the general public on Borough High Street. Both 59 and 61 again used. Both front doors permanently open.</p> <p>Estimated 20-30 patrons. Voices and amplified music clearly audible. Bar closed at 10.00 pm.</p> |
| Wednesday 4 November 2020 | <p>Bar opened at 5.00 pm again advertised to the general public by unlawful advertisement on Borough High Street. 59 and 61 both used. Front door of 61 permanently open.</p> <p>Estimated 20 patrons. Voices and amplified music clearly audible. New admissions closed at 10.00 pm but the bar remained open until 10.45 pm breaching Covid restrictions.</p> <p>At 9.15 pm, [REDACTED] of the Lant Street Wine Company physically obstructed me in Sanctuary Street. As I walked past he deliberately made shoulder-to-shoulder bodily</p> |

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| | contact and said: <i>"Next time I am going to walk right into you."</i> I replied, <i>"please do, that will be recorded as well"</i> . |
| Saturday 7 November 2020 | Reported Incident on Wednesday 04 November 2020 to the Metropolitan Police. Crime No. 3030859/20 - "Common Assault" . |
| Thursday 19th November 2020 | <p>Metropolitan Police phoned about the incident on Wednesday 04 November 2020. Unable to prosecute due to the absence of an independent witness but said they would speak to [REDACTED] and warn him not to threatened or assault me again.</p> <p>Southwark Council serves Planning Enforcement:</p> <p><i>"Without planning permission, the material change of use of the Land to a mixed bar / shop / warehouse use ('the Unauthorised Use')".</i></p> <p><i>"Without planning permission, the erection of an illuminated projecting sign on the front elevation of the Land ('the Unauthorised Works').".</i></p> |
| Monday 30 November 2020 | Visit to my home at 2.00 pm Metropolitan Police Officers Abbie Brown and Jack Cintra. Said they would speak to the Lant Street Wine Company and [REDACTED] and warn them about the incident on 4th November 2020. I was advised to phone 999 immediately should there be any further incident. |
| Tuesday 1 December 2020 | Email from PC Abbie Brown following visit to the Lant Street Wine Company on 1st December Ref. Crime No. 3030859/20. Advice given: "To avoid all physical contact with any staff at Lant Street Wine Bar, to avoid entering Lant Street Wine Bar and to avoid any actions that may be perceived as harassment by the other party". |
| Thursday 10 December 2020 | Significant noise disturbance between 5.30 pm and 9.30 pm from the showroom staff and associates caused by rowdy drinking and amplified music from 5.30 pm to 7.00 pm. |
| Wednesday 16 December 2020 | Significant noise disturbance between 4.30 pm and 9.30 pm from the showroom staff and associates caused by rowdy drinking. No music. |
| Friday 18 December 2020 | Complaint of maladministration to the Local Government Ombudsman against LB Southwark in the grant of Premises Licence 866850. |
| Thursday 7 January 2020 | Application made to LB Southwark to review Premises Licence 866850. Also served on the Lant Street Wine Company electronically and by hand. |
| Friday 15 January 2021 | Lant Street Wines submit 2 nd unlawful application Ref. 21/AP/0148 for planning permission to change of use of the front of 59 Lant Street from warehouse use (Class B8) to a wine bar |

| | |
|-----------------------------------|---|
| | (Class A4). Application validated by LB Southwark on Thursday 21 st January 2021 despite false ownership declarations by the applicant and missing or inadequate information. |
| Sunday 3 February 2021 | Local Government Ombudsman confirms the complaint against the Council has been passed to its Investigation Team to consider it further. |
| | |
| | |



Measurement Report

Time: 18/10/2019, 19:53

Device: iPhone 5s, iOS 12.4.2

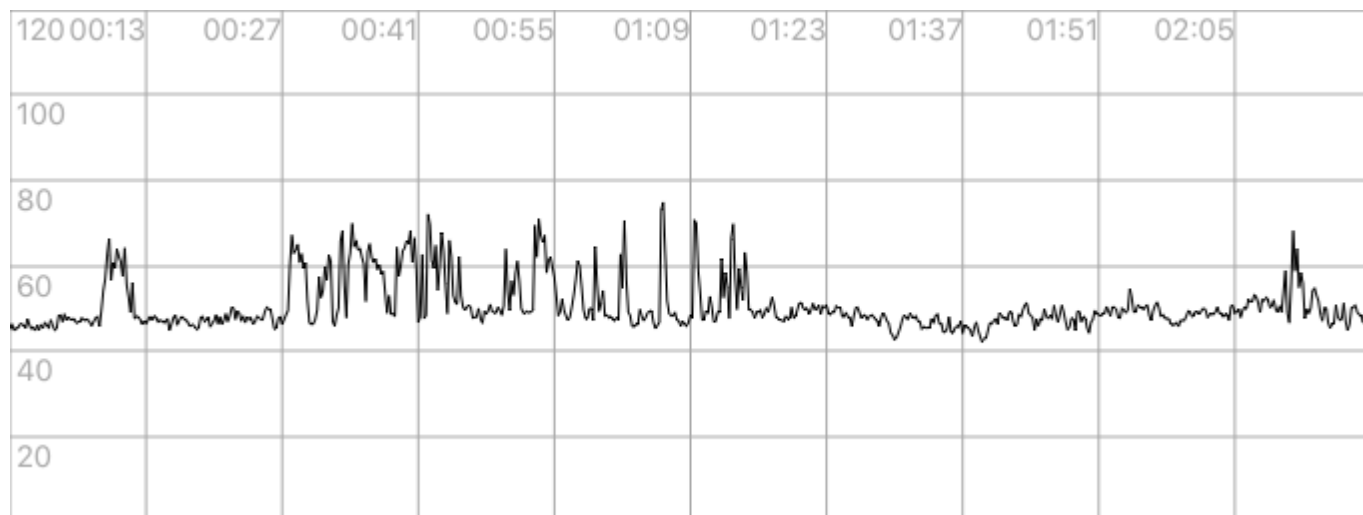
Measurement configurations

| | |
|---------------------|-------------|
| Frequency Weighting | A |
| Response Time | Fast (0.2s) |
| Calibration | 0.0 dB |

Measurement results

| | |
|----------|---------|
| Duration | 2m:19s |
| Avg/Leq | 57.6 dB |
| MIN | 42.4 dB |
| MAX | 75.0 dB |
| PEAK | 80.6 dB |
| TWA | 0.0 dB |
| Dose | 0.0 % |

Graph



ENVIRONMENTAL PROTECTION ACT 1990, SECTION 80

Abatement Notice in Respect of Statutory Nuisance

To: [REDACTED]

Of: Lant Street Wine Company, 61 Lant Street, London, SE1 1QN

TAKE NOTICE that under the provisions of the Environmental Protection Act 1990 the London Borough of Southwark being satisfied of the Occurrence of a statutory nuisance under section 79(1)(g) of that Act caused by noise emanating from the premises known as: **Lant Street Wine Company, 61 Lant Street, London, SE1 1QN** within the district of the said Council arising from : **The playing of excessive amplified music**

HEREBY PROHIBIT the Reoccurrence of the same and for that purpose, require you as the person responsible for the said nuisance to take all reasonable steps to ensure that:-

At any time of the day or night any live music or amplified sound is only played at the above premises at such a level that it is not likely to give rise to a nuisance in adjoining premises or in the neighbourhood.

THIS is NOT a notice under regulation 3 (Suspension of Notices), para 2(a)(ii) of the Statutory Nuisances (Appeals) Regulations 1995, to which regulation 3 applies. In consequence, in the event of an appeal this notice shall NOT be suspended until the appeal has been abandoned or decided by the Court. "This is due to the nuisance witnessed, being of a limited duration, as such that a suspension of the notice would render it of no practical effect."

If, without reasonable excuse, you contravene or fail to comply with any requirement of this notice you will be guilty of an offence under Section 80(4) of the Environmental Protection Act 1990 and on summary conviction will be liable to a fine together with a further fine of an amount equal to one-tenth of the greater of £20,000 or level 4 on the standard scale for each day on which the offence continues after conviction. The Council may also take proceedings in the High Court for securing the abatement, prohibition or restriction of the nuisance. Further, if you fail to execute all or any of the works in accordance with this notice, the council may execute the works and recover from you the necessary expenditure incurred.

The Council may also take proceedings in the High Court for securing the abatement, prohibition or restriction of the nuisance. Further, if you fail to comply with the conditions in accordance with this notice, the Council may seize all the sound equipment from your premises and recover from you the necessary expenditure incurred.

ADVICE: If you do not understand the contents of this Notice or would like to know more about it, please contact the Noise & Nuisance Team at Southwark Council. If you would like to receive independent advice about the contents of this Notice, your rights and obligations then please contact The Citizens Advice Bureau, Housing Aid Centre, Law Centre or solicitor.

Signed [REDACTED]
[REDACTED]
Noise Officer

Please address any correspondence to: Noise & Nuisance Team, Southwark Council
132 Queens Road, London, SE15 2HP
Tel: 020 7525 2450 Fax: 020 7525 2378

N.B. The person served with this notice may appeal against the notice to a magistrates' court within twenty-one days (21), beginning with the date of service of the notice, under section 80(3) of The Environmental Protection Act 1990. See the Statutory Nuisances (Appeals) Regulations 1995 on the reverse of this notice.

Dated: 10 November 2019
Time:

**CERTIFY THAT THIS IS A
TRUE COPY OF THE NOTICE THAT
I SERVED ON:**

11/11/19 @ 11:08am
DATE: SE15 2HP TIME: HOURS

BY THE FOLLOWING METHOD:-

SIGNED [REDACTED]

PRINTED NAME [REDACTED]

The Statutory Nuisance (Appeals) Regulations 1995
Appeals under Section 80(3) of the Environmental Protection Act 1990 ('the 1990 Act')

2.- (1) The provisions of this regulation apply in relation to an appeal brought by any person under section 80(3) of the 1990 Act (appeals to magistrates) against an abatement notice served upon him by a local authority.

(2) The grounds on which a person served with such a notice may appeal under section 80(3) are any one or more of the following grounds that are appropriate in the circumstances of the particular case-

- (a) that the abatement notice is not justified by section 80 of the 1990 Act (summary proceedings for statutory nuisances);
- (b) that there has been some informality, defect or error in, or in connection with, the abatement notice, or in connection with, any copy of the abatement notice served under section 80A(3) (certain notices in respect of vehicles, machinery or equipment);
- (c) that the authority have refused unreasonably to accept compliance with alternative requirements, or that the requirements of the abatement notice are otherwise unreasonable in character or extent, or are unnecessary;
- (d) that the time, or, where more than one time is specified, any of the times, within which the requirements of the abatement notice are to be complied with is not reasonably sufficient for the purpose;
- (e) where the nuisance to which the notice relates -
 - (i) is a nuisance falling within section 79(1)(a), (d), (e), (f) or (g) of the 1990 Act and arises on industrial, trade or business premises, or
 - (ii) is a nuisance falling within section 79(1)(b) of the 1990 Act and the smoke is emitted from a chimney, or
 - (iii) is a nuisance falling within section 79(1)(ga) of the 1990 Act and is noise emitted from or caused by a vehicle, machinery or equipment being used for industrial, trade or business purposes that the best practicable means were used to prevent, or to counteract the effects of, the nuisance;
- (f) that, in the case of a nuisance under section 79(1)(g) of the 1990 Act, the requirements imposed by the abatement notice by virtue of section 80(1)(a) of the Act are more onerous than the requirements for the time being in force, in relation to the noise to which the notice relates, of-
 - (i) any notice served under section 60 or 66 of the Control of Pollution Act 1974 ('the 1974 Act'), or
 - (ii) any consent given under section 61 or 65 of the 1974 Act, or
 - (iii) any determination made under section 67 of the 1974 Act;
- (g) that in the case of a nuisance under section 79(1)(ga) of the 1990 Act (noise emitted from or caused by vehicles, machinery or equipment), the requirements imposed by the abatement notice by virtue of section 80(1)(a) of the Act are more onerous than the requirements for the time being in force, in relation to the noise to which the schedule relates, of any condition of a consent given under paragraph 1 of Schedule 2 to the 1993 Act (loudspeakers in the streets or roads);
- (h) that the abatement notice should have been served on some person instead of the appellant, being -
 - (i) the person responsible for the nuisance, or
 - (ii) the person responsible for the vehicle, machinery or equipment, or
 - (iii) in the case of a nuisance arising from any defect of a structural character, the owner of the premises, or
 - (iv) in the case where the person responsible for the nuisance cannot be found or the nuisance has not yet occurred, the owner or occupier of the premises;
- (i) that the abatement notice might lawfully have been served on some person instead of the appellant being -
 - (i) in the case where the appellant is the owner of the premises, the occupier of the premises, or
 - (ii) in the case where the appellant is the occupier of the premises, the owner of the premises,
 and that it would have been equitable for it to have been so served;
- (j) that the abatement notice might lawfully have been served on some person in addition to the appellant, being -
 - (i) a person also responsible for the nuisance,
 - (ii) a person who is also an owner of the premises, or
 - (iii) a person who is also an occupier of the premises,
 and that it would have been equitable for it to have been so served.

(3) If and so far as an appeal is based on the ground of some informality, defect or error in, or in connection with, the abatement notice, or in connection with any copy of the abatement notice served under section 80A(3), the court shall dismiss the appeal if it is satisfied that the informality, defect or error was not a material one.

(4) Where the grounds upon which an appeal is brought include a ground specified in paragraph (2)(i) or (j) above, the appellant shall serve a copy of his notice of appeal on any other person referred to, and in the case of any appeal to which this regulation applies he may serve a copy of his notice of appeal on any other person having an estate or interest in the premises, vehicle, machinery or equipment in question.

(5) On the hearing of an appeal the court may-

- (a) quash the abatement notice to which the appeal relates, or
- (b) vary the abatement notice in favour of the appellant, in such manner as it thinks fit, or
- (c) dismiss the appeal;

and an abatement notice that is varied under sub-paragraph (b) above shall be final and shall otherwise have effect, as so varied, as if it had been so made by the local authority.

(6) Subject to paragraph (7) below, on the hearing of appeal the court may make such order as it thinks fit-

- (a) with respect to the person by whom any work is to be executed and the contribution to be made by any person towards the cost of the work, or
- (b) as to the proportions in which any expenses which may become recoverable by the authority under Part III of the 1990 Act are to be borne by the appellant and by any other person.

(7) In exercising its powers under paragraph (6) above, the court-

- (a) shall have regard, as between an owner and an occupier, to the terms and conditions, whether contractual or statutory, of any relevant tenancy and to the nature of the works required, and
- (b) shall be satisfied, before it imposes any requirement thereunder on any person other than the appellant, that that person has received a copy of the notice of appeal in pursuance of paragraph (4) above.

SUSPENSION OF NOTICES

3. (1) Where -

- (a) an appeal is brought against an abatement notice served under section 80 or section 80A of the 1990 Act, and -
- (b) either-
 - (i) compliance with the abatement notice would involve any person in expenditure on the carrying out of works before the hearing of the appeal, or
 - (ii) in the case of a nuisance under section 79(1)(g) or (ga) of the 1990 Act, the noise to which the abatement notice relates is noise necessarily caused in the course of the performance of some duty imposed by law on the appellant, and
- (c) either paragraph (2) does not apply, or if it does apply but the requirements of paragraph (3) have not been met, the abatement notice shall be suspended until the appeal has been abandoned or decided by the court.

(2) This paragraph applies where -

- (a) the nuisance to which the abatement notice relates-
 - (i) is injurious to health, or
 - (ii) is likely to be of a limited duration such that suspension of the notice would render of no practical effect, or
- (b) the expenditure which would be incurred by any person in the carrying out of works in compliance with the abatement notice before any appeal has been decided would not be disproportionate to the public benefit to be expected in that period from such compliance,

(3) Where paragraph (2) applies the abatement notice -

- (a) shall include a statement that paragraph (2) applies; and that as a consequence it shall have effect notwithstanding any appeal to a magistrates' court which has not been decided by the court, and

(b) shall include a statement as to which of the grounds set out in paragraph (2) apply.

ENVIRONMENTAL PROTECTION ACT 1990, SECTION 80**Abatement Notice in Respect of Statutory Nuisance****To:** [REDACTED]**Of:** Lant Street Wine Company, 61 Lant Street, London, SE1 1QN

TAKE NOTICE that under the provisions of the Environmental Protection Act 1990 the London Borough of Southwark being satisfied of the **Occurrence** of a statutory nuisance under section 79(1)(g) of that Act caused by noise emanating from the premises known as: **Lant Street Wine Company, 61 Lant Street, London, SE1 1QN**.

within the district of the said Council arising from : **The playing of excessive amplified music**

HEREBY PROHIBIT the **Reoccurrence** of the same and for that purpose, require you as the person responsible for the said nuisance to take all reasonable steps to ensure that:-

At any time of the day or night any live music or amplified sound is only played at the above premises at such a level that it is not likely to give rise to a nuisance in adjoining premises or in the neighbourhood.

THIS is NOT a notice under regulation 3 (Suspension of Notices), para 2(a)(ii) of the Statutory Nuisances (Appeals) Regulations 1995, to which regulation 3 applies. In consequence, in the event of an appeal this notice shall NOT be suspended until the appeal has been abandoned or decided by the Court. "This is due to the nuisance witnessed, being of a limited duration, as such that a suspension of the notice would render it of no practical effect."

If, without reasonable excuse, you contravene or fail to comply with any requirement of this notice you will be guilty of an offence under Section 80(4) of the Environmental Protection Act 1990 and on summary conviction will be liable to a fine together with a further fine of an amount equal to one-tenth of the greater of £20,000 or level 4 on the standard scale for each day on which the offence continues after conviction. The Council may also take proceedings in the High Court for securing the abatement, prohibition or restriction of the nuisance. Further, if you fail to execute all or any of the works in accordance with this notice, the council may execute the works and recover from you the necessary expenditure incurred.

The Council may also take proceedings in the High Court for securing the abatement, prohibition or restriction of the nuisance. Further, if you fail to comply with the conditions in accordance with this notice, the Council may seize all the sound equipment from your premises and recover from you the necessary expenditure incurred.

ADVICE: If you do not understand the contents of this Notice or would like to know more about it, please contact the Noise & Nuisance Team at Southwark Council. If you would like to receive independent advice about the contents of this Notice, your rights and obligations then please contact The Citizens Advice Bureau, Housing Aid Centre, Law Centre or solicitor.

Signed [REDACTED]

Noise Officer

Please address any correspondence to: Noise & Nuisance Team, Southwark Council
132 Queens Road, London SE15 2HP
Tel: 020 7525 2450 Fax: 020 7525 2378

N.B. The person served with this notice may appeal against the notice to a Magistrates Court within twenty-one days (21), beginning with the date of service of the notice, under section 80(3) of The Environmental Protection Act 1990. See the Statutory Nuisances (Appeals) Regulations 1995 on the reverse of this notice.

Dated: 10 November 2019

Time:

**I CERTIFY THAT THIS IS A
TRUE COPY OF THE NOTICE THAT
I SERVED ON:**

[REDACTED] Council

132 Queens Road, London SE15 2HP

Tel: 020 7525 2450 Fax: 020 7525 2378

DATE: 11/11/19 @ 11:08 hrs. TIME: HOURS

BY THE FOLLOWING METHOD:

Hand delivered to Mr. B. Wilcock

SIGNED [REDACTED]

PRINTED NAME. [REDACTED]

The Statutory Nuisance (Appeals) Regulations 1995
Appeals under Section 80(3) of the Environmental Protection Act 1990 ('the 1990 Act')

2.- (1) The provisions of this regulation apply in relation to an appeal brought by any person under section 80(3) of the 1990 Act (appeals to magistrates) against an abatement notice served upon him by a local authority.

(2) The grounds on which a person served with such a notice may appeal under section 80(3) are any one or more of the following grounds that are appropriate in the circumstances of the particular case-

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- (b) that there has been some informality, defect or error in, or in connection with, the abatement notice, or in connection with, any copy of the abatement notice served under section 80A(3) (certain notices in respect of vehicles, machinery or equipment);
- (c) that the authority have refused unreasonably to accept compliance with alternative requirements, or that the requirements of the abatement notice are otherwise unreasonable in character or extent, or are unnecessary;
- (d) that the time, or, where more than one time is specified, any of the times, within which the requirements of the abatement notice are to be complied with is not reasonably sufficient for the purpose;
- (e) where the nuisance to which the notice relates -
 - (i) is a nuisance falling within section 79(1)(a), (d), (e), (f) or (g) of the 1990 Act and arises on industrial, trade or business premises, or
 - (ii) is a nuisance falling within section 79(1)(b) of the 1990 Act and the smoke is emitted from a chimney, or
 - (iii) is a nuisance falling within section 79(1)(ga)(a) of the 1990 Act and is noise emitted from or caused by a vehicle, machinery or equipment being used for industrial, trade or business purposes that the best practicable means were used to prevent, or to counteract the effects of, the nuisance;
- (f) that, in the case of a nuisance under section 79(1)(g) of the 1990 Act, the requirements imposed by the abatement notice by virtue of section 80(1)(a) of the Act are more onerous than the requirements for the time being in force, in relation to the noise to which the notice relates, of-
 - (i) any notice served under section 60 or 66 of the Control of Pollution Act 1974 ('the 1974 Act'), or
 - (ii) any consent given under section 61 or 65 of the 1974 Act, or
 - (iii) any determination made under section 67 of the 1974 Act;
- (g) that in the case of a nuisance under section 79(1)(ga) of the 1990 Act (noise emitted from or caused by vehicles, machinery or equipment), the requirements imposed by the abatement notice by virtue of section 80(1)(a) of the Act are more onerous than the requirements for the time being in force, in relation to the noise to which the schedule relates, of any condition of a consent given under paragraph 1 of Schedule 2 to the 1993 Act (loudspeakers in the streets or roads),
- (h) that the abatement notice should have been served on some person instead of the appellant, being -
 - (i) the person responsible for the nuisance, or
 - (ii) the person responsible for the vehicle, machinery or equipment, or
 - (iii) in the case of a nuisance arising from any defect of a structural character, the owner of the premises, or
 - (iv) in the case where the person responsible for the nuisance cannot be found or the nuisance has not yet occurred, the owner or occupier of the premises;
- (i) that the abatement notice might lawfully have been served on some person instead of the appellant being -
 - (i) in the case where the appellant is the owner of the premises, the occupier of the premises, or
 - (ii) in the case where the appellant is the occupier of the premises, the owner of the premises,
 and that it would have been equitable for it to have been so served;
- (j) that the abatement notice might lawfully have been served on some person in addition to the appellant, being -
 - (i) a person also responsible for the nuisance,
 - (ii) a person who is also an owner of the premises, or
 - (iii) a person who is also an occupier of the premises,
 and that it would have been equitable for it to have been so served.

(3) If and so far as an appeal is based on the ground of some informality, defect or error in, or in connection with, the abatement notice, or in connection with any copy of the abatement notice served under section 80A(3), the court shall dismiss the appeal if it is satisfied that the informality, defect or error was not a material one.

(4) Where the grounds upon which an appeal is brought include a ground specified in paragraph (2)(i) or (j) above, the appellant shall serve a copy of his notice of appeal on any other person referred to, and in the case of any appeal to which this regulation applies he may serve a copy of his notice of appeal on any other person having an estate or interest in the premises, vehicle, machinery or equipment in question.

(5) On the hearing of an appeal the court may-

- (a) quash the abatement notice to which the appeal relates, or
- (b) vary the abatement notice in favour of the appellant, in such manner as it thinks fit, or
- (c) dismiss the appeal;

and an abatement notice that is varied under sub-paragraph (b) above shall be final and shall otherwise have effect, as so varied, as if it had been so made by the local authority.

(6) Subject to paragraph (7) below, on the hearing of appeal the court may make such order as it thinks fit-

- (a) with respect to the person by whom any work is to be executed and the contribution to be made by any person towards the cost of the work, or
- (b) as to the proportions in which any expenses which may become recoverable by the authority under Part III of the 1990 Act are to be borne by the appellant and by any other person.

(7) In exercising its powers under paragraph (6) above, the court-

- (a) shall have regard, as between an owner and an occupier, to the terms and conditions, whether contractual or statutory, of any relevant tenancy and to the nature of the works required, and
- (b) shall be satisfied, before it imposes any requirement thereunder on any person other than the appellant, that that person has received a copy of the notice of appeal in pursuance of paragraph (4) above.

SUSPENSION OF NOTICES

3. (1) Where -

- (a) an appeal is brought against an abatement notice served under section 80 or section 80A of the 1990 Act, and -
- (b) either-
 - (i) compliance with the abatement notice would involve any person in expenditure on the carrying out of works before the hearing of the appeal, or
 - (ii) in the case of a nuisance under section 79(1)(g) or (ga) of the 1990 Act, the noise to which the abatement notice relates is noise necessarily caused in the course of the performance of some duty imposed by law on the appellant, and
- (c) either paragraph (2) does not apply, or if it does apply but the requirements of paragraph (3) have not been met, the abatement notice shall be suspended until the appeal has been abandoned or decided by the court.

(2) This paragraph applies where -

- (a) the nuisance to which the abatement notice relates-
 - (i) is injurious to health, or
 - (ii) is likely to be of a limited duration such that suspension of the notice would render of no practical effect, or
- (b) the expenditure which would be incurred by any person in the carrying out of works in compliance with the abatement notice before any appeal has been decided would not be disproportionate to the public benefit to be expected in that period from such compliance,

(3) Where paragraph (2) applies the abatement notice -

- (a) shall include a statement that paragraph (2) applies, and that as a consequence it shall have effect notwithstanding any appeal to a magistrates' court which has not been decided by the court, and
- (b) shall include a statement as to which of the grounds set out in paragraph (2) apply.



Noise & Nuisance Team
Phone - 020 7525 3171
Our reference: 914052

[REDACTED]
Lant Street Wine Company
61 Lant Street
London
SE1 1QN

10 November 2019

Dear [REDACTED]

RE: ENVIRONMENTAL PROTECTION ACT 1990 - SECTION 80
NOISE NUISANCE FROM – Lant Street Wine Company, 61 Lant Street, London, SE1 1QN

On 8 November 2019 at 20.45 hours the Council received a complaint alleging that music coming from your premises was causing a noise nuisance.

I visited in response to the complaint on 8 November 2019 at 21.33 hours and was satisfied that the music was at a level that was causing a statutory nuisance to your neighbours.

As the owner/premises licence holder of this premises, you are the person responsible for any noise nuisance being caused. Please find attached, a Notice issued under the provisions of Section 80 of the Environmental Protection Act 1990. If the Notice is contravened, legal action may be initiated and for every proven contravention, an unlimited fine may be imposed. The Environmental Protection Act also empowers the Council to obtain a warrant to seize all sound equipment from a premises that is the source of recurring noise nuisance.

I ask you to ensure that music from your premises is at all times kept below a level that could be a nuisance to your neighbours. As a guide to you, music from your premises should not be audible at any time outside your entrance door(s).

Yours sincerely,

[REDACTED]

[REDACTED]
Noise Enforcement Officer
Noise & Nuisance Team

IMPORTANT THIS COMMUNICATION AFFECTS YOUR PROPERTY

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

ENFORCEMENT NOTICE

ISSUED BY: THE LONDON BOROUGH OF SOUTHWARK

To:

| |
|---|
| Company Secretary – South of the Border Holdings Ltd of 60 Doughty Street, London, WC1N 2JW |
| Company Secretary – Lant Street Wine Company Ltd - 4th Floor 4 Tabernacle Street, London, EC2A 4LU |
| B.W Wilcock, D.R Wilcock, 171-173 Grey's Inn Road, London, WC1X 8UE |
| Jermain Gallacher Showroom, 59 Lant Street, London, Southwark, SE1 1QN |
| Lant Street Wine of 59-61 Lant Street, London, Southwark, SE1 1QN |
| The Owner, 59 Lant Street, London, Southwark, SE1 1QN |
| The Occupier, 59 Lant Street, London, Southwark, SE1 1QN |
| The Owner, 61 Lant Street, London, Southwark, SE1 1QN |
| The Occupier, 61 Lant Street, London, Southwark, SE1 1QN |

1. **THIS NOTICE** is issued by the Council because it appears to them that there has been a breach of planning control, within paragraph (a) of Section 171A(1) of the above Act, at the land described below. They consider that it is expedient to issue this Notice, having regard to the provisions of the development plan and to other material planning considerations. The Annex at the end of this Notice and the enclosures to which it refers contain important additional information.
2. **THE LAND TO WHICH THE NOTICE RELATES**

Ground Floor and Basement, 59-61 Lant Street, London, Southwark, SE1 1QN shown edged blue on the attached plan ("the Land")

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

Without planning permission, the material change of use of the Land to a mixed bar / shop / warehouse use ('the Unauthorised Use').

Without planning permission, the erection of an illuminated projecting sign on the front elevation of the Land ('the Unauthorised Works').

4. REASONS FOR ISSUING THIS NOTICE

4.1. It appears to the Council that the Unauthorised Use has commenced within the last ten years and the Unauthorised Works were undertaken within the last four years.

4.2. It is expedient to take enforcement action because:

4.1.1 The Unauthorised Use causes significant harm to neighbouring residents amenity through disturbance and noise spill which has not been properly assessed or mitigated against. The use is considered to be contrary to Chapter 8 [Promoting healthy and safe communities] of the NPPF 2019; Policy 7.15 [Reducing and managing noise, improving and enhancing the acoustic environment and promoting appropriate soundscapes] of the London Plan 2016; Strategic Policy 13 [High Environmental Standards] of the Core Strategy 2011; Saved Policy 3.2 [Protection of amenity] of the Southwark Plan 2007; P54: Protection of amenity and P67: Reducing noise pollution and enhancing soundscapes of the emerging New Southwark Plan.

4.1.2 The Unauthorised Works are incongruous and cause harm to the character and appearance of the Land and surrounding area and its appropriateness in the context of the Land being in the Liberty of the Mint Conservation Area. The sign is considered to be contrary to Chapter 16 [Conserving and enhancing the historic environment] of the NPPF 2019; Policy 3.23 [Outdoor Advertisements and Signage] of the Southwark Plan 2007 and P40: Outdoor advertisements and signage of the emerging New Southwark Plan.

5 WHAT YOU ARE REQUIRED TO DO

5.1 Cease bar use at the Land.

- 5.2 Remove from the Land all advertising associated with use of the Land as a bar.
- 5.3 Remove from the Land all speakers / stereo / musical instruments and any other amplified music equipment associated with the unauthorised use.
- 5.4 Remove from the Land the illuminated projecting sign at the front of the building and remove all fixtures and fittings associated with this sign and repair any damage to the front of the building caused by this removal.

6 TIME FOR COMPLIANCE

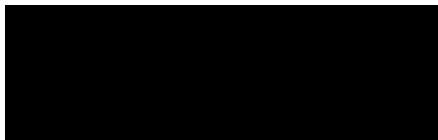
One (1) week after this Notice takes effect in respect of the requirement at 5.1 above.

One (1) month after this Notice takes effect in respect of the requirements at 5.2 to 5.4 above.

7 WHEN THIS NOTICE TAKES EFFECT

This Notice takes effect on 24 December 2020 unless an appeal is made against it beforehand.

Dated: 19 November 2020



Director of Law & Democracy
Legal Services | Finance & Governance
PO BOX 64529
London
SE1P 5LX

EXPLANATORY NOTE

YOUR RIGHT OF APPEAL

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

The enclosed Planning Inspectorate Information Sheet provides further information about your right of appeal against this Enforcement Notice.

If you are appealing under Ground (a), that you believe planning permission should be granted for what is alleged in the enforcement notice, you are required to pay a fee of **£924.00**. This should be paid to the London Borough of Southwark by way of a cheque sent to the Planning Department at PO BOX 64529 London SE1P 5LX (160 Tooley Street, London SE1 2TZ), or by credit card by telephoning 0207 525 5403 . You must also provide a copy of your appeal form.

You must submit with your Appeal Form, or within 14 days from the date the Planning Inspectorate notifies you, a statement in writing specifying the grounds of the appeal and state briefly the facts on which you are relying in support of those grounds.

WHAT HAPPENS IF YOU DO NOT APPEAL

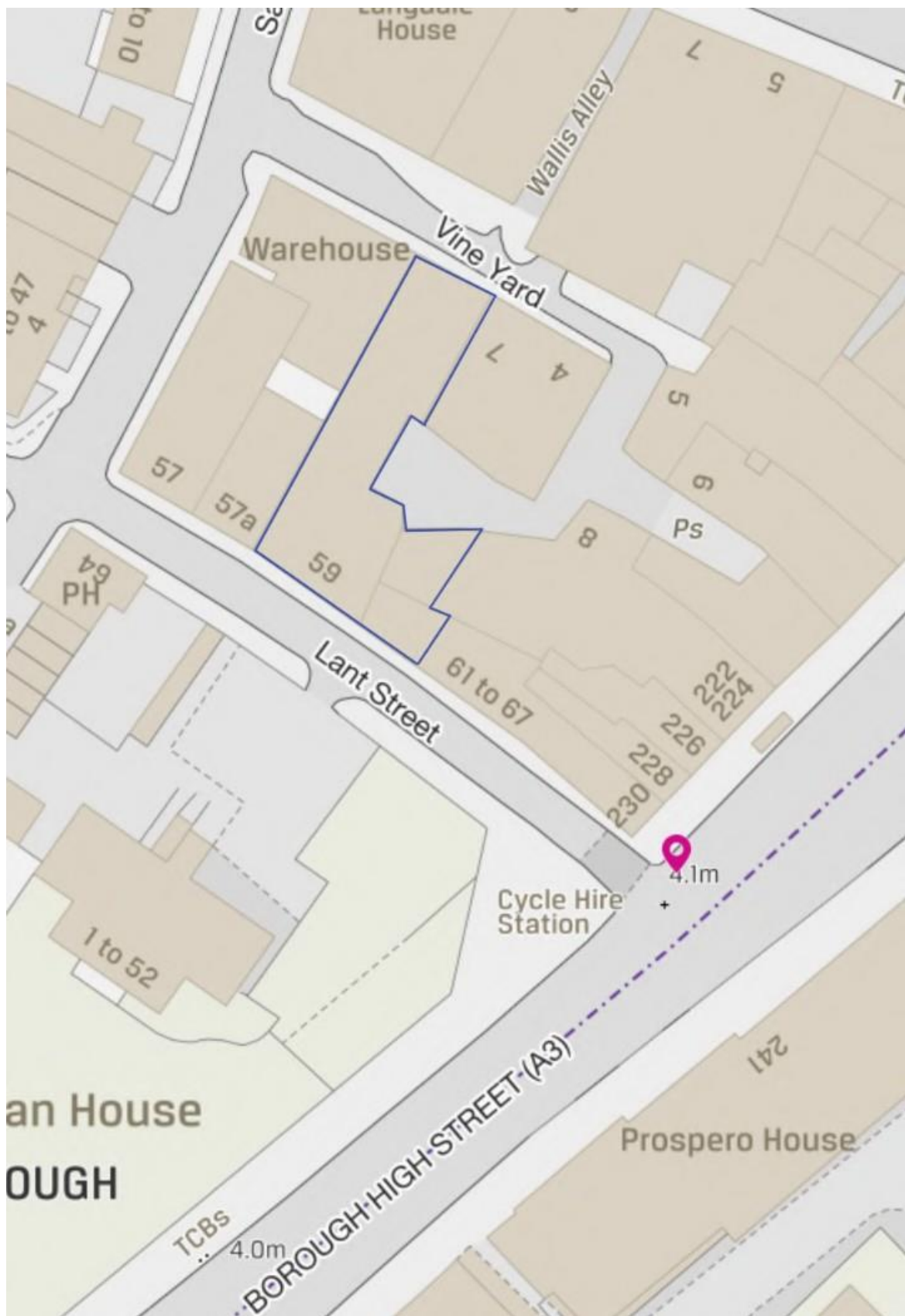
If you do not appeal against this Enforcement Notice, it will take effect on the date specified in paragraph 7 of the Notice and you must then ensure that the required steps for complying with it are taken within the period(s) specified in paragraph 6 of the notice. Failure to comply with an enforcement notice which has taken effect can result in prosecution and/or remedial action by the Council.

Enclosures:

Plan

Covering letter

Planning Inspectorate Information Sheet



3 February 2021

Mr [REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

Our ref: [REDACTED] 0

(Please quote our reference when contacting us and, if using email, please put the number in the email subject line)

If telephoning please contact: [REDACTED]
email address: C.Mead@coinweb.lgo.org.uk

Dear Mr [REDACTED]

Complaint against London Borough of Southwark

Why we are writing to you

I have assessed your complaint against the Council to see whether it is about a matter the Ombudsman can or should investigate. I have decided to pass it to our Investigation Team to consider it further.

What you should do now

Following a pause to our investigations at the start of the COVID-19 pandemic, we are now working as near to normal as possible. However the impact of continuing local and national lockdowns and restrictions on some councils and care providers, along with a large number of complaints waiting to be considered, means we cannot deal with complaints as quickly as we would like. We will be in touch in eight weeks to update you on progress.

Our staff are mainly working in their homes. Many are having to cope with different working and caring arrangements because of COVID-19, so please bear this in mind when you communicate with us.

Reasonable adjustments

We are committed to making sure the way we work does not put disabled people at a disadvantage and to meeting our legal obligations under the Equality Act 2010.

If you need any help or support to use our service, please let us know and we will consider what changes we can make.

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Yours sincerely

A solid black rectangular box used to redact a signature.

Claire Mead
Investigator

Eleanor Kelly
Chief Executive
London Borough of Southwark
160 Tooley Street
London SE1 2QH



By email to:

complaints@southwark.gov.uk
eleanor.kelly@southwark.gov.uk

2nd July 2020



Dear Ms Kelly,

**Premises (Licensing Act) 2003
Town and Country Planning Act 1990
Environmental Protection Act 1990
Stage 1 Complaint of maladministration in the grant of Premises Licence 866850
Lant Street Wine Company, 59 Lant Street, SE1 1QN**

Background

On 8th April 2019, the Council granted the above Premises Licence to the Lant Street Wine Company. Without the necessary planning permission an unlawful drinking establishment was subsequently established in the warehouse at 59 Lant Street directly beneath my home.

Publicity of the Premises Licence application failed in this case. I received no notification either from the applicant or the Council. Whilst I understand the applicant may have posted a notice on Lant Street, the entrance to the residential accommodation in the building (including my home) is in Vine Yard accessed from Marshalsea Road or Sanctuary Street not Lant Street. No notice was displayed in Vine Yard. I was consequently not made aware of the application and unable to make a representation.

The drinking establishment caused severe noise and disturbance to my residential amenity typically two days a week. The drinking establishment closed temporarily on 27th January 2020 following complaints and Council intervention.

From October 2019 there was considerable correspondence between myself and Southwark's Planning Enforcement, the Council's Noise and Nuisance Team, Southwark Regulatory Services, the Council's Senior Information Systems Officer (following an FOI request) and ward councillors Adele Morris, Victor Chamberlain and David Noakes. Councillor Morris (Chair of the Licencing Committee) helpfully visited the drinking establishment and my home, witnessed the noise and disturbance and provided the assistance she could.

On 12th November 2019, the Council's Noise and Nuisance Team served an Abatement Notice (Ref. SWK-1171961-B3Q3) on the Lant Street Wine Company due to statutory nuisance under the Environmental Protection Act. I believe the Abatement Notice was criminally breached on at least 4 occasions. An anti-social behaviour complaint was also made to the Council on 8th December 2019 during an un-notified temporary event. The complaint went unanswered.

There have been two incidents of threatening behaviour towards me by the Lant Street Wine Company. The first was a threat of physical violence, the second of future intimidation. As

instructed by the Council's Regulatory Services, the first of these was reported to the Metropolitan Police on Tuesday 17th December 2019 and categorized as an offence under section 54 of the Public Order Act - Crime No. 3042016/19.

Letters of complaint to Southwark Regulatory Services dated 1st October 2019 and subsequently dated 20th October, 29th October, 5th November and 8th December 2019 alleged maladministration in the grant of the Premises Licence and requested that the Licence be reviewed and revoked. My complaint was passed to Justin Williams, Licensing Enforcement Officer.

I understand Mr Williams' remit is the enforcement of the terms of premises licences **not** whether the Premises Licence should have been granted in the first place, or whether a licence should be reviewed. My complaint was not referred to an appropriate officer.

Whilst Mr. Williams endeavored to enforce compliance with conditions attached to the Licence (that were persistently breached), and secured the cessation of temporary events (attended by up to 80 people in the warehouse) held without the necessary Temporary Event Notices having been made; the Council failed to review the Premises Licence as requested on five occasions.

The Planning Enforcement Ref is 19/EN/0482. The case is outstanding and contrary to officer recommendation planning enforcement notices were not served.

Current application for Planning Permission Ref. 20/AP/1372

The Council has now received an application from the Lant Street Wine Company for planning permission to change the use of the warehouse at 59 to: *"to Hold Public Wine Tastings (Use Class A4)."* Use Class A4 is a *'drinking establishment'*.

Whilst the company is entitled to make a planning application, the application must be lawful and valid. The Application Form wrongly certifies that notice has been given to six owners of the building. No such notice has been served on me as an owner in conflict with Article 13 of the Town and Country Planning (Development Management Procedure) (England) Order 2015 (DMPO). The company's covering letter also makes a false statement.

I have received no consultation from the Council on the application. No site notice appears to have been posted. Two requests for confirmation of the extent of Council's statutory publicity exercise required under the DMPO (Article 15) have gone unanswered.

Southwark's Local List of Requirements ¹ requires a Noise Impact Assessment to support planning applications where:

"the proposed development involves the installation of any plant or equipment or the carrying out of any operations, activity or use that may adversely affect adjoining or nearby noise sensitive properties".

The application is invalid due to the absence of a Noise Impact Assessment. Neither is it demonstrated within the application how the Noise Standards within Council's Technical Guidance for Noise could be achieved. ²

¹ VALIDATION CHECKLIST: APPLICATION FOR FULL PLANNING PERMISSION – MINOR & SMALL-SCALE (1-9 dwellings, commercial up to 999sqm and other minor developments)

² London Borough of Southwark Technical Guidance for Noise Amended November 2019

Importantly, a Planning and Design and Access Statement supporting the application places significant weight on the Premises Licence granted by the Council. This puts the cart before the horse and should not be treated as a material consideration justifying planning permission.

Maladministration in the grant of Premises Licence 866850

I complain that the Premises Licence was granted contrary to the Premises (Licensing Act) 2003 and the Council's published Statement of Licencing Policy.

The Council issued the Licence to premises that did not have planning permission for use as a Class A4 (Drinking establishment). This amounted to maladministration by the Council. Further, despite five requests to Southwark's Regulatory Services the Council has failed to review the Licence.

Premises (Licensing Act) 2003

Section 4 of the Act '*General duties of licensing authorities*' states:

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

(2) The licensing objectives are—

(a) the prevention of crime and disorder;

(b) public safety;

(c) the prevention of public nuisance; and

(d) the protection of children from harm.

(3) In carrying out its licensing functions, a licensing authority must also have regard to—its licensing statement published under section 5." (Emphasis added)

The grant of the Premises Licence has resulted in crime, caused a public nuisance due to noise and the Council failed in its duty under section 4(3) of the Act – see further below.

Section 5 of the 2003 Act requires each licensing authority to prepare and publish a statement of licensing policy every five years. The policy statement is expected to set out, for the benefit of applicants, responsible authorities **and members of the local community**, how the authority intends to approach its licensing responsibilities under the Act.

Southwark Statement of Licencing Policy

The Southwark Statement of Licencing Policy (for 2019–2021) was adopted at council assembly on 27th March 2019 prior to the grant of the Premises Licence at 59 Lant Street.

Paragraph 105 of the Statement of Licencing Policy states:

"this Authority will look to ensure proper integration with the planning regime. While it is understood that there is no legal basis for a licensing authority to refuse a license application solely because it does not have planning permission, it would be inconsistent for the authority to give a licence for an activity when planning permission for the same activity has been refused. Therefore, it is expected that applications for premises licences for permanent commercial premises should normally be from businesses with relevant planning consent for the property concerned. This

applies equally to applications seeking a licence intended to facilitate a change of use / type of operation. Where this is not the case, the council would expect the applicant to address the reasons why planning permission had not been firstly sought and / or granted and provide reasons as to why licensing consent should be."

The Lant Street Wine Company's application was silent on the absence of planning permission.

Additionally, the grant of the Premises Licence conflicted with Southwark Statement of Licensing Policy paragraph 121 - '*Location and other relevant considerations*' that states the following will be taken into account:

- *The location of the premises and their character*
- *The physical suitability of the premises for the proposed licensable activities i.e. in terms of safety, access, noise control etc."*

The location immediately beneath my home, the construction of the building with inadequate soundproofing, servicing arrangements and cumulative impact with the Gladstone Public House diagonally opposite make the ground floor of the premises wholly inappropriate for a public drinking establishment. The Council's Abatement Notice under the Environmental Protection Act evidences this.

Summary of complaint

In granting the Premises Licence at 59 Lant Street the Council failed to act in accordance with its Statement of Licensing Policy thereby contravening section 4(3) of the Premises Licensing Act 2003. The drinking establishment failed to promote the licensing objectives.

The borough's residents have an expectation that the Council will act in accordance with the law and its published policy.

Section 51 of the Licensing Act 2003 provides that at any stage, following the grant of a premises license a responsible authority, or any other person, may ask the licensing authority to review the license because of a matter arising at the premises in connection with any of the four licensing objectives.

I would be pleased for confirmation that my complaint is upheld and how the authority intends to remedy this situation.

Please let me know whether you require any further information or copies of any documents.

Yours sincerely,

Signed



cc.

Shanali Counsell - Planning Officer

Councillors Adele Morris, Victor Chamberlain and David Noakes.

Your Ref. ICW

Eleanor Kelly
Chief Executive
London Borough of Southwark
160 Tooley Street
London SE1 2QH

[REDACTED]
[REDACTED]
[REDACTED]

[REDACTED]

By email to:

CCU@southwark.gov.uk,
eleanor.kelly@southwark.gov.uk

5th October 2020

Dear Ms Kelly,

Lant Street Wine Company, 59-61 Lant Street, SE1 1QN
Review Stage Complaint of Maladministration in the Grant of Premises Licence 866850

1. On 2nd July 2020, I made a Stage 1 Complaint about the grant of the above Premises Licence on 8th April 2019 that resulted in an unlawful drinking establishment being established at 59 Lant Street [REDACTED] my home.
2. On 17th July 2020, David Franklin Team Leader Licensing Unit contended my complaint is "*unfounded*". I am disappointed that the letter comes from the department of which I complain not Corporate Complaints to whom it was addressed. I am not satisfied with the response and wish to refer my complaint to the Review Stage.
3. In summary, I complain the Council:
 1. Failed to ensure the application for the Premises Licence had been advertised in accordance with regulations made by the Secretary of State;
 2. Breached the Premises (Licensing Act) 2003 failing to assess the application against Southwark's Statement of Licencing Policy & Technical Guidance for Noise, the Southwark Local Plan and government guidelines resulting in failure to promote the Act's licencing objectives;
 3. Has failed to accept responsibility to review the Premises Licence;
 4. Has failed to enforce against unlawful changes of use at 59 and associated advertising;
 5. Has failed to provide environmental information;
 6. An objection to planning application 20/AP/1372 remains on the Council's web site despite requests for its removal.
4. I append extracts from the Southwark Local Plan. I also attach a Monitoring Log of activity at 59 Lant Street following my complaint to Southwark Regulatory Services on 1st October 2019 and noise measurements recorded within my home on Friday 18th October 2019. Please note my response is hampered due to complaint 5 – absence of environmental information – please see my unanswered letter of 18th August 2020 to the Information Governance Team attached.

FAILURE TO ENSURE STATUTORY ADVERTISING OF THE PREMISES LICENCE APPLICATION

5. My letter of 2nd July 2020 explained publicity of the licence application failed in this case. I received no notification from the Council or the applicant. The entrance to the residential accommodation in the building 59 Lant Street / 6 Vine Yard is in Vine Yard where no advertisement was displayed by the applicant. I was not made aware of the application and unable to make a representation.

The Council's response

"The regulations state that the application has to be advertised on a blue notice at the premises where it can be read and in a local newspaper, there is no requirement to display more than one notice for premises less than 50 square metres. The applicant complied with this regulation."

Comment and complaint

6. The requirement for advertising at section 17 of the Act is that regulations made by the Secretary of State should ensure that an application is advertised ***"in a manner which is prescribed and is likely to bring the application to the attention of the interested parties likely to be affected by it."***
7. The Council's response misquotes the publicity requirements of Regulation 25 of The Licensing Act 2003 (Premises licences and club premises certificates) Regulations 2005 that require:

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

(i) which is—

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

(bb) of a pale blue colour,

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

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

(b) by publishing a notice—

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

8. The application premises comprised 59-61 Lant Street. Floorspace within No. 59 is 87 metres square & within No. 61 75 metres square both exceeding the 50 square metres stated in the Council's letter and the regulations (total 162 metres square). 59-61 Lant Street has a frontage to two highways – Lant Street and Vine Yard. **The advertisement required under Regulation 25 was not displayed in Vine Yard.**
9. When a licensing authority receives an application for a premises licence or an application to vary an existing premises licence, it must determine whether the

application has been made in accordance with section 17 of the Act and the regulations. This means that the licensing authority must consider whether the application has been properly advertised in accordance with the regulations.

10. The Home Office advises:¹

*"It is the responsibility of the applicant for putting the notice up, however **licensing authorities should consider where the signs should be placed and advise the applicant where appropriate, to ensure people will see them, in particular if an application is likely to be of interest to the public**". (paragraph 81)*

11. I complain the Council failed to ensure the necessary publicity had been undertaken and granted the licence without an advertisement having displayed in Vine Yard. I contend the application was neither lawfully made nor determined, the licence is null and void and should be revoked.

BREACH OF THE PREMISES (LICENSING ACT) 2003

12. Section 4 of the Act 'General duties of licensing authorities' provides:

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

(2) The licensing objectives are—

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

(3) In carrying out its licensing functions, a licensing authority must also have regard to—its licensing statement published under section 5."

13. Section 5 requires each licensing authority to publish a licensing statement setting out how the authority intends to approach its licensing responsibilities. The Southwark Statement of Licensing Policy (for 2019–2021) was adopted at council assembly on 27th March 2019.
14. My letter of 2nd July 2020 complained that the licence was not granted in accordance with section 4 of the Act, being in conflict with the Southwark Statement of Licensing Policy and also the Council's Technical Guidance for Noise without proper consideration given to the location and physical suitability of the premises for the licensed activities resulting in crime and public nuisance.

The Council's response

"You further wrote on the 29th October concerning this matter and you were duly advised that that there is no requirement under the Licensing Act 2003 for premises to obtain planning permission prior to the obtaining of a premises licence. This is confirmed in paragraph 14.64 of the Home Office Revised Guidance issued under s.182 of the Licensing Act 2003 (April 2018) which provides "The planning and licensing regimes involve consideration of different (albeit related) matters. Licensing committees are not

¹ Home Office Revised Guidance issued under section 182 of the Licensing Act 2003 April 2018

bound by decisions made by a planning committee, and vice versa". It is good practice for premises to obtain planning consent first but this is not a mandatory requirement."

"The Council officer acting as the Responsible Authority for Licensing considered the application with regards to the Statement of Licensing Policy and the premises location and did make representation within the consultation period on policy issues. These concerns were addressed by the applicant and the representation was withdrawn."

"Planning was consulted on the application and made no representation; however there is no legal basis to refuse a premises licence based solely because it does not have planning permission and planning consent for the proposed use had not previously been refused. "

"Applicants do have a choice in what order they apply for a premises licence and planning consent, our Policy recommends that the planning consent is obtained first".

"The Council's Environmental Protection Team were consulted on the application, they assessed the application in February 2019 and made no representation based on the hours of operation, the proposed operating schedule and no previous complaints."

Comment and complaint

15. My complaint under Head 2 may be sub-divided into three overlapping issues:

- Issue 1 - Grant of the licence in the absence of planning permission,
- Issue 2 - Failure to assess the suitability of the premises for the licensed activities, resulting in
- Issue 3 - Failure to promote the licencing objectives.

Issue 1 – Grant of the licence in the absence of planning permission

16. The requirement to obtain planning permission whilst not expressed in the Act falls within section 4 (3) that a licensing authority **"must"** have regard to its licensing statement published under Section 5. The intention is to properly integrate the licencing and planning regimes.

17. The Council's duty is explained at 'Integrating strategies' (paragraph 14.63) of the Home Office Revised Guidance:

*"It is recommended that statements of licensing policy should provide clear indications of how the licensing authority will secure the proper integration of its licensing policy with local crime prevention, **planning**, transport, tourism, equality schemes, cultural strategies and any other plans introduced for the management of town centres and the night-time economy. Many of these strategies are not directly related to the promotion of the licensing objectives, but, indirectly, impact upon them. **Co-ordination and integration of such policies, strategies and initiatives are therefore important."***

18. I complain Home Office guidance was ignored when the licence was granted in the absence of planning permission.

19. Southwark's Statement of Licencing Policy confirms:

General information

20. Paragraph 50. *"licensing law will always be a part of the **holistic approach** to the management of the evening and night-time economy in town and city centres."*

Other regimes

21. Paragraph 102. *"This Authority will look to ensure consistency, as far as is possible within law, with other licensing and consent regimes."*

22. Paragraph 105 then explicitly states:

- *"This Authority will look to ensure proper integration with the planning regime".*
- *"It is expected that applications for premises licences for permanent commercial premises should normally be from businesses with relevant planning consent for the property concerned".*
- *"This applies equally to applications seeking a licence intended to facilitate a change of use".*
- *"Where this is not the case, the council would expect the applicant to address the reasons why planning permission had not been firstly sought and / or granted and provide reasons as to why licensing consent should be".*

23. In addition, the Southwark Local Plan provides statutory policy for assessing applications for drinking establishments. (Appendix 1).

24. The Council should act as a corporate body. It is unacceptable for the Licensing Unit to say: *"Planning was consulted on the application and made no representation."* It is also irrelevant that *"planning consent for the proposed use had not previously been refused."* In conflict with the Statement of Licensing Policy, there is no evidence that the authority required the applicant to explain why planning permission had not been firstly sought and why licensing consent should be.

25. I complain there was no integration of the licensing and planning regimes. The licence was granted in the absence of planning permission contrary to the Statement of Licensing Policy (and by implication the Act), in the face of Home Office guidance and the Southwark Local Plan.

Issue 2 - Failure to assess the suitability of the premises for the licensed activities

26. The Statement of Licensing Policy (paragraph 121) requires the following matters to be taken into account:

- *"The location of the premises and their character*
- *The physical suitability of the premises for the proposed licensable activities i.e. in terms of safety, access, noise control etc."*

27. The Licensing Policy then sets out considerations that **"must"** be taken into account in determining an application for a premises licence or an application to vary an existing premises licence:

- Paragraph 123: Prevention of public nuisance.
- Paragraph 236: Preventing noise and vibration escaping from the premises, including from music played and customer noise.
- Paragraph 244: Consideration of whether physical works may be necessary to

prevent nuisance being caused to local residents the likelihood of which increases where residents live adjacent to, above or close by. Where physical measures are likely to be necessary expert advice should be sought on appropriate measures.

- Paragraph 245: Provision of sound insulation to party walls, floor and ceiling appropriate to the level of risk of nuisance.
- Paragraph 248: Confirmation that the environmental protection team will assess all licence applications for their impact on public nuisance.

28. The Council's Technical Guidance for Noise sets criteria for noise adopting British Standard 8233:2014 *"Guidance on sound insulation and noise reduction for buildings"* and World Health Organisation (W.H.O) guidelines.
29. No acoustic report or noise impact assessment was submitted with the application and the Council did not request such information to be provided.² I complain this was a fundamental failure given the location of the premises immediately beneath residential accommodation.
30. The physical unsuitability of the premises is demonstrated by the attached noise measurements taken within my flat on Friday 18th October 2019 that far exceed W.H.O. guidelines, Southwark's *"Technical Guidance for Noise 2019"* and BS 8233:2014.
31. The Council's letter of 17th July 2020 confirms that the Environmental Protection Team made no representation only considering the hours of operation, the proposed operating schedule and no previous complaints. It is clear that no assessment of the physical suitability of the premises was made. The absence of previous complaints is irrelevant as the drinking establishment at 59 only commenced following the grant of the licence not beforehand. Cumulative assessment with the Gladstone Arms public house diagonally opposite has also not been demonstrated contravening paragraph 127 of the Statement of Licencing Policy:

"The cumulative impact of licensed premises on the promotion of the licensing objectives is a proper matter for a licensing authority to consider within its licensing policy and is now included in the Licensing Act 2003 under section 5a".

32. The Council's Noise Abatement Notice served on 11th November 2019 demonstrates the inadequate construction of the premises for the licenced activities. Even a cursory inspection would have identified its physical unsuitability but there is no evidence of any such assessment.
33. In May 2020, thirteen months after the grant of the licence, the Lant Street Wine Company submitted a retrospective application (20/AP/1372) for planning permission to change the use of 59 from a warehouse to uses including a drinking establishment. The application was invalidated due to the absence of a Noise Assessment. An Acoustic Technical Note by RBA Acoustics dated 21st July 2020 was subsequently submitted. RBA's base calculation confirms that with the existing separating floor/ceiling construction of 59 the recommended noise criteria set for my flat would be exceeded and recommends that a 'second ceiling' be provided.

² Email from Vanessa Bascoe, Senior Information Systems Officer, 24th December 2019

34. It is also apparent that in granting the licence the Council gave no consideration to Policy 3.1 'Environmental Effects' or Policy 3.2 'Protection of Amenity' of the Southwark Local Plan. (Appendix 1).
35. The borough's residents have an expectation that their local authority should act in accordance with the law, its adopted policies and government guidance. The Council's letter of 17th July 2020 demonstrates that the licencing authority failed to give proper consideration to the location of the application premises, its physical suitability for the licenced activities, ignoring Southwark's Licencing Policy, the Technical Guidance for Noise and the Southwark Local Plan.

Issue 3 - Failure to promote the licensing objectives

36. In granting the licence the Council failed to promote licensing objectives (a) & (c) and breached paragraphs 40 & 42 of its Licensing Policy:
 - *"In carrying out its licensing functions the council will promote the four licensing objectives set out in the Licensing Act 2003" (paragraph 40)*
 - *"The legislation supports a number of other key aims and purposes. These are vitally important and should be principal aims for everyone involved in licensing work. They include: Protecting the public and local residents from **crime, anti-social behaviour and noise nuisance.**" (paragraph 42).*

The Council's response

37. The Council's letter of 17th July 2020 is silent on the licensing objectives but states:

"The Licensing Act requires under section 18(2) that all uncontested applications are granted as applied for and no hearing is required."

Comments and complaint

38. Section 18(2) of the Act only applies when the publicity requirements of section 17 (5) are met, not when an application is unlawful due to failure to comply with publicity requirements. The Home Office guidance states: *"A hearing is not required where an application has been **properly made**...."* (paragraph 9.2)
39. Southwark's Licencing Policy states:

*"If an application for a premises licence or club premises certificate **has been made lawfully** and there have been no representations from responsible authorities or other persons, this authority must grant the application, subject only to conditions that are consistent with the operating schedule and relevant mandatory conditions".* (paragraph 45)
40. I complain the licence has resulted in crime, anti-social behaviour and public nuisance. The Council's response fails to demonstrate that these matters were properly considered when the application was determined. The attached Monitoring Log demonstrates persistent failure to achieve the licensing objectives that include:
 - 26th October 2019 and 31st March 2020: Threats against me by the Lant Street Wine Company recorded by the Metropolitan Police as section 54A Public Order Offences – Crime Nos. 3042016/19 & 3022425/20.

- The Noise Abatement Notice served on 11th November 2019 due to “*statutory nuisance*” caused by the premises being unsuitable for the licenced activities.
 - Breaches of the Noise Abatement Notice on Thursday 14th November 2019, Sunday 8th December 2019. Saturday 14th December 2019, Thursday 27th January 2020, Tuesday 18th August 2020 and Monday 31st August 2020. Please note that the un-actioned on-line complaint on 8th December 2019 was made to the Noise Team not Mr. Williams of the Licensing Unit as asserted in the Council’s letter. Other events were not reported as the Noise Team declined to provide a copy of the Abatement Notice instructing a Freedom of Information request.
 - Persistent large-scale temporary events held in unsuitable premises. The Metropolitan Police attended the event on Tuesday 18th August 2020 due to public nuisance and anti social behaviour (Police Report 7963 18/08/2020).
 - Sunday 6th September 2020. Excessive noise from the constant playing of a piano from 11.30am onwards. Reported to Southwark Noise Team Ref. SWK-1239179.
 - Thursday 10th September 2020. Southwark’s Noise Team was unable to deal with public nuisance due to COVID restrictions. (Ref. SWK1240297).
41. At the very least, breach of objective (c) ‘*the prevention of public nuisance* should have been identified at application stage but was not.

FAILURE TO REVIEW THE PREMISES LICENCE

42. Five requests for the Council to review the licence have been declined. Given the circumstances of this case I maintain the licencing authority has a responsibility to review the licence.

The Council’s response

“Mr Williams informed you a number of times on how to apply for a review of the premises licence and provided you with a link to the Southwark website where the review application form and guidance can be found.

As you have failed to submit an application to review the premises licence the Council is unable to hold a review hearing before the Licensing Sub-Committee.”

“The Act states in s51(1) ‘Where a premises licence has effect, a responsible authority or any other person may apply to the relevant licensing authority for a review of the licence’. There is a statutory process and application form to apply for a review of a premises licence.”

“Additionally the revised guidance issued under section 182 of Licensing Act 2003 (April 2018) states in section 11.5 “it is not expected that licensing authorities should normally act as responsible authorities in applying for reviews on behalf of other persons, such as local residents or community groups. These individuals or groups are entitled to apply for a review for a licence or certificate in their own right if they have grounds to do so.”

Comments and complaint

- 50 The Council’s letter misquotes Section 51 of the Act that provides: “*Where a premises licence has effect a responsible authority, or any other person, may ask the licensing*

authority to review the license because of a matter arising at the premises in connection with any of the four licensing objectives”.

51 My previous letters constituted such a request.

52 The Council’s letter omits relevant parts of the Home Office Revised Guidance:

“Licensing authorities acting as responsible authorities

Licensing authorities are included in the list of responsible authorities”. (paragraph 9.13).

*“Licensing authorities are not expected to act as responsible authorities on behalf of other parties (for example, local residents, local councillors or community groups) **although there are occasions where the authority may decide to do so.** Such parties can make relevant representations to the licensing authority in their own right, and it is reasonable for the licensing authority to expect them to make representations themselves where they are reasonably able to do so. **However, if these parties have failed to take action and the licensing authority is aware of relevant grounds to make a representation, it may choose to act in its capacity as responsible authority**”.* (paragraph 9.14)

52. Southwark’s Statement of Licencing Policy confirms:

*“The licensing authority is included within the list of responsible authorities. This role will be undertaken within the authority’s licensing service. **This authority will determine when it considers it appropriate to act in its capacity as a responsible authority in accordance with its duties under section 4 of the 2003 Act.**”* (paragraph 89).

53. Paragraph 95 reiterates Section 51 of the Act:

“Licence reviews

At any stage following the grant of a premises licence, a responsible authority or other persons, may apply for a review of that licence because of a matter arising at the premises in connection with any of the four licensing objectives”. (paragraph 95)

54. I maintain the Council has failed to use its powers under the Act, ignored Home Office guidance and its own Licencing Policy failing to review the licence as requested. Given the application was unlawfully made due to non-compliance with statutory publicity requirements, and the failure to promote the licencing objectives; I contend the licence should now be unilaterally reviewed.

FAILURE TO ENFORCE AGAINST THE UNLAWFUL CHANGE OF USE

55. It is over 15 months since the drinking establishment first opened without planning permission and a year since my first letter of complaint on 30th September 2019 to Planning Enforcement about the unlawful use and the installation of an illuminated advertisement.

56. In representations on the retrospective planning application, I complained that 59 is also being used as an unauthorized shop / showroom operating seven days a week causing noise and disturbance frequently until midnight with no control over hours of

operation. I have also complained about unlawful advertising that remains in situ.

57. Southwark's Statement of Licencing Policy "**SECTION TWELVE – ENFORCEMENT**" provides:

Paragraph 295: *"It is essential that licensed premises operate in accordance with the Act and comply in full with licence terms, conditions and restrictions at all times."*

Paragraph 296: *"Part of the licensing authority's role is to monitor premises operation and take appropriate enforcement action to promote the licensing objectives; support good management practice; and protect the local community. This authority recognizes the importance of the enforcement role and will work in partnership with all relevant agencies to promote the licensing objectives, taking effective enforcement actions where appropriate."*

58. Southwark has also published a Planning Enforcement Plan January 2017. The Executive Summary confirms:

"...sometimes development goes ahead without planning permission and this can have a harmful impact on the environment. In these circumstances, the Council will take planning enforcement action to rectify the breach of planning control."

"Enforcement action will be taken when it is expedient to do so. The assessment of expediency is based on the Council's planning policies, the merits of the development and any other material considerations."

59. Priorities include: *"Unauthorised development that directly impacts on living conditions"*.

The Council's response

"The active planning enforcement investigation 19/EN/0482 was created on the 1st October 2019 following reports of the unauthorised use of the premises. The site was visited on the 22nd October 2019."

"The council then issued the owners with a Planning Contravention Notice on 8 November 2019 to establish the day to day use of the premises. The owner responded to this notice and it was subsequently concluded that a breach of planning control had occurred."

"A report was drafted recommending that formal enforcement action be taken. This report was agreed in late December 2019. Action at that time was delayed as the premises was closed over the new year. The owners also confirmed a planning application was to be submitted to rectify the breach. Action was then deferred following the commencement of COVID lockdown restrictions."

The enforcement case remains active. Currently the application 20/AP/1372 is deemed invalid as they haven't submitted a Noise Impact Assessment. On receipt of this assessment the application would be validated and it would then go through the planning process including neighbour notifications."

Comments and complaint

60. Two enforcement matters arise.
61. Firstly, Southwark's Statement of Licencing policy confirms: *"a premises licence or temporary event notice **cannot be used unless all other relevant consents are in place.*** (Paragraph 111).
62. Whilst Mr. Williams endeavored to enforce compliance with conditions attached to the licence and warned the Lant Street Wine Company that large scale temporary events should not be held; there is no evidence that the company was instructed to cease the use of 59 as a drinking establishment given the licence should not have been used in the absence of planning permission.
63. Secondly, regarding the Planning Act, in a meeting with Councillor Adele Morris (Chair of the Licencing Committee) on 8th November 2019, I requested that an Enforcement Notice and a Stop Notice (including a Temporary Stop Notice) be served.
64. On 12th December 2019, Lisa Jordan, Planning Enforcement officer informed me she was recommending an Enforcement Notice and would discuss a Stop Notice within the Department. On 13th December, I emailed her manager, Alison Brittan, attaching notes of Councillor Morris' visit to my home.
65. On 19th December, I received a message from Gavin Blackburn of the Planning Department who made the following points:
- *"When issuing a stop notice (temporary or otherwise) the Council has to be absolutely sure that they have the breach of planning control precisely and accurately described. It is open to the recipient to seek compensation of the breach complained of has not occurred."*
 - *"Lisa has made an assessment that an unauthorised use as a bar has occurred and should be enforced against. I agree with that assessment and will recommend that course of action to the Director of Planning."*
 - *"I understand that Lant Street Wines have arranged particular events in the run up to Christmas, which they aren't prepared to stop voluntarily. They have indicated that they maybe willing to review matters in the New Year."*
 - *"I don't doubt the use of the premises as a bar is disruptive to you. Possibly the impact effects your flat more than any other. In the past the Council have served stop notices in instances where there has been more than one complainant."*
 - *"I'm not prepared to recommend service of a stop notice. This is because the use is somewhat sporadic and not definitive. There also seems to be some scope for the use to scale down after Christmas."*
 - *"To issue a notice of any sort a process of approval by the Director of Planning has to be gone through and the matter reviewed by the Council's legal department. In practice that will mean a notice is issued in the new year."*
 - *"I am going to keep the question of a stop notice open, so that it can be reconsidered in the new year, but today it is not something I'm willing to recommend."*
66. I replied to Mr. Blackburn by letter on 20th December explaining:
- The use of 59 clearly amounts to a material change of use requiring planning permission.

- The nuisance caused.
 - Why I considered the Premises License was granted unlawfully.
 - Given there is no doubt that that an unlawful change of use has occurred there can be no ground for compensation following a Stop Notice.
 - It is incorrect to speculate on conditions after Christmas. The nuisance has subsisted generally twice a week since the summer; the bar has been licensed for 7 days a week and the Lant Street Wine Company tell me that is their intention.
 - It is immaterial that I am the sole resident directly affected.
 - It is expedient and proportionate to serve both an Enforcement Notice and a Stop Notice.
67. My letter to Mr. Blackburn went unanswered.
68. Contrary to officer recommendations no planning enforcement notices have been served despite the use conflicting with amenity policies in the Southwark Local Plan.
69. The application for planning permission 20/AP/1372 remains invalid including due to the Lant Street Wine Company's false declaration on the application form (and also in their covering letter) that notice was served on six owners of the building (please see my representations of 25th June and 1st September 2020). The Council has not required the applicant to correct this. Neither has the authority publicised the application. On 7th July, Dennis Sangweme (Group Manager – Validation & Fast Track) confirmed to Councillor David Noakes that a "*new round of letters*" would be sent. I have received no such notification and the owners of Flats 2 & 7, 6 Vine Yard and 57 Lant Street have confirmed they have not been notified.
70. On 20th August and 11th September, I emailed Mr. Franklin asking whether the company gave a Temporary Events Notice for the event held on 18th August 2020 (see Monitoring Log) and the steps the Council intends to stop such events, warnings by Justin Williams, Licencing Enforcement, being ignored. I received no reply.
71. The drinking establishment should not have commenced without planning permission. The six months between my first complaint and the Covid 19 directions commencing 23rd March 2020 provided ample time but no enforcement (other than a Planning Contravention Notice) was instigated. During much of this period I was driven out of my home typically twice weekly. Subsequently, neither the Licencing Unit nor Planning has taken enforcement action to secure the cessation of the unlawful A4 use, the showroom at 59 or the holding of temporary events. Unlawful advertisements also remain.

FAILURE TO PROVIDE ENVIRONMENTAL INFORMATION

72. The Council's Noise Team declined to provide a copy of the Abatement Notice dated 11th November 2019 instructing a FOI request.
73. On 7th November 2019, I requested information from the Information Governance Team about the grant of the premises licence. On 15th November, as instructed by Justin Williams and Martin Talbot (Noise Team Leader), I requested additional information on the Licencing Unit's attempts to enforce conditions on the license and a copy of the Noise Abatement Notice.

74. Vanessa Bascoe, Senior Information Systems Officer replied on 24th December 2019 but withheld some of the requested information including a copy of the Abatement Notice. The reason given was: *"under regulation 12(5)(b) of the Environmental Information Regulations including - The course of justice, fair trial or inquiry of a criminal or disciplinary nature."*
75. On 2nd January 2020, I wrote further to Vanessa requesting a copy of the plans that accompanied the premises license application, the Council's Delegated Report on the licence application and asked how the Abatement Notice could be accessed. I received no reply.
76. On 18th August 2020, given the Council's letter of 17th July 2020 and the Acoustic Technical Note by RBA Acoustics raise matters relevant to my both complaint and the application for planning permission; I made a further request to the Information Governance Team under the Environmental Information Regulations 2004 (copy attached). I sent a reminder on 8th September. To date, the requested information has not been supplied.
77. I complain the Council has failed to respond to my request with the statutory timescale. I do not accept that any of the information requested is exempt from disclosure

PUBLICITY OF OBJECTIONS TO PLANNING APPLICATION ON SOUTHWARK'S WEB SITE

78. There is no statutory requirement that representations on planning applications are published. Due to threats against me by the Lant Street Wine Company, I have asked that my representations be not published. Contrary to my request, my letter of 1st September 2020 objecting to planning application 20/AP/1372 appears on the Council's web site. Despite four requests it has not been removed.

SUMMARY OF REVIEW STAGE COMPLAINT

79. I do not accept my Stage 1 complaint was *"unfounded"*. I contend the Council's response is factually incorrect, legally flawed and fails to address my complaint of maladministration in the processing of the premises licence application:
 - The Lant Street Wine Company failed to comply with the Secretary of State's publicity requirements that went uncorrected by the authority.
 - The authority contravened section 4(3) of the Act, failing to determine the application in accordance with the Southwark Statement of Licencing Policy with no assessment made of the suitability of the premises for the licenced activities. No regard was paid to the Council's Technical Guidance for Noise. The licence was granted for premises without planning permission involving a change of use that conflicts with the Southwark Local Plan.
 - The licence has resulted in premises that have failed to promote the Act's licensing objectives.
80. The licence should not have been used in the absence of other relevant consents but other than warnings, neither the Licencing Unit nor Planning Enforcement have taken any action in a period now exceeding 12 months to secure the cessation of the unlawful

use of 59 including temporary events or the showroom use. The application for planning permission remains invalid.

81. Despite five requests, the authority has failed to accept its responsibilities and use its powers to review the premises licence.
82. Requested environmental information has not been supplied.
83. I would be pleased hear that my complaint is upheld and how the authority intends to remedy this situation. Please let me know if you require any further information or copies of any documents.

Yours sincerely,

Signed

[REDACTED]

cc. Councillors Adele Morris and David Noakes
David Franklin, Licencing Unit
Michael Wood, Planning Enforcement

Appendix 1 Extracts from the Southwark Local Plan
Attachments Monitoring Log - Activity at 59 Lant Street
Noise measurements within [REDACTED] Vine Yard Friday 18th October 2019
Letter 18th August 2020 to the Information Governance Team

Appendix 1 – Planning Policy

Southwark Local Plan 2007 ‘saved’ policies:

Policy 3.1 - Environmental Effects - *“Planning permission for the establishment of uses that would cause material adverse effects on the environment will not be granted, and proposals for activities that will have a material adverse impact on the environment and quality of life will be refused.”*

Policy 3.2 – Protection of Amenity - *“Planning permission for development will not be granted where it would cause loss of amenity, including disturbance from noise, to present and future occupiers in the surrounding area or on the application site.”*

New Southwark Plan Submission Version:

Policy P55 - Protection of amenity - *“Development should not be permitted when it causes an unacceptable loss of amenity to present or future occupiers or users.”*

Your Ref. 2235759

Customer Resolution Team
PO Box 64529
London SE1P 5LX

By email to:

Anita.Makwana@southwark.gov.uk.

23rd November 2020

Dear Ms Makwana,

Lant Street Wine Company, 59-61 Lant Street, SE1 1QN
Review Stage Complaint

1. I refer to your findings of 13 November 2020. You ask that I elaborate on my request for environmental information and invite any questions.
2. It is 14 months since I first complained about the unlawful use of 59 Lant Street. Since then the authority has failed to stop activities that have repeatedly driven me from my home, necessitated involvement by ward members, my MP, the Metropolitan Police and the Council's Noise Team.
3. Your findings fail to acknowledge regulatory failures and do not resolve a situation that cannot persist indefinitely.

Absence of Site Notice in Vine Yard

4. Officers now accept that the premises licence application was not advertised in accordance with the Secretary of State's Regulations as no site notice was displayed in Vine Yard but dismisses this as being entirely the applicant's responsibility.
5. Paragraphs 10 & 11 of my Review Stage Complaint rehearsed Home Office's guidance that licencing authorities should check that applications are lawfully made and ensure the necessary publicity has been undertaken. I repeat this failure was fundamental maladministration that caused these on-going problems.
6. The Licensing Unit's reference to the "Funky Mojoe" case is irrelevant. I have not complained about "minor errors" in the blue site notice having never seen it. My complaint is that no notice at all was displayed in Vine Yard and went uncorrected by the authority.
7. The Lant Street Wine Company failed to comply with the Regulations and has caused significant prejudice that is "fatal" to the application and should result in the revocation of the licence on the ground that it was unlawfully made.
8. The "*Corporation of the Hall of Arts and Sciences v The Albert Court Residents' Association*" case is also irrelevant. I agree there is no duty on a licensing authority to advertise applications or to take steps to notify anyone affected by them. My complaint is that the authority failed to ensure that the Lant Street Wine Company had advertised the application in accordance with statutory requirements. My ward councillor informed me that the application was supported by plans.

These would have shown the premises has a frontage to two highways but the officer who inspected the site failed to ensure a notice was displayed in Vine Yard where the entrance to the residential accommodation in the building is located. The Lant Street Wine Company employed the same tactic of non-compliance with statutory publicity requirements including false declarations in their application for planning permission deliberately attempting to prevent representations.

9. Your findings claim: *"Because the relevant representations were conciliated with the ward member and Licensing Responsible Authority, there would have been a statutory duty to issue the premises licence."* When Councilor Morris, ward member and Chair of Licensing, visited my home on Friday 8th November 2019 she informed me that she had not appreciated the application premises was the warehouse 59 Lant Street beneath my home, not the room at the rear of the wine shop 61 Lant Street (see the top of page 2 of my meeting notes dated 9th November 2019 – attached). I fail to see how relevant representations could have been conciliated with the ward member who was unclear about the location of premises and was unaware that the application had not been lawfully advertised.
10. Had the required statutory notice been displayed in Vine Yard, I would have seen it and objected in the strongest terms. The absence of a display has necessitated:
 - Persistent Noise Team call outs,
 - Ward member visit to my home,
 - Continual involvement by Metropolitan Police,
 - Physical threats against me and *"common assault"*,
 - Volumes of unnecessary correspondence with much time and expense wasted by all parties.

And, this will continue until the matter is resolved and my residential amenity restored.

11. Given the circumstances that have persisted for 18 months, it is clearly proportionate that the licencing authority should withdraw the premises licence on the ground that it was unlawfully made. Please explain why the Lant Street Wine Company cannot be told to submit a lawful application to enable its full and proper consideration as required by law.

Breach of the Premises (Licensing Act) 2003 failing to assess the application against Southwark's Statement of Licencing Policy & Technical Guidance for Noise, the Southwark Local Plan and government guidelines resulting in failure to promote the Act's licensing objectives

12. Your findings fail to address paragraphs 12-41 of my Review Stage Complaint being entirely concerned with the lack of objection to the application. I have explained this was caused by non-compliance with statutory publicity requirements that went uncorrected.
13. Whether objections are received or not, the licencing authority **MUST** consider applications against the Act including the licencing objectives and its Statement of Licencing Policy. You fail to provide evidence of any such assessment. The Council must act as a corporate body and no or inadequate response by the Planning Department and the Environmental Protection Team is no excuse. There was no integration of the licencing, environmental protection and planning regimes.

Failure to review the Premises Licence

14. Your findings do not address paragraphs 42-54 of my Review Stage Complaint merely reiterating Home Office Guidance paragraph 11.5. The findings fail to address my assertion that Mr. Franklin's reply to my Stage 1 Complaint omitted relevant parts of the Guidance and fail to acknowledge that a licensing authority may choose to act as a responsible authority if it is aware of relevant grounds (paragraph 9.14).
15. Your findings also ignore Southwark's Statement of Licencing Policy that says the authority will determine when it considers it appropriate to act in its capacity as a responsible authority (paragraph 89). Contrary to your findings, a review of the premises licence is not dependent on an application from myself and I fail to see why this should be necessary.
16. I maintain the Council has failed to use its powers under the Act, ignored Home Office guidance and its own licencing policy failing to review or revoke the licence as requested. Please explain why the authority has not used its powers to act unilaterally given the application was unlawful and the problems that have ensued.

Failure to enforce against unlawful changes of use at 59 and associated advertising

17. Thank you for confirming that the final preparation of a planning enforcement notice is being processed. I first requested enforcement to secure compliance with planning control on 30th September 2019. Southwark says a "priority" is enforcement against unauthorised development that directly impacts on living conditions which is the case here. Please explain why there has been a failure to enforce against a priority case for 14 months, confirm when the enforcement notice will be served and that this will include a stop notice.
18. Neither do the findings address my complaint that the Licensing Unit failed to stop the use of 59 as a drinking establishment that has persisted for 18 months without planning permission. Southwark's Statement of Licencing policy unequivocally confirms: "*a premises licence or temporary event notice **cannot be used unless all other relevant consents are in place***" (paragraph 111).
19. Please confirm how long after a premises licence is granted does the Licencing Unit allow a drinking establishment to operate in the absence of other relevant consents?
20. You fail to confirm whether any steps that have been taken to secure the removal of illegal advertising.

Failure to provide environmental information

21. You say: "*There is no environmental information to provide*" but ask me to elaborate if I would like particular information.
22. I have explained my complaint is hampered by the failure to provide requested information. This is detailed at paragraphs 72-77 of my Review Stage Complaint. I now attach my request of 18th August 2020 to the Information Governance Team that may not have been passed to you.

Request

23. This matter can be resolved if the Council:
- Withdraws the premises licence on the ground that it was unlawfully made, and
 - Serves a planning enforcement notice and stop notice against the unauthorised uses at 59.
24. The Lant Street Wine Company could then submit a properly made application for a premises licence that could be given full consideration by the licencing authority. The company will also have a right of appeal against the planning enforcement notice to the Planning Inspectorate.
25. Please can you urgently confirm the Council's intentions. I trust this matter can be resolved without necessitating referrals to the Local Government Ombudsman and the Information Commissioner.
26. Please can you acknowledge receipt of this letter.

Yours sincerely,

Signed



cc:

Eleanor Kelly Chief Executive
Councillors Adele Morris and David Noakes
Neil Coyle MP
Simon Bevan Director of Planning
Alison Brittan Head of Planning Enforcement
Michael Wood, Planning Enforcement
David Franklin – Team Leader Licensing Unit

Attachments:

Notes of meeting with Councilor Morris dated 9th November 2019
Letter 18th August 2020 to the Information Governance Team

Complaint - Noise, Town Planning & Licensing, 59 Lant Street, SE1 1QN

Notes of meeting and site visit with Councilor Adele Morris Friday 8th November 2019

Breach of town planning control (Town and Country Planning Act 1990)

We discussed my request that an Enforcement Notice and a Stop Notice are served.

C’lrr Morris advised a planning officer has visited the premises and a Planning Contravention Notice (PCN) issued. I explained I do not want the Council to invite an application for planning permission because of the time involved including any appeal to the Government’s Planning Inspectorate. A PCN is a precursor to planning enforcement and without an enforcement notice there would be no requirement for the unlawful use to cease. Should the Lant Street Wine Company wish unilaterally to make a retrospective application for planning permission that is their right but it should not delay enforcement.

My request is that initially there should be a **Temporary Stop Notice** (under section 171E of the Planning Act) requiring the unlawful use to stop immediately. The prohibition lasts for 28 days and can be served if there has been a breach of planning control and it is expedient that the activity is stopped immediately.

This should be followed by an **Enforcement Notice** (under section 172) requiring the use to cease. An Enforcement Notice comes into effect usually after 28 days. There is a right of appeal to the Planning Inspectorate, including on the ground that planning permission should be granted. The Enforcement Notice should be accompanied by a **Stop Notice** (under section 183) extending the prohibition of the Temporary Stop Notice.

Noise Nuisance - Control of Pollution Act 1990

I explained my opinion that a statutory nuisance (defined in section 79 of the Act) is being caused. I explained the Noise Team visited my flat on 11th October and said I would be advised in writing of intended remedial measures. I had then provided the Noise Team Leader with Noise Measurements recorded in my flat demonstrating decibel readings far exceeding the Council’s published “*Technical Guidance for Noise January 2017*”. I promised to resend those letters to C’lrr Morris for assistance.

I explained that the requested **Abatement Notice** (under section 80) has not been served. I was asked to re-contact the Noise Team should I be affected by noise again, and been informed that if the noise is witnessed and constitutes a Statutory Nuisance appropriate action would be taken. As my complaint does not involve a one off occurrence, C’lrr Morris agreed I could not be expected to contact the Noise Team weekly.

C’lrr Morris said if necessary the Council’s Environmental Protection Department could install noise monitoring equipment in my flat.

Premises (Licensing) Act 2003

I explained my concerns about the grant of the License to unlawful premises lacking planning permission, persistent breaches of the conditions, intimidation and my request that the License is revoked.

C’Ilr Morris indicated that as Chair of Licensing she had not appreciated the application premises was the warehouse 59 Lant Street beneath my home, not the room at the rear of the wine shop 61 Lant Street. We agreed that the use of that room would not be problematical given the location beneath office accommodation and having been used for ‘tastings’ for many years.

I explained that publicity of the application had failed. I had not been informed by the applicant, nor consulted, no notice had been placed in Vine Yard and I had been unable to make representations against the license application.

C’Ilr Morris assured me the “responsible bodies” would have been consulted but I questioned whether this included the Council’s Environmental Protection and Planning Departments. I have asked for confirmation by a FOI request.

My complaint about the grant of the Premises Licence has been assigned to Mr Williams, a License Enforcement Officer. It appears it is not his role to explain why the License was granted.

We disagreed on whether there has been maladministration. C’Ilr Morris advised that it was not possible to refuse a premises license due to the absence of planning permission and referred to attempts to amend the 2003 Act. Whilst agreeing the legislation is separate, in considering the application the Council **must** have regard to its statutory Statement of Licensing Policy (sections 4 & 5 of the Act). Paragraphs 50, 51 and 105 of Southwark’s published Statement of Licensing Policy 2019–2021 commit the Council to act “holistically” and not grant licenses to premises lacking the necessary planning permission without adequate explanation.

C’Ilr Morris confirmed that for the Council to review the Premises License there must be a formal application (section 51). She advised this should be framed around the four licensing objectives and that I should keep a monitoring record of activity at the bar including visits by the Noise Team. I confirmed I have kept records since 11th October but this was now difficult given a threat of physical violence from the son of the Premises License holder and I no longer wished to enter the bar.

[REDACTED]

9th November 2019

From [REDACTED]

Sent: Friday, February 19, 2021 10:55 AM

To: Mills, Dorcas <Dorcas.Mills@SOUTHWARK.GOV.UK>

Subject: Re: Review of Premises Licence 866850 Ref.1592457 - 59 Lant Street SE1 1 QN

Dear Dorcas,

In our telephone conversation you indicated the licencing and planning regimes are two separate functions. Whilst subject to separate legislation the law requires that the two functions must be integrated by licencing authorities. Please see my Review Stage letter 6th October 2020 to the Chief Executive:

Paragraphs 12 & 16 - THE PREMISES (LICENSING ACT) 2003 section 4 provides at (3) *"In carrying out its licensing functions, a licensing authority **must** also have regard to—its licensing statement published under section 5."*

Paragraph 22- Southwark's Statement of Licencing Policy (para 105) explicitly refers to the need for planning permission.

Paragraph 24 - The Council should act as a corporate body.

Paragraph 26 - Southwark's Statement of Licencing Policy (paragraph 121) requires the following to be taken into account:

- *"The location of the premises and their character*
- *The physical suitability of the premises for the proposed licensable activities i.e. in terms of safety, access, noise control etc."*

Paragraph 27 - Considerations that **"must"** be taken into account in determining an application for a premises licence.

Paragraph 31 – Cumulative impact.

Para 32. The Noise Abatement Notice demonstrates the inadequate construction of the premises for the licenced activities.

Paragraph 34. In determining a premises licence application Southwark's Local Plan is a material consideration.

Paragraph 61 - Southwark's Statement of Licencing policy states: "a premises licence or temporary event notice cannot be used unless all other relevant consents are in place.

Paragraph 71. The drinking establishment should not have commenced without planning permission.

The disturbance caused to my residential amenity by the bar since mid 2019 constitutes anti-social behaviour that falls within Licening objective c)

the prevention of public nuisance. Further, the Council's Enforcement Notice requires the cessation of the bar use as it causes significant harm to neighbouring residents amenity through disturbance and noise spill which has not been properly assessed or mitigated against and also falls within Licencing objective c).

I hope this is helpful.

Kind regards,

■■■■■