

## Licensing Sub-Committee

December 14 2009

10.00 am

Town Hall, Peckham Road, London SE5 8UB

### Membership

Councillor Sandra Rhule  
Councillor Mackie Sheik  
Councillor Althea Smith

### Reserves

Councillor Ian Wingfield

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### INFORMATION FOR MEMBERS OF THE PUBLIC

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#### Contact

Sean Usher on 020 7 525 7222 or email: [sean.usher@southwark.gov.uk](mailto:sean.usher@southwark.gov.uk)

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Members of the committee are summoned to attend this meeting

**Annie Shepperd**

Chief Executive

Date: December 4 2009



## Licensing Sub-Committee

Monday December 14 2009  
10.00 am  
Town Hall, Peckham Road, London SE5 8UB

### Order of Business

Item No.	Title	Page No.
	<b>PART A - OPEN BUSINESS</b>	
1.	<b>APOLOGIES</b>	
	To receive any apologies for absence.	
2.	<b>CONFIRMATION OF VOTING MEMBERS</b>	
	A representative of each political group will confirm the voting members of the committee.	
3.	<b>NOTIFICATION OF ANY ITEMS OF BUSINESS WHICH THE CHAIR DEEMS URGENT</b>	
	In special circumstances, an item of business may be added to an agenda within five clear days of the meeting.	
4.	<b>DISCLOSURE OF INTERESTS AND DISPENSATIONS</b>	
	Members to declare any personal interests and dispensation in respect of any item of business to be considered at this meeting.	
5.	<b>LICENSING ACT 2003 - SEBASTIAN NIGHT CLUB</b>	1 - 68
6.	<b>REGISTRATION UNDER THE MANUFACTURE AND STORAGE OF EXPLOSIVES REGULATIONS 2005 365 WALWORTH ROAD, LONDON SE17 2AL</b>	69 - 107
7.	<b>LICENSING ACT 2003 - BANANA'S BAR, 374 WALWORTH ROAD, LONDON SE17</b>	108 - 157

**ANY OTHER OPEN BUSINESS AS NOTIFIED AT THE START OF THE MEETING AND ACCEPTED BY THE CHAIR AS URGENT.**

**Item No.**

**Title**

**Page No.**

**PART B - CLOSED BUSINESS**

**EXCLUSION OF PRESS AND PUBLIC**

The following motion should be moved, seconded and approved if the sub-committee wishes to exclude the press and public to deal with reports revealing exempt information:

“That the public be excluded from the meeting for the following items of business on the grounds that they involve the likely disclosure of exempt information as defined in paragraphs 1-7, Access to Information Procedure rules of the Constitution.”

**ANY OTHER CLOSED BUSINESS AS NOTIFIED AT THE START OF THE MEETING AND ACCEPTED BY THE CHAIR AS URGENT.**

Date: December 4 2009

# Agenda Item 5

<b>Item No. 5</b>	<b>Classification:</b> Open	<b>Date:</b> December 14 2009	<b>MEETING NAME</b> Licensing Sub-Committee
<b>Report title:</b>		<b>LICENSING ACT 2003</b> <b>Sebastians Bar Restaurant 49/51 Norwood Road SE24.</b>	
<b>Ward(s) or groups affected:</b>		<b>Premises are within: Village</b>	
<b>From:</b>		<b>Strategic Director of Environment and Housing</b>	

## RECOMMENDATION

1. That the licensing sub-committee considers an application made by Courtney Sebastian Millanaise and Colton George Folkes, for a variation of the premises licence granted under the Licensing Act 2003 in respect of the premises known as Sebastians Bar Restaurant, 49/51 Norwood Road, SE24.

### Notes:

- *This application forms a variation application, under section 34 of the Licensing Act 2003. The application is subject to representations from responsible authorities and interested parties and is therefore referred to the sub-committee for determination;*
- *Paragraphs 7 to 9 of this report provide a summary of the application under consideration (a copy of the full application is provided at appendix A)*
- *Paragraphs 10 to 13 of this report deal with the representations received (copies of the relevant representations and replies are attached at appendices B and C).*

## BACKGROUND INFORMATION

### The Licensing Act 2003

2. The Licensing Act 2003 received royal assent on 10 July 2003. The Act provides a new licensing regime for
  - the sale of and supply of alcohol
  - the provision of regulated entertainment
  - the provision of late night refreshment
3. The Act requires the licensing authority to carry out its functions under the Act with a view to promoting the four stated licensing objectives. These are
  - the prevention of crime and disorder;
  - the promotion of public safety
  - the prevention of nuisance; and
  - the protection of children from harm.
4. In carrying out its licensing functions, a licensing authority must also have regard to
  - the Act itself;
  - the guidance to the Act issued under section 182 of the Act;
  - secondary regulations issued under the Act;



- the licensing authority's own statement of licensing policy
  - the application, including the operating schedule submitted as part of the application
  - relevant representations
5. The Act established a transitional period between February 7 2005 and August 6 2005 under which holders of existing justice's licenses, public entertainment licenses and night café licenses were able to apply to the local licensing authority for "grandfather rights" conversion of those existing licenses into the relevant licenses under the new system. Licenses that were so converted were converted on existing terms, conditions and restrictions. The August date having passed, operators must now apply for new licenses.
  6. The premises licence application process involves the provision of all relevant information required under the Act to the licensing authority with copies provided by the applicant to the relevant responsible bodies under the Act. The application must also be advertised at the premises and in the local press. The responsible authorities and other interested parties within the local community may make representations on any part of the application where relevant to the four licensing objectives.

## **KEY ISSUES FOR CONSIDERATION**

### **The variation application**

7. On the October 30<sup>th</sup> 2009, Courtney Millanaise and Colton Folkes made an application for a variation of the premises licence held in respect of the premises known as Sebastian's Bar Restaurant, 49/51 Norwood Road, London, SE24.
8. A copy of the application for the variation of the premises licence is attached to the report as appendix A.
9. The application is summarized as follows:
  - The removal of the restricting condition on the premises licence namely condition No 135, as follows: Intoxicating liquor shall not be sold or supplied on the premises otherwise than to persons taking table meals there and for consumption by persons as an ancillary to his meal

### **Representations from interested parties**

10. There are six representations from interested parties, including three representations from local representative organisations. Copies of the representations are attached at Appendix B.

### **Representations from responsible authorities**

11. There are three representations from responsible authorities: the police licensing service, the council's environmental protection team, and the council's planning enforcement team.
12. Copies of the representations from responsible authorities are attached to the report as appendix C. Comments from the London fire service are included but the service has not made a representation.

### **Conciliation**

13. A conciliation meeting was held on 15 November 2009 at the premises. The meeting was attended by representatives from the police licensing office and the council's environmental protection team. The meeting did not result in the withdrawal of any

representation. Further information was supplied by the applicant following the meeting and a copy of this document is attached as appendix D.

### **Operating history**

14. The premises currently known as Sebastians were previously known as Tsolo Restaurant up until 2007.
15. In 2008 the premises licence transferred to the current holders Courtney Milanaise and Colton Foulkes. The premises name changed to Sebastian's Bar Restaurant. Mr Millanaise became the designated premises supervisor. The premises licence provided for the
  - the retail sale of alcohol (on sales) from 13.00 through to 04.00 each day of the week;
  - the provision of regulated entertainment including live and recorded music and dancing from 18.00 to 04.00 each day of the week;
  - the provision of late night refreshment between the hours of 23.00 and 05.00 each day of the week; and
  - general opening hours of 13.00 through to 05.30 each day of the week.
16. The premises licence is made subject to a number of special conditions including the condition number 135 stating that "intoxicating liquor shall not be sold or supplied on the premises otherwise than to persons taking table meals there and for consumption by such person as an ancillary to his meal", which is now subject of the variation application. A copy of the full current premises licence is attached as appendix E.
17. In addition to the permissions provided under the premises licence the premises has also operated on occasions under a number of temporary event notices given under section 100 of the Licensing Act 2003.
18. On 4 September 2009 officers of the council visited the premises and noted that: alcohol was being sold to or supplied to persons for consumption on the premises who were not taking table meals. This is contrary to the licence condition 135.
19. On 14 September 2009 a warning letter was sent to the licensees in regard to this matter.
20. On the 18 and 19 September 2009, police licensing officers visited the premises and witnessed intoxicating liquor being sold and consumed on the premises in contravention to the licence conditions.
21. On 29 September 2009 both the licensees attended the council's licensing office in Thurlow Street, SE17, and were interviewed formally under the Police and Criminal Evidence Act 1984. The variation application followed immediately. Consideration is being given to appropriate action. In the meantime. the matter is reported to the sub-committee for information.

### **The local vicinity**

22. A map of the local vicinity is attached at appendix F. Other licensed premises identified within 100 metres of the premises are;
  - Bandidos, 21-13 Norwood Road SE24, opening hours: Monday to Saturday 10:00 to 01:30 hours, on Sunday 10:00 to 00:30 hours, licensable activities: dancing, films, late night refreshment, live and recorded music, sale of alcohol on / off the premises Monday to Saturday 10:00 to 01:00 hours and Sunday 00:00 hours;

- Chicken Village, 25 Norwood Road SE24, opening hours: Monday to Sunday 11:00 to 05:00 hours, licensable activities: late night refreshment Monday to Sunday 23:00 to 05:00 hours;
- Chinese Take-away, 85 Norwood Road, SE24, opening hours: Monday to Thursday 12:00 to 23:00 hours, Friday to Saturday 12:00 to 02:00 hours, and on Sunday 12:00 to 23:00 hours. Licensable activities: Late night refreshment Thursday to Friday 23:00 to 01:00 hours;
- Costcutters, 31-39 Norwood Road, SE24, opening hours: Monday to Sunday 24 hours. Licensable activities: sale of alcohol on and off the premises;
- Hypnotik, 75-79 Norwood Road SE24, opening hours: Monday to Wednesday 10:00 to 01:30 hours, Thursday to Saturday 10:00 to 03:30 hours and on Sunday 10:00 to 00:00 hours. Licensable activities for dancing, making music, live music, performance of dance, provisions similar to music and dancing, recorded music, sale of alcohol on and off the premises. Late night refreshment Monday to Wednesday 23:00 to 01:00 hours, Thursday to Saturday 23:00 to 03:30 hours and on Sunday 23:00 to 00:00; and
- Olleys Fish Experience, 65-69 Norwood Road SE24: Opening hours Monday to Sunday 10:00 to 01:30 hours. Licensable activities: Licensable activities, late night refreshment Monday to Sunday 23:00 to 01:00 hours. Live music, recorded music, and sale of alcohol Monday to Sunday 10:00 to 01:00 hours.

### **The Disability Discrimination Act**

23. The Southwark disablement association has no comments regarding this application.

### **Southwark council statement of licensing policy**

24. Council assembly approved the third revision of Southwark's statement of licensing policy on 5 November 2008. Sections of the statement that are considered to be of particular relevance to this application are
- Section 3 which sets out the purpose and scope of the policy and re-inforces the four licensing objectives;
  - Section 5 which sets out the council's approach with regard to the imposition of conditions including mandatory conditions to be attached to the licence;
  - Section 6 details other relevant council and government policies, strategies, responsibilities and guidance, including the relevant articles under the Human Rights Act 1998;
  - Section 7 provides general guidance on dealing with crime and disorder and deals with licensing hours;
  - Section 8 provides general guidance on ensuring public safety including safe capacities;
  - Section 9 provides general guidance on the prevention of nuisance; and
  - Section 10 provides general guidance on the protection of children from harm
25. The purpose of Southwark's statement of licensing policy is to make clear to applicants what considerations will be taken into account when determining applications and should act as a guide to the sub-committee when considering the applications. However, the sub-committee must always consider each application on its own merits and allow exceptions to the normal policy where these are justified by the circumstances of the application.

## **Community Impact Statement**

26. Through the licensing process it is intended to help provide successful, well managed licensed operations that complement and benefit the local community, while affording appropriate protections to that community. At the heart of the process are the four licensing objectives set out in section 3 of this report. Within the process, each licence application is required by law to be considered upon its own individual merits with all relevant matters taken into account.

## **Resource implications**

27. A fee of £190 has been paid by the applicant company in respect of this application being the statutory fee payable for premises within non-domestic rateable value band B. The fee contributes toward the cost of processing the application.

## **Consultation**

28. Consultation has been carried out on this application in accordance with the provisions of the Licensing Act 2003. A public notice was placed in the 6th November 2009 edition of the South London Press and a similar notice exhibited outside of the premises.

## **SUPPLEMENTARY ADVICE FROM OTHER OFFICERS**

### **Strategic Director of Communities, Law & Governance**

29. The sub-committee is asked to determine the application for a variation of the premises licence under section 34 of the Licensing Act 2003.
30. The principles which sub-committee members must apply are set out below.

### **Principles for making the determination**

31. The general principle is that applications for premises licence applications must be granted unless relevant representations are received. This is subject to the proviso that the applicant has complied with regulations in advertising and submitting the application.
32. Relevant representations are those which
- are about the likely effect of the granting of the application on the promotion of the licensing objectives
  - are made by an interested party or responsible authority
  - have not been withdrawn.
  - are not, in the opinion of the relevant licensing authority, frivolous or vexatious.
33. If relevant representations are received then the sub-committee must have regard to them, in determining whether it is necessary for the promotion of the licensing objectives to
- to grant the licence subject to-
    - the conditions mentioned in section 18 (2)(a) modified to such extent as the licensing authority considers necessary for the promotion of the licensing objectives, and
    - any condition which must under section 19,20 or 21 be included in the licence in the licence
  - to exclude from the scope of the licence any of the licensable activities to which the application relates;
  - to refuse to specify a person in the licence as the premises supervisor;
  - to reject the application.

## Conditions

34. The sub-committee's discretion is thus limited. It can only modify the conditions put forward by the applicant, or refuse the application, if it is necessary to do so. Conditions must be necessary and proportionate for the promotion of one of the four licensing objectives, and not for any other reason. Conditions must also be within the control of the licensee, and should be worded in a way which is clear, certain, consistent and enforceable.
35. The four licensing objectives are
  - the prevention of crime and disorder;
  - public safety;
  - the prevention of nuisance; and
  - the protection of children from harm.
36. Members should note that each objective is of equal importance. There are no other licensing objectives, and the four objectives are paramount considerations at all times.
37. Conditions will not be necessary if they duplicate a statutory position. Conditions relating to night café and take away aspect of the license must relate to the night time operation of the premises and must not be used to impose conditions which could not be imposed on day time operators.
38. Members are also referred to the DCMS guidance on conditions, specifically section 7, and Annexes D, E, F and G.

## Reasons

39. If the sub-committee determines that it is necessary to modify the conditions, or to refuse the application for a premises licence application, it must give reasons for its decision

## Hearing procedures

40. Subject to the licensing hearing regulations, the licensing committee may determine its own procedures. Key elements of the regulations are that:
  - the hearing shall take the form of a discussion led by the authority. Cross examination shall not be permitted unless the authority considered that it is required for it to consider the representations;
  - members of the authority are free to ask any question of any party or other person appearing at the hearing;
  - the committee must allow the parties an equal maximum period of time in which to exercise their rights to
    - address the authority
    - if given permission by the committee, question any other party.
    - in response to a point which the authority has given notice it will require clarification, give further information in support of their application;
  - the committee shall disregard any information given by a party which is not relevant;
    - to the particular application before the committee, and
    - the licensing objectives
  - the hearing shall be in public, although the committee may exclude the public from all or part of a hearing where it considers that the public interest in doing so outweighs the public interest in the hearing, or that part of the hearing, taking place in private.

- in considering any representations or notice made by a party the authority may take into account documentary or other information produced by a party in support of their application, representations or notice (as applicable) either before the hearing or, with the consent of all the other parties, at the hearing.

41. This matter relates to the determination of an application for a variation of the premises licence under section 34 of the Licensing Act 2003. Regulation 26(1)(a) requires the sub-committee to make its determination at the conclusion of the hearing.

### **Council's multiple roles and the role of the licensing sub-committee**

42. Sub-committee members will note that, in relation to this application, the council has multiple roles. Council officers from various departments have been asked to consider the application from the perspective of the council as authority responsible respectively for environmental health, trading standards, health and safety and as the planning authority.

43. Members should note that the licensing sub-committee is meeting on this occasion solely to perform the role of licensing authority. The sub-committee sits in quasi-judicial capacity, and must act impartially. It must offer a fair and unbiased hearing of the application. In this case, members should disregard the council's broader policy objectives and role as statutory authority in other contexts. Members must direct themselves to making a determination solely based upon the licensing law, guidance and the council's statement of licensing policy.

44. As a quasi-judicial body the licensing sub-committee is required to consider the application on its merits. The sub-committee must take into account only relevant factors, and ignore irrelevant factors. The decision must be based on evidence, that is to say material, which tends logically to show the existence or non-existence of relevant facts, or the likelihood or unlikelihood of the occurrence of some future event, the occurrence of which would be relevant. The licensing sub-committee must give fair consideration to the contentions of all persons entitled to make representations to them.

45. The licensing sub-committee is entitled to consider events outside of the premises if they are relevant, i.e. are properly attributable to the premises being open. The proprietors do not have to be personally responsible for the incidents for the same to be relevant. However, if such events are not properly attributable to the premises being open, then the evidence is not relevant and should be excluded. Guidance is that the licensing authority will primarily focus on the direct impact of the activities taking place at the licensed premises on members of the public, living, working or engaged in normal activity in the area concerned.

46. Members will be aware of the council's code of conduct which requires them to declare personal and prejudicial interests. The code applies to members when considering licensing applications. In addition, as a quasi-judicial body, members are required to avoid both actual bias, and the appearance of bias.

47. The sub-committee can only consider matters within the application that have been raised through representations from interested parties and responsible authorities. Interested parties must live in the vicinity of the premises. This will be decided on a case to case basis.

48. Under the Human Rights Act 1998. the sub committee needs to consider the balance between the rights of the applicant and those making representations to the application when making their decision. The sub-committee has a duty under section 17 Crime and Disorder Act 1998 when making its decision to do all it can to prevent crime and disorder in the borough.

49. Interested parties, responsible authorities and the applicant have the right to appeal the decision of the sub-committee to the Magistrates' Court within a period of 21 days beginning with the day on which the applicant was notified by the licensing authority of the decision to be appealed against.

### Guidance

50. Members are required to have regard to the DCMS guidance in carrying out the functions of licensing authority. However, guidance does not cover every possible situation, so long as the guidance has been properly and carefully understood, members may depart from it if they have reason to do so. Full reasons must be given if this is the case.

### BACKGROUND DOCUMENTS

Background Papers	Held At	Contact
Licensing Act 2003 DCMS Guidance to the Act Secondary Regulations Southwark Statement of Licensing Policy Case file	Southwark Licensing, C/O Community Safety & Enforcement, The Chaplin Centre, Thurlow Street, London, SE17 2DG	Name: Mrs Kirty Read Phone number: 020 7525 5748

### APPENDICES

No.	Title
Appendix A	Variation application
Appendix B	Representations from Interested parties
Appendix C	Representations/replies from Responsible Authorities
Appendix D	Further information provided by applicant following conciliation
Appendix E	Current premises licence
Appendix F	Map of local vicinity

### AUDIT TRAIL

<b>Lead Officer</b>	Jonathon Toy, Head of Community Safety and Enforcement	
<b>Report Author</b>	David Swaby, Principal Licensing Officer	
<b>Version</b>	Final	
<b>Dated</b>	December 4 2009	
<b>Key Decision?</b>	No	
<b>CONSULTATION WITH OTHER OFFICERS / DIRECTORATES / EXECUTIVE MEMBER</b>		
<b>Officer Title</b>	<b>Comments Sought</b>	<b>Comments included</b>
Strategic Director of Communities, Law & Governance	Yes	Yes
Finance Director	No	No
<b>Executive Member</b>	No	No
<b>Date final report sent to Constitutional Team</b>	December 4 2009	

**Application to vary a premises licence under the Licensing Act 2003**

**PLEASE READ THE FOLLOWING INSTRUCTIONS FIRST**

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

You may wish to keep a copy of the completed form for your records.

I/We Courtney Sebastian Millanaise and Colton George Folkes

*(Insert name(s) of applicant)*

being the premises licence holder, apply to vary a premises licence under section 34 of the Licensing Act 2003 for the premises described in Part 1 below

**Premises licence number**

828210

**Part 1 – Premises Details**

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

Sebastians  
49-51 Norwood Road  
London SE24 9AA

**Post town**

London

**Post code**

SE24 9AA

Telephone number at premises (if any)

020 8671 2222

Non-domestic rateable value of premises

~~£10,000~~ £12,750.00

**Part 2 – Applicant details**

**Daytime contact telephone number**

07958355236

**E-mail address (optional)**

thelmabelle@btinternet.com

**Current postal address if different from premises address**

64 Beech Grove  
Mitcham

**RECEIVED**

**30 OCT 2009**

**Post Town**

Mitcham

**Postcode**

CR4 1LH



**Part 3 - Variation**

Please tick yes

Do you want the proposed variation to have effect as soon as possible?

If not do you want the variation to take effect from

Day		Month		Year	

**Please describe briefly the nature of the proposed variation** (Please see guidance note 1)  
(1) The removal of the condition on the Premises Licence restricting the sale or supply of intoxicating liquor to persons taking table meals at the premises and for consumption by such persons as ancillary to table meals (condition 135 - annex 2).

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

## Part 4 Operating Schedule

Please complete those parts of the Operating Schedule below which would be subject to change if this application to vary is successful.

### Provision of regulated entertainment

Please tick yes

- |  |                                     |
|--|-------------------------------------|
| a) plays (if ticking yes, fill in box A)   | <input type="checkbox"/>            |
| b) films (if ticking yes, fill in box B)   | <input type="checkbox"/>            |
| c) indoor sporting events (if ticking yes, fill in box C)  | <input type="checkbox"/>            |
| d) boxing or wrestling entertainment (if ticking yes, fill in box D)   | <input type="checkbox"/>            |
| e) live music (if ticking yes, fill in box E)  | <input checked="" type="checkbox"/> |
| f) recorded music (if ticking yes, fill in box F)  | <input checked="" type="checkbox"/> |
| g) performances of dance (if ticking yes, fill in box G)   | <input checked="" type="checkbox"/> |
| h) anything of a similar description to that falling within (e), (f) or (g)<br>(if ticking yes, fill in box H) | <input type="checkbox"/>            |

### Provision of entertainment facilities:

- |  |                                     |
|--|-------------------------------------|
| i) making music (if ticking yes, fill in box I)  | <input checked="" type="checkbox"/> |
| j) dancing (if ticking yes, fill in box J)   | <input checked="" type="checkbox"/> |
| k) entertainment of a similar description to that falling within (i) or (j)<br>(if ticking yes, fill in box K) | <input checked="" type="checkbox"/> |

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

### Sale by retail of alcohol (if ticking yes, fill in box M)

In all cases complete boxes N, O and P

## A

Plays Standard days and timings (please read guidance note 6)			<u>Will the performance of a play take place indoors or outdoors or both – please tick</u> (please read guidance note 2)	Indoors	<input type="checkbox"/>
Day	Start	Finish		Outdoors	<input type="checkbox"/>
Mon			<b><u>Please give further details here</u></b> (please read guidance note 3)	Both	<input type="checkbox"/>
Tue					
Wed			<b><u>State any seasonal variations for performing plays</u></b> (please read guidance note 4)		
Thur					
Fri			<b><u>Non standard timings. Where you intend to use the premises for the performance of plays at different times to those listed in the column on the left, please list</u></b> (please read guidance note 5)		
Sat					
Sun					

## B

Films Standard days and timings (please read guidance note 6)			<u>Will the exhibition of films take place indoors or outdoors or both – please tick</u> (please read guidance note 2)	Indoors	<input type="checkbox"/>
Day	Start	Finish		Outdoors	<input type="checkbox"/>
Mon			<b><u>Please give further details here</u></b> (please read guidance note 3)	Both	<input type="checkbox"/>
Tue					
Wed			<b><u>State any seasonal variations for the exhibition of films</u></b> (please read guidance note 4)		
Thur					
Fri			<b><u>Non standard timings. Where you intend to use the premises for the exhibition of films at different times to those listed in the column on the left, please list</u></b> (please read guidance note 5)		
Sat					
Sun					

## C

<b>Indoor sporting events</b> Standard days and timings (please read guidance note 6)			<b><u>Please give further details</u></b> (please read guidance note 3)
Day	Start	Finish	
Mon			
Tue			<b><u>State any seasonal variations for indoor sporting events</u></b> (please read guidance note 4)
Wed			
Thur			<b><u>Non standard timings. Where you intend to use the premises for indoor sporting events at different times to those listed in the column on the left, please list</u></b> (please read guidance note 5)
Fri			
Sat			
Sun			

**D**

<b>Boxing or wrestling entertainments</b> Standard days and timings (please read guidance note 6)			<b><u>Will the boxing or wrestling entertainment take place indoors or outdoors or both – please tick</u></b> (please read guidance note 2)	Indoors	<input type="checkbox"/>
				Outdoors	<input type="checkbox"/>
				Both	<input type="checkbox"/>
Day	Start	Finish	<b><u>Please give further details here</u></b> (please read guidance note 3)		
Mon					
Tue			<b><u>State any seasonal variations for boxing or wrestling entertainment</u></b> (please read guidance note 4)		
Wed					
Thur			<b><u>Non standard timings. Where you intend to use the premises for boxing or wrestling entertainment at different times to those listed in the column on the left, please list</u></b> (please read guidance note 5)		
Fri					
Sat					
Sun					

## E

<b>Live music</b> Standard days and timings (please read guidance note 6)			<b><u>Will the performance of live music take place indoors or outdoors or both – please tick</u></b> (please read guidance note 2)	Indoors	<input checked="" type="checkbox"/>
				Outdoors	<input type="checkbox"/>
				Both	<input type="checkbox"/>
Day	Start	Finish	<b><u>Please give further details here</u></b> (please read guidance note 3)		
Mon	1800	0400			
Tue	1800	0400			
Wed	1800	0400	<b><u>State any seasonal variations for the performance of live music</u></b> (please read guidance note 4)		
Thur	1800	0400			
Fri	1800	0400	<b><u>Non standard timings. Where you intend to use the premises for the performance of live music at different times to those listed in the column on the left, please list</u></b> (please read guidance note 5) As per condition 114 - Annex 2 of the Premises Licence		
Sat	1800	0400			
Sun	1800	0400			

## F

Recorded music Standard days and timings (please read guidance note 6)			Will the playing of recorded music take place indoors or outdoors or both – please tick (please read guidance note 2)	Indoors	<input checked="" type="checkbox"/>
Day	Start	Finish		Outdoors	<input type="checkbox"/>
Mon	1800	0400	<b>Please give further details here</b> (please read guidance note 3)	Both	<input type="checkbox"/>
Tue	1800	0400			
Wed	1800	0400	<b>State any seasonal variations for the playing of recorded music</b> (please read guidance note 4)		
Thur	1800	0400			
Fri	1800	0400	<b>Non standard timings. Where you intend to use the premises for the playing of recorded music at different times to those listed in the column on the left, please list</b> (please read guidance note 5) As per condition 114 - Annex 2 of the Premises Licence		
Sat	1800	0400			
Sun	1800	0400			



## G

Performances of dance Standard days and timings (please read guidance note 6)			<b><u>Will the performance of dance take place indoors or outdoors or both – please tick</u></b> (please read guidance note 2)	Indoors	<input checked="" type="checkbox"/>
Day	Start	Finish		Outdoors	<input type="checkbox"/>
Mon	1800	0400	<b><u>Please give further details here</u></b> (please read guidance note 3)	Both	<input type="checkbox"/>
Tue	1800	0400			
Wed	1800	0400	<b><u>State any seasonal variations for the performance of dance</u></b> (please read guidance note 4)		
Thur	1800	0400			
Fri	1800	0400	<b><u>Non standard timings. Where you intend to use the premises for the performance of dance at different times to those listed in the column on the left, please list</u></b> (please read guidance note 5) As per condition 114 - Annex 2 of the Premises Licence		
Sat	1800	0400			
Sun	1800	0400			

## H

<b>Anything of a similar description to that falling within (e), (f) or (g)</b> Standard days and timings (please read guidance note 6)			<b><u>Please give a description of the type of entertainment you will be providing</u></b>		
Day	Start	Finish	<b><u>Will this entertainment take place indoors or outdoors or both – please tick</u></b> (please read guidance note 2)	Indoors	<input type="checkbox"/>
Mon				Outdoors	<input type="checkbox"/>
				Both	<input type="checkbox"/>
Tue			<b><u>Please give further details here</u></b> (please read guidance note 3)		
Wed					
Thur					
Fri			<b><u>State any seasonal variations for entertainment of a similar description to that falling within (e), (f) or (g)</u></b> (please read guidance note 4)		
Sat			<b><u>Non standard timings. Where you intend to use the premises for the entertainment of a similar description to that falling within (e), (f) or (g) at different times to those listed in the column on the left, please list</u></b> (please read guidance note 5)		
Sun					

I

<b>Provision of facilities for making music</b> Standard days and timings (please read guidance note 6)			<b><u>Please give a description of the facilities for making music you will be providing</u></b>  	
			<b><u>Will the facilities for making music be indoors or outdoors or both – please tick</u></b> (please read guidance note 2)	
			Outdoors <input type="checkbox"/>	
			Both <input type="checkbox"/>	
Day	Start	Finish	<b><u>Please give further details here</u></b> (please read guidance note 3)	
Mon	1800	0400		
Tue	1800	0400		
Wed	1800	0400		
Thur	1800	0400		
Fri	1800	0400		
Sat	1800	0400		
Sun	1800	0400	<b><u>State any seasonal variations for the provision of facilities for making music</u></b> (please read guidance note 4)	
			<b><u>Non standard timings. Where you intend to use the premises for provision of facilities for making music at different times to those listed in the column on the left, please list</u></b> (please read guidance note 5)	

J

<b>Provision of facilities for dancing</b> Standard days and timings (please read guidance note 6)			<b><u>Will the facilities for dancing be indoors or outdoors or both – please tick</u></b> (see guidance note 2)	Indoors <input checked="" type="checkbox"/>
				Outdoors <input type="checkbox"/>
				Both <input type="checkbox"/>
			<b><u>Please give a description of the facilities for dancing you will be providing</u></b> In accordance with the Premises Licence.	
Day	Start	Finish	<b><u>Please give further details here</u></b> (please read guidance note 3)	
Mon	1800	0400		
Tue	1800	0400		
Wed	1800	0400	<b><u>State any seasonal variations for providing dancing facilities</u></b> (please read guidance note 4)	
Thur	1800	0400		
Fri	1800	0400	<b><u>Non standard timings. Where you intend to use the premises for the provision of facilities for dancing at different times to those listed in the column on the left, please list</u></b> (please read guidance note 5)	
Sat	1800	0400		
Sun	1800	0400		

K

<b>Provision of facilities for entertainment of a similar description to that falling within i or j</b> Standard days and timings (please read guidance note 6)			<b><u>Please give a description of the type of entertainment facility you will be providing</u></b> In accordance with the Premises Licence		
Day	Start	Finish	<b><u>Will the entertainment facility be indoors or outdoors or both – please tick</u></b> (please read guidance note 2)	Indoors	<input checked="" type="checkbox"/>
Mon	1800	0400		Outdoors	<input type="checkbox"/>
				Both	<input type="checkbox"/>
Tue	1800	0400	<b><u>Please give further details here</u></b> (please read guidance note 3)		
Wed	1800	0400			
Thur	1800	0400	<b><u>State any seasonal variations for the provision of facilities for entertainment of a similar description to that falling within i or j</u></b> (please read guidance note 4)		
Fri	1800	0400			
Sat	1800	0400	<b><u>Non standard timings. Where you intend to use the premises for the provision of facilities for entertainment of a similar description to that falling within i or j at different times to those listed in the column on the left, please list</u></b> (please read guidance note 5)		
Sun	1800	0400			

L

Late night refreshment Standard days and timings (please read guidance note 6)			Will the provision of late night refreshment take place indoors or outdoors or both – please tick (please read guidance note 2)	Indoors	<input checked="" type="checkbox"/>
Day	Start	Finish		Outdoors	<input type="checkbox"/>
Mon	2300	0500	<b>Please give further details here</b> (please read guidance note 3) In accordance with the Premises Licence	Both	<input type="checkbox"/>
Tue	2300	0500			
Wed	2300	0500	<b>State any seasonal variations for the provision of late night refreshment</b> (please read guidance note 4)		
Thur	2300	0500			
Fri	2300	0500	<b>Non standard timings. Where you intend to use the premises for the provision of late night refreshment at different times, to those listed in the column on the left, please list</b> (please read guidance note 5)		
Sat	2300	0500			
Sun	2300	0500			

## M

<b>Supply of alcohol</b> Standard days and timings (please read guidance note 6)			<b>Will the supply of alcohol be for consumption (Please tick box)</b> (please read guidance note 7)	On the premises	<input checked="" type="checkbox"/>
				Off the premises	<input type="checkbox"/>
				Both	<input type="checkbox"/>
Day	Start	Finish	<b>State any seasonal variations for the supply of alcohol</b> (please read guidance note 4)		
Mon	1300	0400			
Tue	1300	0400			
Wed	1300	0400			
Thur	1300	0400			
Fri	1300	0400			
Sat	1300	0400			
Sun	1300	0400			
			<b>Non-standard timings. Where you intend to use the premises for the supply of alcohol at different times to those listed in the column on the left, please list</b> (please read guidance note 5) In accordance with Condition 134 - Annex 2 of the Premises Licence		

## N

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

None

O

<b>Hours premises are open to the public</b> Standard days and timings (please read guidance note 6)			<b>State any seasonal variations</b> (please read guidance note 4)
Day	Start	Finish	
Mon	1300	0530	<b>Non standard timings. Where you intend the premises to be open to the public at different times from those listed in the column on the left, please list</b> (please read guidance note 5)
Tue	1300	0530	
Wed	1300	0530	
Thur	1300	0530	
Fri	1300	0530	
Sat	1300	0530	
Sun	1300	0530	

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

Condition 135 - Annex 2, namely:  
 "Intoxicating liquor shall not be sold or supplied on the premises otherwise than to persons taking table meals there and for consumption by such person as an ancillary to his meal"



Please tick yes

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

If you have not ticked one of these boxes please fill in reasons for not including the licence, or part of it, below

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

**P** Describe any additional steps you intend to take to promote the four licensing objectives as a result of the proposed variation:

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

In accordance with the Premises Licence

**b) The prevention of crime and disorder**

In accordance with the Premises Licence

**c) Public safety**

In accordance with the Premises Licence

**d) The prevention of public nuisance**

In accordance with the Premises Licence

**e) The protection of children from harm**

In accordance with the Premises Licence


Please tick yes

- I have made or enclosed payment of the fee
- I have sent copies of this application and the plan to responsible authorities and others where applicable
- I understand that I must now advertise my application
- I have enclosed the premises licence or relevant part of it or explanation
- I understand that if I do not comply with the above requirements my application will be rejected

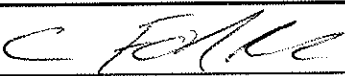
**IT IS AN OFFENCE, LIABLE ON CONVICTION TO A FINE UP TO LEVEL 5 ON THE STANDARD SCALE, UNDER SECTION 158 OF THE LICENSING ACT 2003 TO MAKE A FALSE STATEMENT IN OR IN CONNECTION WITH THIS APPLICATION**

**Part 5 – Signatures** (please read guidance note 10)

**Signature of applicant (the current premises licence holder) or applicant's solicitor or other duly authorised agent** (please read guidance note 11). **If signing on behalf of the applicant please state in what capacity.**

Signature	
Date	30 <sup>th</sup> October 2009
Capacity	Joint Premises Licence Holder

**Where the premises licence is jointly held signature of 2nd applicant (the current premises licence holder) or 2nd applicant's solicitor or other authorised agent** (please read guidance note 12). **If signing on behalf of the applicant please state in what capacity.**

Signature	
Date	30 <sup>th</sup> October 2009
Capacity	Joint Premises Licence Holder

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

Streeter Marshall  
74 High Street,  
Croydon CR9 2UU

<b>Post town</b>	Croydon	<b>Post code</b>	CR9 2UU
------------------	---------	------------------	---------

<b>Telephone number (if any)</b>	020 8680 2638
----------------------------------	---------------

**If you would prefer us to correspond with you by e-mail your e-mail address (optional)**  
tmoore@streetermarshall.com

## Notes for Guidance

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

1. Describe the premises. For example the type of premises, its general situation and layout and any other information which could be relevant to the licensing objectives. Where your application includes off-supplies of alcohol and you intend to provide a place for consumption of these off-supplies you must include a description of where the place will be and its proximity to the premises.
2. Where taking place in a building or other structure please tick as appropriate. Indoors may include a tent.
3. For example state type of activity to be authorised, if not already stated, and give relevant further details, for example (but not exclusively) whether or not music will be amplified or unamplified.
4. For example (but not exclusively), where the activity will occur on additional days during the summer months.
5. For example (but not exclusively), where you wish the activity to go on longer on a particular day e.g. Christmas Eve.
6. Please give timings in 24 hour clock (e.g. 16:00) and only give details for the days of the week when you intend the premises to be used for the activity.
7. If you wish people to be able to consume alcohol on the premises please tick on, if you wish people to be able to purchase alcohol to consume away from the premises please tick off. If you wish people to be able to do both please tick both.
8. Please give information about anything intended to occur at the premises or ancillary to the use of the premises which may give rise to concern in respect of children regardless of whether you intend children to have access to the premises, for example (but not exclusively) nudity or semi-nudity, films for restricted age groups, the presence of gaming machines.
9. Please list here steps you will take to promote all four licensing objectives together.
10. The application form must be signed.
11. An applicant's agent (for example solicitor) may sign the form on their behalf provided that they have actual authority to do so.
12. Where there is more than one applicant, both applicants or their respective agents must sign the application form.
13. This is the address which we shall use to correspond with you about this application.

~~Subject: Alex~~

---

**From:** ~~Sebastian@sebastians.com~~  
**Sent:** 22 November 2009 12:36  
**To:** Regen, Licensing  
**Subject:** Licencing objection

22/11/09

I am writing to object to the licence application number 830884 by Sebastians at 49-51 Norwood Road, SE24 9AA.

The objection relates to the prevention of crime and disorder, public safety and the prevention of nuisance.

This venue has been a constant source of nuisance and should have any late licence revoked rather than extended. I have on several occasions been disturbed from my sleep by patrons from this venue after its closing time through anti-social nuisance behaviour. This includes shouting and disturbances by its intoxicated patrons outside my property as well as loud music being played on car stereos, door slamming and car horns tooting from its associated large volume of vehicles which park outside my property and minicabs collecting the patrons. Sleeping over the summer months with the windows open in particular was an impossibility.

The venue has further been involved in a drive-by shooting and illegal street trading, it is anti-social nuisance and a late licence for this venue has no place in a residential area. I have in the past made complaints of this nature, including reporting of crimes, to both the police, licensing and noise control teams of Southwark and Lambeth councils. In light of all of this I am shocked that it is now in a position to seek an extension to its already ridiculously inappropriate trading hours.

Regards

~~Sebastian~~

~~49-51~~ Norwood Road  
London  
SE24 9AA

23/11/2009

~~Blair Bevis~~

**From:** Regen, Licensing  
**Sent:** 20 November 2009 16:08  
**To:** ~~Blair Bevis~~  
**Subject:** FW: Licence Number: 830884 - planning objection

**From:** ~~Blair Bevis~~ [mailto:~~blair.bevis@haygroup.com~~]  
**Sent:** 20 November 2009 15:43  
**To:** Regen, Licensing  
**Cc:** ~~info@hernehill.com~~  
**Subject:** Licence Number: 830884 - planning objection

Dear Sir / Madam,

I wish to strongly object to the granting of a change of use licence for Sebastian's on Norwood Road. The owner has been operating in breach of their current licence for many months without informing the Council or applying for a new licence until they were reported by a member of the public. During this time period they have changed the frontage of the building to blacked out glass which is ugly and intimidating to look at from the outside, and played extremely loud music which is clearly audible from a distance outside the premises.

The building has no sound proofing and walking past while loud music is being played is an unpleasant experience. Herne Hill is a residential area and is already suffering a high amount of anti-social behaviour due to late licence drinking, including littering, vandalism, violence, vehicles parked illegally and noise from vehicles and people leaving venues late at night. I do not believe that Southwark would have granted the owner a licence if they had applied originally for the venue to be a club rather than a restaurant as it is a clear change of use and is out of keeping with the parade of shops on Norwood Road. I certainly feel that it would give the wrong message to future applicants and suggest that licences can be breached at will and reapplied for without any risk of being thrown out.

In particular I object the extremely late hours of opening every day of the week, and that security guards would only be in place after 10pm. I believe that having another club operating on Norwood road would have a negative impact on the ability of the other businesses on Norwood road to attract and serve the local population.

Regards

~~Blair Bevis (Blair Bevis)~~

~~Blair Bevis~~  
Senior Consultant

Hay Group

d +44 (0) ~~7538 216~~

m +44 (0) ~~7538 216~~

~~Blair Bevis~~ ~~Blair Bevis~~  
Herne Hill  
London  
SE24 9DE

~~32 Abchurch Lane~~ | London | SW1X 7HG  
www.~~haygroup.com~~  
~~blair.bevis@haygroup.com~~

RECEIVED

25 NOV 2009

Correspondence Address:

London SE24 9HA

Tel: 020 7611 1111

Fax: 020 7611 1111

e-mail: [REDACTED]

**STRADELLA AND SPRINGFIELD RESIDENTS' ASSOCIATION**

COMMITTEE:

[REDACTED]  
 [REDACTED]  
 [REDACTED]  
 [REDACTED]  
 [REDACTED]  
 [REDACTED]  
 [REDACTED]  
 [REDACTED]  
 [REDACTED]  
 [REDACTED]  
 [REDACTED]

23 November 2009

Principal Licensing Officer  
 Southwark Licensing Unit  
 EH & TS  
 Chaplin Centre  
 Thurlow Street  
 London SE17 2DG

Dear Sirs

**Ref. ABA05101 – Application for Variation of Premises Licence**

This Association, which represents nearly 200 households in Stradella, Winterbrook and Burbage Roads and Half Moon Lane, SE24, wishes to make representations with regard to this application by Sebastians, 49-51 Norwood Road, SE24 9AA. These premises are within 100 metres radius of some of our members houses.

The application is for removal of the present licence condition that “intoxicating liquor shall not be sold or supplied on the premises otherwise than to persons taking table meals there and for consumption of such person as an ancillary to his meal.” The intention is therefore to change the premises from a restaurant to a drinks-led night club.

It is our understanding that the establishment has been operating in breach of this condition and was as a result temporarily closed by the authorities.

We note that under its licence licensable activities (sale of alcohol, music and dancing) are licensed until 4 am on each day of the week but that the opening hours are until 5.30 am on each day. We see no justification for the premises to remain open for 90 minutes after termination of these licensable activities and believe that, with this establishment's record of ignoring its licence conditions, it will continue to supply alcohol long after 4am. We urge the Licensing Sub-Committee to cut back the closing time for this night club to 4.30 am on each day of the week. Yet better, we would like to see the termination of licensable activities set well before the current 4 am, with closing time 30 minutes later,

There is little in the way of parking possibilities outside the premises and customers are therefore likely to park in local residential streets such as those where our members live. Maintaining the current closing time of 5.30 am puts our members at considerable risk of late night nuisance caused by rowdy customers leaving the premises at 5.30 to collect their cars in our streets, with attendant loud voices, slamming of car doors and the revving of engines.

There is also a risk of late night committing of crime and other anti-social behaviour. You will be aware that there was a shooting and injuring incident connected to the near-by Hypnotik Bar, a similar establishment, shortly after its opening hours were extended by a Magistrate following an appeal against a decision by the Southwark Licensing Sub-Committee.

Our representations therefore have as their purpose the prevention of crime and disorder, the promotion of public safety and the prevention of nuisance.

Yours faithfully

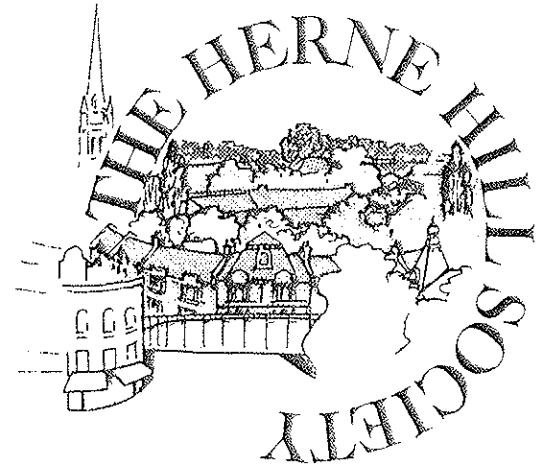


~~Adrian Hill~~  
~~Chairman, SSPA~~



RECEIVED  
24 NOV 2009

Southwark Licensing Team  
London Borough of Southwark  
Chaplin Centre  
Thurlon Street  
London  
SE17 2DG



Registered with the Civic Trust

23<sup>rd</sup> November 2009

Dear Sirs

**Sebastian's, 49-51 Norwood Road, London SE24 9AA  
Premises Variation of Conditions Licence Application No. 830884**

As the local amenity group for London SE24 and hence an interested party, i.e. "a body representing persons living in that vicinity" as defined under Section 13(3) of Licensing Act 2003, the Herne Hill Society wishes to object to this licence application on the grounds set out below.

**Background**

Herne Hill has, in recent years and on both the Lambeth and Southwark sides, increasingly become a venue for late night alcohol related activities. There are some 25 premises within a short distance of Sebastian's that are licenced for the sale of alcohol, many until late into the night. In the short stretch of Norwood Road where 'Sebastian's' is located, there are seven premises licenced for the sale of alcohol and other entertainments: Costcutters, at 31-39 Norwood Road, is licenced for the '24/7' retail sale of alcohol; Hypnotic, 75-79, Norwood Road, has a late night refreshment licence until 1.00am (Sunday to Wednesday) and 03.30am (Thursday to Saturday); Olley's Fish Experience, 65-69 Norwood Road, has a late night refreshment licence until 1.00am seven days a week; Bandidos, 21-23 Norwood Road, has a late night refreshment licence until 1.00am, seven days a week; Chicken Village, 25, Norwood Road, has a late night refreshment licence to 5.00am, seven days a week; and No. 2 Chinese Takeaway opens until 2.00am on Fridays and Saturdays.

All the above and other licenced premises in Herne Hill are located close to houses and flats. As a consequence, the quality of life and amenity of local residents has been increasingly affected.

There has been a marked rise in disturbance caused by increased parking by visitors to late-night venues. This includes greater traffic volumes, more street litter, shouting in the street, slamming car doors and revving car engines. Other activities, such as urinating in front gardens, vomiting onto the pavement and illegal trading, have also developed as a direct result of late night entertainment and the sale of alcohol.

Continued .....

The situation has reached such a state that a task force has been set up including representatives from local police, licensing officers, Councillors and local residents to try to find ways of dealing with the problem. But the fact remains that Herne Hill is an unsuitable location for the late night economy and any further expansion of that economy will merely result in an increase in the problems experienced by residents.

Unfortunately very few disturbances are reported to the relevant authorities. Reasons for this may include the possibility of identification and fear of possible consequences; and the frequently cited problems of identifying to whom complaints should be made and lack of clear information about contact details. The extent of local residents' concerns is shown in the Annex to this letter, giving extracts from recent postings on the Herne Hill Forum's website 'blog'.

### **Public Safety**

Sebastian's premises are relatively small. Observations suggest that it is only the left hand part, as viewed from Norwood Road, that will be available for music and dancing which will attract most customers. Most of them will therefore congregate in that part of the establishment. There is no emergency exit to the rear and the only exits are both in the right hand part of the premises that is used as a small bar area – it is unclear whether or not one of these exits is functioning. Even if the premises occupancy limit is set at a relatively low number, should a fire or other emergency occur in the bar area, it is difficult to see how adequate evacuation arrangements could be put in place, to ensure customer safety.

### **Crime, Disorder and Public Nuisance**

Enabling the establishment to operate as a night club rather than a restaurant will change its emphasis to one of loud music and alcohol consumption. This will have the inevitable effect of exacerbating the problems already experienced by local residents arising from noise and other disturbances created by customers having left similar premises in the area. Experience strongly suggests that, despite exhortations from club management and irrespective of how activities inside the premises are managed, rowdy customer behaviour once off the premises is beyond the manager's control. The inevitable results are the type of experiences documented in the Annex.

There is a bus stop and bus shelter immediately outside Sebastian's that is used by all night buses. People waiting at this stop will inevitably feel, whether justified or not, intimidated by noise from the premises; and possibly feel threatened by customers, some probably in a drunken or boisterous mood, entering or leaving.


The presence of the bus stop results in a significant narrowing of the pavement immediately outside Sebastian's. This means that there would be inadequate space for customers to spill out of the night club and disperse safely and without intimidating others, either other street users or people waiting for buses.

Continued .....

There have been a number of expressions of concern from local residents about noise coming from Sebastian's. A specific example is the 12<sup>th</sup> September posting in the Annex. It is surprising and disappointing that the licence conditions suggested in the application appear to include no reference to noise limitation. A similar nearby night club style establishment, Hypnotic, has a number of conditions designed to reduce noise emissions to an acceptable level. Should the Licensing Committee be minded to approve this application similar noise limiting conditions should also be applied. These conditions should include the installation of a double door entry lobby, to prevent noise egress affecting people at the bus stop and more generally.

In summary, granting this application will inevitably result in further breaches of the Licensing Act 2003 objectives. On behalf of local residents and businesses on Herne Hill, the Society strongly hopes that this application will not be granted.

Yours faithfully



~~XXXXXXXXXX~~  
~~XXXXXXXXXX~~  
The Herne Hill Society

## ANNEX

## Examples of Postings on Herne Hill Forum Web Blog

(see [hernehillforum.org.uk](http://hernehillforum.org.uk))

25 <sup>th</sup> October 2009	Woken at 4.30am by loud drunk voices, car doors slamming and loud car radios (Norwood Road resident).
20 <sup>th</sup> October 2009	Am I the only resident who is sick to death of people going to the clubs and leaving their cars parked half way over even blocking in their driveways or even worse somebody actually used our driveway in park in! (Croxted Road)
29 <sup>th</sup> September 2009	One club on Norwood Road closed following police intervention after licensing breaches were identified. Previously two warning letters sent to two clubs on Norwood Road.
20 <sup>th</sup> September 2009	I was woken at 5.23am this morning by people (shouting, banging car doors) leaving the clubs on Norwood Road.
12 <sup>th</sup> September 2009	Woken this morning at 5am by a drunken argument - people screaming on Norwood Road.
12 <sup>th</sup> September 2009	I am being kept awake by loud music coming from Sebastian's particularly on a Sunday and Tuesday night.
11 <sup>th</sup> September 2009	We can no longer stand the noise of the clubs, the drunk gangs of (mostly) girls who shriek and wind their way up past our flat at 3/4am throughout the week. (Posted by occupant of a flat on the corner of Croxted Road and Norwood Road).
11 <sup>th</sup> September 2009	As a local resident ..... the council should put a stop to these late openings in a residential area.
5 <sup>th</sup> September 2009	Its 01.30 in the morning I have rang Southwark council to complain about the noise (Norwood Road resident),
22 <sup>nd</sup> August 2009	I'm a resident of Norwood Road and over the last 2 weeks I've been woken around 4am several times by loud music, shouting, banging of car doors.

21 <sup>st</sup> August 2009	We moved into the new flats on the corner of Norwood Road/Croxted Road 18 months We are now planning to move because of the unbelievable noise on Norwood Road and the nightly madness on the section of Norwood Road between the main junction and Croxted Road.
21 <sup>st</sup> August 2009	The problem of noise and drunken behaviour seems to be growing in Herne Hill
20 <sup>th</sup> August 2009	I am a resident of Norwood Road. At 3:45am, myself and my husband heard shouting and arguing ... outside Sebastian's nightclub there were lots of people shouting and arguing. vehicles parked outside Norwood Road (particularly between Croxted and Rosendale Roads) in the early hours of the morning, which leave when the clubs close, creating a lot of noise

~~Dear Mr. [redacted],~~

**From:** Regen, Licensing  
**Sent:** 23 November 2009 16:15  
**To:** ~~[redacted]~~  
**Subject:** FW: Objection to Licence extension 830884/Sebastians  
**Attachments:** Minutes of 89 - 91 Norwood Road Management Co. Ltd - October 2009.docx

Objection please log

**From:** ~~[redacted]~~ [mailto:~~[redacted]~~] [mailto:~~[redacted]~~]  
**Sent:** 23 November 2009 16:01  
**To:** Regen, Licensing  
**Cc:** ~~[redacted]~~  
**Subject:** Objection to Licence extension 830884/Sebastians

Dear Officer,

~~[redacted]~~ and I are Directors of the Management Co Ltd of 89-91 Norwood Road, but we are also residents/leaseholders and witnesses to the disturbances described below. We have noticed a large decrease since Sebastians lost its late night license and don't want to return to the blighted summer and therefore object to the license extension.

#### Noise

A thumping bass sound, Sebastians does not have sound proofing just a plain glass front. It does not have double doors therefore the noise is 'let out' everytime someone goes in or out. The doors open straight onto the pavement, if customers want to smoke not only do they block the pavement they cause further disturbance by loud talking.

They are no parking facilities at the club, cars park both sides (single yellow lines) of the road. When customers return to their vehicles (between 4.00 - 5.00am) we were woken by doors slamming, arguing, drunken voices, beeping horns and on one occasion a gun shot.

#### Litter

We had empty bottles and chicken bones dumped in our garden as well as on the pavement outside our building.

#### Anti Social Behaviour

We had people urinate in our garden & bin area. When the club had closed people would sit in their cars and continue to drink & smoke dope with their car radios on full blast, on the road outside the building.

There was a lot of confusion on how to report these problems at the time, as the building is just in Lambeth but the club is in Southwark. So we'd call Lambeth to report the noise and they'd tell us to call Southwark and vice versa, this personally happened to me. Tenants in 2 flats moved out because of the noise as they felt no one would do anything about it. I attach the ref numbers 8004219981/8004341159 and CAD25131160809 that I had reported.

This problem was discussed at our recent AGM 29/10/2009 and as many residents don't wish to object individually it was decided to object as the Management Co Ltd of all 33 flats, please find copy of the minutes attached.

Kind regards

26/11/2009

~~XXXXXXXXXX & XXXXXXXX~~  
Directors

~~89-01 Norwood Road Management Co Ltd~~

Company Number: ~~03270534~~

Address: Flat ~~10~~ Norwood Road, London, SE24 9AA

Residents property management of ~~89-01~~ Norwood Road London SE24 for the sole benefit of the Lessees/Shareholders of ~~XXXXXX~~

~~89-91 Norwood Road~~ Management Company Ltd

Company No: ~~15070911~~

~~Flat 10, 29~~ Norwood Road, Herne Hill, SE24 9AA

29<sup>th</sup> October 2009

**Attending:**

~~Christina Bell & Frances Pierce - Directors~~

~~Chairman: Bob, Maria Kelly, Fran Moss, Winnie, Victor, Ben, Wally, David, Nicholas, Perry~~  
Shareholders/Leaseholders

**Apologies:**

Paddington Church Housing Association, ~~North, Peter & [unclear]~~

**Minutes:**

**1. Accounts**

The Company's accounts for the year ended 31 July 2009 have been completed and will be submitted to Company House by ~~Christina Bell~~ (copies of accounts were distributed to all shareholders at the meeting)

~~Wabals Ltd~~ has refunded £2000 for electricity taken from the communal area while they finished the development.

**Expenditure:**

- EDF – £1500 pa
- Pest Control - £300 pa
- SE Controls - £400 pa (plus £800 repairs due to vandalism)
- Cleaner – attends once a week - £150 pm
- Gardener – 10 hours a month - £200 pm
- Carpet Cleaning – £800 pa (every six months)
- Insurance £5000 pa
- Accountant £1000 pa
- Sink fund £6000 pa

~~Wabals Ltd~~'s 2-year guarantee runs out Feb 2010.

Christina to get quotes for maintenance team after February.

It was agreed from 1<sup>st</sup> July 2010 there would be a 10% increase in the service charge to cover maintenance costs.



## **2. Bin Area**

Issues:

- Fly Tipping
- Incorrect Recycling – the council could implement fines

Action:

- Landlords must ensure tenants know recycling rules, orange recycling bags must not be used
- Recycling bins, it was suggested to fit a lock, which automatically locks after council collection & resident use, and place a mesh over the top of the fencing, this would stop non-residents dumping rubbish.  
~~Christina~~ to get quotes.
- It was suggested that we ask the council for separate recycling bins or compartments for paper, glass etc.  
~~Christina~~ to investigate.

## **3. Vandalism**

The bike sheds have been broken into on numerous occasions, some bikes have been stolen.

Originally we had a combination lock, when this became faulty it was replaced with a padlock by N.K, which was vandalised, we replaced this with a stronger combination padlock, which was again vandalised. We have now gone back to a combination lock (since end of September), which is still holding.

Solutions:

- N.K. put grating over the top of the gate, to stop people climbing over the top
- The police have suggested anti-climb paint; this will be applied in the next couple of months.  
Frances investigating.

## **4. Anti-Social Behaviour on Norwood Road**

This summer there had been a lot of disturbance from the clubs in Norwood Road. It was noted that there has been a massive decrease in noise and problems since Sabastians lost its late license in October:

- Cars parked outside the building, slamming doors, loud car radio.
- Tooting horns late at night
- Parties and barbeques on the street
- Loud drunken voices & arguing in the street
- Litter, including bottles & chicken bones

As a result many residents were woken up between 4.00 am & 5.00am, a sale in the building fell through and residents moved out.

Action:

- Residents asked to report any instances on the Herne Hill Forum website and obtain a reference number from Southwark Council.
- Details of how to report disturbances put on the building notice board & facebook page
- Christina & Frances joined the Herne Hill Working Group
- Shareholders agreed to dispute any future applications for a late night license.

## **5. Gardening**

The majority of the gardener's time is spent cleaning the bin area and picking up leaves.

Solution:

- Wire mesh on the fence and plant a hedge to keep out rubbish & leaves out
- Remove birch trees which are dead and plant hedge
- Bin area as discussed.

These actions will be implicated in the next couple of months.

Estate Agent Signs, residents have complained that these are unattractive, will discuss with estate agents or have them removed completely.

Frances to action.

## **6. Car Parking**

Loading and unloading

- Is it possible to give residents tickets to allow short term parking
- Clamping Company accused of being over zealous

Frances and Christina to investigate

## **7. Roof and Structure**

Since the residents have taken over the Management Company, we have reported to Nicholas King:

- Leaking roof, each time we have heavy rain, there is a leak in the communal area. This has been reported to Nicholas King several times. They come to the building and do ineffective repairs or temporary repairs
- Peeling paint on the facade – N.K. said they are not going to deal with this.
- Snags – patchwork roof
- Boiler flues – nowhere for the acid to go, this may erode the foundations over time – N.K have ignored this.

Solution:

Organise an in depth survey of the building asap and instruct a solicitor if necessary.  
Christina and Frances to organise.

### **8. Management Company**

Christina & Frances agreed to continue to run the Management Co (unpaid) but requested help from the other shareholders especially when it was necessary to give up personal time e.g. to let in contractors to the building for maintenance ect.

Shareholders agreed

### **9. Meeting Closed**

~~XXXXXXXXXX~~

---

**From:** ~~XXXXXXXXXX~~  
**Sent:** 25 November 2009 22:00  
**To:** Regen, Licensing  
**Subject:** Objection to application for licence for Sebastians - 830884

25th November 2009

To Whom It May Concern,  
I am writing to object to the proposed application for a licence for Sebastians on Norwood Road, SE24, licence number 830884.  
My reasons are as follows:

#### Noise

I have been kept awake at night on numerous occasions due to the bass sound that is coming from the club, it is quite clearly not sound- proofed. When i have finally managed to get to sleep, I have been woken by the people coming out from the club in the early hours of the morning, who think nothing of screaming and shouting outside my home.

#### Anti- Social Behaviour

People from the club have urinated outside our building, when they come out, they throw food remains (eg chicken bones) around the ground which can be dangerous, as extremely slippery plus dirty.

#### Parking

The people who frequent Sebastians park outside our building on Norwood Road, they park both sides of the road, which causes a problem for the buses who often can't pass if there are two, this had caused a traffic build up, and lots of beeping from angry drivers.  
The people who attend Sebastians think nothing of getting into their cars in the early hours of the morning and beeping to each other, which has woken me up.

August and September 2009 were particularly bad due to this noise and anti-social behaviour. People come out drunk and have little regard for residents. I suffered in particular on week nights, when I had a lot of broken sleep but still had to get up early for work.  
People in the building have moved out as a result of this.

There is also lack of space on the pavement outside Sebastians for people like myself to walk past at night, as the people attending tend to take up the pavement smoking etc.

I really hope Sebastians are not granted this licence, as it has been unbearable

Yours Sincerely,

~~XXXXXXXXXX~~  
Norwood Road  
Herne Hill  
Se24 9AA

Your reference:

RECEIVED

23 NOV 2009



Our reference: MD/21/1897/09

Date: 17th November 2009

The Licensing Unit  
The Chaplin Centre  
Thurlow Street  
London SE17 2DG

**Metropolitan Police Service**  
**Licensing Office**  
Walworth Police Station,  
12-28 Manor Place,  
LONDON,  
SE17 3RL

Tel: 020 -7232 – 6210 Fax6282

Dear Sir/Madam

**Sebastians 49/51 Norwood Road SE24 9AA**

I write in respect of the above premises for which I wish to make the following representations to the granting of a variation to the Premises Licence under the Licensing Act 2003.

The premises are situated on a busy thoroughfare but within close proximity of many dwellings and is wholly unsuitable to be operated as a late night venue and nightclub. Police and Local Authority Licensing have received a significant number of complaints concerning the current operation of the premises, along with other premises, which has resulted in a working party being established to address the more pressing issues and to identify solutions to the problems. The issues raised, concern an increased level of Crime & Disorder associated with all premises that operate in the night time economy, whether an actual increase or the potential for such an increase. The Licensing Act 2003 stipulates Police are charged with addressing issues in Preventing Crime & Disorder, therefore the potential for an increase in Crime & Disorder should be given the same consideration as an actual increase. Police have also received complaints re excessive noise emanating from late night venues, including Sebastian's, inconsiderate vehicle parking with noisy occupants in the early hours when the clubs close, usually around 04.00am.

I think at this stage it would be prudent to explain the operating history of the premises:

At the time of the introduction of the current 2003 Licensing Act, the premises was called "Spicy Joe's" and had a restaurant licence as issued by the Licensing Justices under the 1964 Licensing Act with all the incumbent restaurant conditions. The then owner "Grandfathered" over the existing licence to a new premises licence under the 2003 Licensing Act in an application on 28.07.05, but no application was submitted to vary the conditions on the premises licence and therefore all restaurant conditions remained in force.

A further application was submitted on 28.03.07 to transfer the existing licence to a Mr Thompson Okuku and re-name the premises Tsolo Restaurant.

An application to vary the existing premises licence was submitted on 09.07.07 by Mr Thompson Okuku. The application concerned additional hours and extra licensable activities. No application was made to change the existing restaurant licence conditions. Police submitted a representation to this application in a letter dated 12th July 2007 ( I have enclosed a copy of that letter) A number of meetings were held with Mr Thompson Okuku in order to see if a conciliated resolution could be reached, in particular Police were seeking a number of stringent licence conditions. Police wrote a further letter to the London Borough of Southwark Licensing on 05.10.07 which outlined that the applicant had agreed to that conditions sought by Police and that these were to be placed on the varied premises licence. The letter also made mention of a conciliation meeting arranged by the licensing authority with the club management and local residents, which regrettably Police were not extended an invitation to. (Copy of letter enclosed)

Sometime over the next year the premises metamorphosed from being a restaurant & Bar to a premises that is recognisable as a "Nightclub". The premises are a ground floor square open room made up of a bar, DJ booth and the rest being utilised as the dance floor. There is no provision to permit a table meal. I.E There are no tables & chairs. There is a rear kitchen, but this is non-operational and is currently being used as a furniture store room. I have visited the premises on many occasions and have never found the premises arranged as a restaurant and never found food being served, but I have found the premises to be constantly in breach of the current premises licence by supplying alcohol to customers who have not taken a full table meal, or indeed any form of food.

On 10.10.09 I met with the Mr Courtney Millanise and the club management, where I identified that the premises was operating other than in accordance with the current premises licence, in that customers were being supplied with alcohol other than as ancillary to a full table meal and I supplied him with a copy of the premises licence and a letter detailing what actions would need to be taken. (Letter attached) I also

wrote to the London Borough of Southwark Planning Department enquiring what planning permission was in force for the premises and I received a reply that the premises had A3 permission, which permitted restaurant use, but not to operate as a nightclub or late night bar. I understand that the London Borough of Southwark Planning Department is taking relevant enforcement action.

The local area is already very well served with premises that operate in the Night Time Economy and which in very recent times have experienced incidents of Crime and Disorder, including violent gun related crime. The addition of these premises operating similar hours to other premises in the close proximity would have serious implications upon the resources of Police and Public Transport as customers leave the premises and vacate the general area.

The Herne Hill area is a challenging area in terms of Crime & Disorder and Anti-Social Behaviour on both sides of the border I.E Southwark & Lambeth, which has resulted in a joint approach being adopted by all partners including Police, Local Authority and residents from both boroughs. A joint working party has been established to address the concerns of local residents and businesses and this has resulted in enhanced Police and local authority presence. However this is very resource intensive and the current level of Policing cannot be sustained indefinitely, as the augmented policing in Herne Hill obviously takes away resources from other areas.

The location and design of Sebastian's is wholly unsuitable for premises that operate as a "nightclub". The entrance for customers is restricted and opens directly onto the pavement of Norwood Road which is further restricted by a large bus stop and shelter directly outside the main entrance. The footway is too narrow at this point to permit customers to queue whilst awaiting entry on the public highway, customers waiting at the bus stop and the constant footfall of persons walking along the pavement. Such numbers of persons all wishing to use a small area for different purposes has the potential for conflict.

The premises are a very small ground floor space which accommodates around 100 customers. Police have received a significant number of complaints re noise pollution as the amplified music can easily escape from the front of the premises as the front elevation is not of the required standard that would normally be expected of a night club. I have spoken to the owner on a number of occasions re noise escape and he has addressed some of the issues by replacing small 5" Louvre windows which were located at the top of the main front window. However much more work would be required to bring the premises up to a minimal required standard. The front door of the premises would need to be re-designed to incorporate the provision for an



entrance lobby and due to very restricted internal space I cannot see how this could be achieved.

The applicant has applied for the premises licence to be varied which would permit the change of permitted use from a restaurant to a nightclub, however it is worthy of note that the required planning permission has not been applied for that would permit such a change of use. I notice that the applicant has failed to offer any additional control measures as part of the Operating Schedule and merely states in section A to E of the application form, "In accordance with the premises licence".

The current operators of Sebastian's had operated another club called "Sebastian's", located at 160 Clapham Park Road SW4. These premises had been the subject of a premises review submitted by local residents after persistent noise complaints and breaches in the way the premises were being operated.

In summary, the location and operation of a nightclub is not suited to the current building. Police and Local Authority departments have received a significant number of complaints from local residents and businesses whose quality of life is being detrimentally affected by the number of premises that operate in the night time economy in the Herne Hill area, both in Southwark and Lambeth. Police fear that the granting of this application would seriously undermine the Crime & Disorder Licensing Objectives, particularly given the fact that the current management of Sebastian's had been the subject of a previous licensing review application on the grounds of persistent noise issues and breaches in the premises licence

I respectfully submit this representation in order that it is given consideration by your Licensing Committee and would be obliged if you could acknowledge receipt.

Paul Compton PC294MD  
Licensing Officer (Southwark North)

Phone: 0207 232 6210

Mobile: 07990901483

Fax: 0207 232 6282

E-mail: [paul.compton@met.police.uk](mailto:paul.compton@met.police.uk)

Mail: Licensing Office, Walworth Police Station,  
12/28 Manor Place Walworth London  
SE17 3RL







Regeneration and neighbourhoods  
Planning & transport  
Development management  
PO Box 64529  
LONDON SE1P 5LX

Licensing Unit  
Chaplin Centre  
Thurlow Street  
London  
SE17 2DG

**Your Ref:**  
**Our Ref:** 09-CE- 02327  
**Contact:** Dennis Sangweme  
**Telephone:** 020 7525 5419  
**Fax:** 020 7084 0347  
**E-Mail:** [planning.enquiries@southwark.gov.uk](mailto:planning.enquiries@southwark.gov.uk)  
**Web Site:** <http://www.southwark.gov.uk>

**Date:** 12/11/2009

Dear Sir/Madam

**Premises Licensing re:**  
49-51 NORWOOD ROAD, LONDON, SE24 9AA

**Summary description:** licensing

**Date Received:** 03/11/2009

The lawful use of the premises in question is as an A3 restaurant. Development management's planning enforcement unit are currently investigating the alleged unauthorised use of the premises as a night club and consequently pursuing formal enforcement action to stop this unauthorised use as alleged.

Development management understand that an analysis for a possible saturation zone for the Herne Hill area, the location of the application site, has been mooted. Given the noise and disturbance associated with current operations at the application site, development management strongly object to a the removal of the condition on the premises licence restricting the sale of intoxicating liquor to persons taking meals at the premises as this will likely result in further disturbance and nuisance contrary to the licensing objectives.

Yours faithfully

A handwritten signature in black ink, appearing to read "Dennis Sangweme". The signature is written in a cursive, flowing style.

Dennis Sangweme

Team Manager - Planning Enforcement

RECEIVED

23 NOV 2009

Streeter Marshall  
Solicitors  
74 High Street  
Croydon CR9 2UU

London Fire and Emergency Planning  
Authority runs the London Fire Brigade

Date 20 November 2009  
Our Ref 91/11637  
Your Ref TCM/SEB/Millanaise

Dear Sir/Madam

### LICENSING ACT 2003

**Premises: Sebastians 49-51 Norwood Road London SE24 9AA**

With reference to the application dated 30 October 2009 the Fire Authority, **does not propose to make any representation** to the Licensing Authority, provided that the premises are constructed and managed in accordance with the information supplied with your application.

This letter is without prejudice to the powers of the licensing authority and to any requirements or recommendations that may be made by enforcing authorities under other legislation. It is also without prejudice to any requirements or recommendations that may be made by this Authority under the Regulatory Reform (Fire Safety) Order 2005 or the Petroleum (Consolidation) Act 1928.. All alterations should comply with the appropriate provisions of the current Building Regulations.

Any queries regarding this letter should be addressed to the person named below. If you are dissatisfied in any way with the response given, please ask to speak to the Team Leader quoting our reference.

Yours faithfully,



**for Assistant Commissioner (Fire Safety Regulation)**

Fire and Community Safety Directorate  
firesafetyregulationSE@london-fire.gov.uk

cc.: Licensing Authority

Reply to Cliff Poke  
Direct T 020 8555 1200 x67994  
Direct F 020 8536 5924



**Streeter  
Marshall**  
SOLICITORS  
& NOTARIES

Our Ref: TCM/SEB/Millanaise  
Your Ref:

RECEIVED

26 NOV 2009

Mr Swaby  
Licensing Officer  
Licensing Unit  
Southwark Council  
The Chaplin Centre  
Thurlow Street  
London SE17 2DG

25 November, 2009

Also by Fax: 020 7525 5705

74 High Street,  
Croydon CR9 2UU

T: 020 8680 2638

F: 020 8688 4105

DX: 2623 Croydon

Dear Sir

**Sebastians, 49/51 Norwood Road, London SE24 9AA**

We enclose a copy of our letter of today's date to the Metropolitan Police Service Licensing Office.

Yours faithfully

**STREETER MARSHALL**

**Partners:**

David G. Moore  
Timothy C. Moore  
Jonathan J. Moore  
Richard T. Fielding  
John S. Cooper  
Inderjit S. Dosanjh  
Andrew R. Pickering  
Gordon R. Hopkins  
Mark B. Smeed  
Tim Farrington

**Associate:**

Charlotte Howes

**Consultants:**

Lord Bowness CBE., DL.  
Notary Public  
Greg Pearce

**Assistant Solicitors:**

Darren Adams  
Siân Haxton  
Richard Curran  
Sophie Gilbert  
Peter Russell  
Tim Mendes da Costa  
Pieter Boodt  
Matthew Jenkins

**Partnership Secretary:**

Freda E. Lamb

**Incorporating:**

E. L. Murphy & Co.  
Percy Holt  
Weightman Sadler

**Offices also at:**

Purley  
Warringham

Regulated by the  
Solicitors Regulation  
Authority

[www.streetermarshall.com](http://www.streetermarshall.com)

Enc

Our Ref: TCM/SEB/Millanaise  
Your Ref: MD/21/1897/09

Metropolitan Police Service  
Licensing Office  
Walworth Police Station  
12-28 Manor Place  
London SE17 3RL

25 November, 2009

Also by Fax: 020 7232 6282

Dear Sirs

**Sebastians, 49/51 Norwood Road, London SE24 9AA**

Thank you for letting us have a copy of your representation to the Licensing Unit in connection with the above premises. We have since had a conciliation meeting with you, Mr Swaby the Licensing Officer, Southwark Council and Mr Alan Blissett, the Council's Principal Environmental Protection Officer.

Before dealing with our client's further proposals our client would like to make some general comments on the content of your letter.

Our client's premises are small – they comprise a double fronted unit but one with little depth especially in the bar area. Accordingly the capacity of the premises is limited. We are not dealing with premises which could have any comparison with a large city centre operation. The premises themselves are opposite a park where there are no dwellings and a fair distance away from the residential units to the south and north of it. Indeed the nearest residential accommodation to the south of the premises were business premises until they were recently converted. Our client gets the impression that the alleged objections are part of a general groundswell of residential opposition to what is happening in the area generally (you refer in your penultimate paragraph to the number of premises that operate in the night time economy in the Herne Hill area both in Southwark and Lambeth) and your representations seem to be based on an increased level of crime and disorder and excessive noise. In your representation you also refer to violent gun related crime. Our client makes the following response. As you have commented in your representation the capacity of the premises is small. Our client does not seek to attract young customers and the majority of his customers are 30 years of age or older. As you have been informed, our client has three door staff and our client operates a search policy in accordance with the condition on the existing licence. Our client instructs us that on no occasion have weapons been found on any customer seeking entrance to the premises. These factors demonstrate that there is little likelihood of our client's customers contributing to the increase of crime and disorder in the area. Further, few of our client's customers are smokers and they do



**Streater  
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Croydon CR9 2UU

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not take drinks outside when they leave the premises to smoke. Our client holds private functions at the premises on a regular basis such as birthday parties and receptions for funerals and christenings. These will involve an invited audience only. At many of these functions our client provides a meal which is cooked in the kitchen [and tables are often set up for these occasions]. Moreover, as our client feels he has already demonstrated he is more than happy to work with the authorities to address the specific concerns they have and these are dealt with below in our client's further proposals for the policy schedule to the licence. The only other late night venue in the vicinity of our client's premises is Hypnotic which is also a small venue and is nearer to the residential building to the south than the applicant's premises.

Our client does find the licensing history of the premises somewhat curious. We see from your representation that the restaurant condition on the initial premises licence arose by virtue of grandfather rights following the introduction of the Licensing Act 2003. We note that Mr Okuku applied to vary the premises licence in 2007 and we suspect that it was an oversight on his part that he did not apply to remove the restaurant condition. It does seem to our client that the general tenor of the current licence and its conditions are geared to a bar use rather than a restaurant and indeed the fact that the premises then "metamorphosed" to a bar/late night venue use may have been no accident but something that Mr Okuku thought he was entitled to do following the grant of his variation application. Our client inherited the premises in that same style and the restaurant condition is now being invoked to prevent the continued use of the premises in the way that Mr Okuku had operated them.

At our meeting our client made various proposals to address your concerns and that of the Principal Environmental Protection Officer. Our client sets these out below and is prepared to have them included in his policy schedule.

1. As you have already mentioned in your representation our client has replaced the small five inch louvre windows located at the top of the main front windows and these non-opening windows will be maintained and, if damaged, reinstated with the same.
2. Our client will construct an enclosed entrance lobby with an inner door adjacent to the entrance booth and one of our client's door staff will man this area so that the outer door and inner door will not be open at the same time. Our client will submit the design and specification for this lobby to the Principal Environmental Protection Officer and to you for approval prior to constructing the same.
3. During the night opening hours our client will rope off a length of pavement approximately 2ft wide and 4ft in length starting from the entrance door and running to the south of the premises so that all customers coming in can be searched thoroughly. Our client's door staff will ensure that customers waiting to enter the premises will behave quietly. The direction of access from the south of the premises in this way will minimise the use of the area immediately adjacent to the bus stop.
4. Our client has installed a sound limiter within the amplification system on the music system and will maintain this at all times.
5. The in-house DJ will adopt the following measures:

- (a) for the last forty minutes of opening time he will reduce the music volume and for the last half hour will play slow music also
  - (b) at regular intervals during the early hours of the morning he will request customers (i) to leave the premises quietly when they go (ii) to remind customers that they are not permitted to take drinks outside (iii) not to use their mobile telephones outside unless it is absolutely necessary and in the event of such use to use them as quietly as possible (iv) encourage customers not to leave all at once
6. Our client will turn the lights up twenty minutes before closing and ensure through his door staff that departure of customers from the premises is reasonably staggered.
  7. Our client will display notices on the premises that (a) the customers are requested to leave the premises quietly and travel away from the premises quietly (b) not to use their mobile telephones outside the premises after leaving or whilst smoking unless it is essential and then only to use them as quietly as possible (c) drinks shall not be taken outside the premises.
  8. Our client will ensure that through his door staff the number of smokers permitted to leave the premises at any one time is limited to five and will ensure that whilst smokers are outside the premises they behave quietly.

We understand from our meeting that the erection of the internal lobby in a form and specification approved by the Principal Environmental Protection Officer will satisfy any concerns regarding sound emanating from the premises which he has.

We are sending a copy of this letter to the Principal Environmental Protection Officer and to the Council's Licensing Officer. This letter can also be taken as our client's response to the Environmental Protection Officer's representation.

Yours faithfully



**STREETER MARSHALL**

# Licensing Act 2003

## Premises Licence

Environmental Health & Trading Standards  
Licensing Unit  
Chaplin Centre  
Thurlow Street  
London SE17 2DG

**Premises licence number**

828210

### Part 1 - Premises details

<b>Postal address of premises, or if none, ordnance survey map reference or description</b>	
Sebastian's 49-51 Norwood Road London SE24 9AA	
Ordnance survey map reference (if applicable), 174200532072	
<b>Post town</b> London	<b>Post code</b> SE24 9AA
<b>Telephone number</b> 07915 079 332	

**Where the licence is time limited the dates**

**Licensable activities authorised by the licence**

Live Music - Indoors  
Recorded Music - Indoors  
Performance of Dance - Indoors  
Facilities for Making Music - Indoors  
Facilities for Dancing - Indoors  
Provisions Similar to making music and dancing - Indoors  
Late Night Refreshment - Indoors  
Sale by retail of alcohol to be consumed on premises

**The opening hours of the premises**

For any non standard timings see **Annex 2**

Monday	13:00 - 05:30
Tuesday	13:00 - 05:30
Wednesday	13:00 - 05:30
Thursday	13:00 - 05:30
Friday	13:00 - 05:30
Saturday	13:00 - 05:30
Sunday	13:00 - 05:30



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

Sale by retail of alcohol to be consumed on premises

**The times the licence authorises the carrying out of licensable activities**

For any non standard timings see Annex 2 of the full premises licence

**Live Music - Indoors**

Monday	18:00 - 04:00
Tuesday	18:00 - 04:00
Wednesday	18:00 - 04:00
Thursday	18:00 - 04:00
Friday	18:00 - 04:00
Saturday	18:00 - 04:00
Sunday	18:00 - 04:00

**Recorded Music - Indoors**

Monday	18:00 - 04:00
Tuesday	18:00 - 04:00
Wednesday	18:00 - 04:00
Thursday	18:00 - 04:00
Friday	18:00 - 04:00
Saturday	18:00 - 04:00
Sunday	18:00 - 04:00

**Performance of Dance - Indoors**

Monday	18:00 - 04:00
Tuesday	18:00 - 04:00
Wednesday	18:00 - 04:00
Thursday	18:00 - 04:00
Friday	18:00 - 04:00
Saturday	18:00 - 04:00
Sunday	18:00 - 04:00

**Facilities for Making Music - Indoors**

Monday	18:00 - 04:00
Tuesday	18:00 - 04:00
Wednesday	18:00 - 04:00
Thursday	18:00 - 04:00
Friday	18:00 - 04:00
Saturday	18:00 - 04:00
Sunday	18:00 - 04:00

**Facilities for Dancing - Indoors**

Monday	18:00 - 04:00
Tuesday	18:00 - 04:00
Wednesday	18:00 - 04:00
Thursday	18:00 - 04:00
Friday	18:00 - 04:00
Saturday	18:00 - 04:00
Sunday	18:00 - 04:00

**Provisions Similar to making music and dancing - Indoors**

Monday	18:00 - 04:00
Tuesday	18:00 - 04:00
Wednesday	18:00 - 04:00
Thursday	18:00 - 04:00
Friday	18:00 - 04:00
Saturday	18:00 - 04:00
Sunday	18:00 - 04:00

**Late Night Refreshment - Indoors**

Monday	23:00 - 05:00
Tuesday	23:00 - 05:00
Wednesday	23:00 - 05:00
Thursday	23:00 - 05:00
Friday	23:00 - 05:00
Saturday	23:00 - 05:00
Sunday	23:00 - 05:00

**Sale by retail of alcohol to be consumed on premises**

Monday	13:00 - 04:00
Tuesday	13:00 - 04:00
Wednesday	13:00 - 04:00
Thursday	13:00 - 04:00
Friday	13:00 - 04:00
Saturday	13:00 - 04:00
Sunday	13:00 - 04:00

**Part 2****Name, (registered) address, telephone number and email (where relevant) of holder of premises licence**

Courtney Sebastian Millanaise	Colton George Folkes
33B Morval Road	14 Bungalow Road
Tulse Hill	South Norwood
London	London
SW2 1DG	SE25 6JZ
07958 355236	

**Registered number of holder, for example company number, charity number (where applicable)****Name, address and telephone number of designated premises supervisor where the premises licence authorises for the supply of alcohol**

Courtney Sebastian Millanaise  
 33B Morval Road  
 Tulse Hill  
 London  
 SW2 1DG

**Personal licence number and issuing authority of personal licence held by designated premises supervisor where the premises licence authorises for the supply of alcohol**

Licence No. 01508  
 Authority L B Lambeth

Licence Issue date 09/09/2008

.....  
 Environmental Health and  
 Trading Standards Manager  
 Chaplin Centre  
 Thurlow Street  
 London SE17 2DG  
 020 7525 5748  
 licensing@southwark.gov.uk

**Annex 1 - Mandatory conditions**

**100** No supply of alcohol may be made under the Premises Licence -

a. At a time when there is no Designated Premises Supervisor in respect of the Premises Licence; or

b. At a time when the Designated Premises Supervisor does not hold a Personal Licence or his Personal Licence is suspended.

**101** Every supply of alcohol under the Premises Licence must be made, or authorised by, a person who holds a Personal Licence.

**107** Any individual carrying out security activities at the premises must be licensed by the Security Industry Authority. This does not apply where the premises are being used primarily as a Qualifying Club under a Club Premises Certificate, under a Temporary Event Notice, or primarily as a cinema, restaurant or theatre

## **Annex 2 - Conditions consistent with the operating Schedule**

**110** No statutory regulations for music and dancing shall apply so as to require any licence for the provision in the premises of public entertainment by the reproduction of wireless (including television) broadcasts or of programmes included in any programme service (within the meaning of the Broadcasting Act 1990) other than a sound or television broadcasting service, or of public entertainment by way of music and singing only which is produced solely by the reproduction of recorded sound is permitted.

**111** This licence provides for the provision of private music and dancing entertainment that is promoted for private gain;

**114** This licence allows for the premises to extend the following licensable activities for non standard timings as stated below on the following days:

Provision of regulated entertainment, Live Music, Recorded Music, Performances of Dance.

From 04:00 to 05:30 on

Christmas Eve

Christmas Day

Good Friday

Easter Sunday

Easter Monday

Early May Bank Holiday

Spring Bank Holiday

Summer Bank Holiday

**127** Alcohol shall not be sold or supplied unless it is paid for before or at the time when it is sold or supplied, except alcohol sold or supplied:

a. With and for consumption at a meal supplied at the same time, consumed with the meal and paid for together with the meal;

b. For consumption by a person residing in the premises or his guest and paid for together with his accommodation;

c. To a canteen or mess.

**134** Alcohol may be sold or supplied:

c. On Christmas day: 12 noon to 11.30.p.m.

d. On New Year's eve, except on a Sunday, 11.00.a.m. to midnight

e. On New Year's Eve on a Sunday, 12 noon to 11.30.p.m.

f. On New Year's eve from the end of permitted hours on New Year's Eve to the start of permitted hours on the following day (or, if there are no permitted hours on the following day, midnight on 31st December).

**135** Intoxicating liquor shall not be sold or supplied on the premises otherwise than to persons taking table meals there and for consumption by such person as an ancillary to his meal.

**136** Suitable beverages other than intoxicating liquor (including drinking water) shall be equally available for consumption with or otherwise as an ancillary to meals supplied in the premises.

**340** CCTV cameras shall be provided to cover the door entrance, bar and entire restaurants.

**341** SIA Door supervisors will be provided on live band/disco days.

**342** Signs shall be displayed saying that alcohol will not be sold without proof of age.

**343** Signs shall be displayed stating that anyone suspected of using drugs will be reported to the police.

**Annex 3 - Conditions attached after a hearing by the licensing authority**

**762** To maintain a refuse contract to the satisfaction of the London Borough of Southwark.(to be implemented within 14 days of this decision)

**788** That the CCTV system installed upon the premises shall be maintained in good working condition and operable at all times the premises are in use. The CCTV system must be capable of capturing an image of every person who enters the premises.

**789** That all recordings taken by the CCTV system installed upon the premises shall be kept and upon request be made immediately available to officers of the police and/or council for a period of thirty one (31) days

**791** That two Security Industry Authority licensed Door Supervisors (one to be female) shall be employed at all times after 22:00hrs and the terminal hour, if the premises operates after 01:00am and provided with hand held metal detection units in order to ensure that searches are carried out in respect of all admissions to the premises, whether members of the public or performers and their assistants and mechanical counting devices to ensure that maximum accommodation limit of the premises is not exceeded.

**794** That no open drinks containers are to be taken outside of the premises

**803** That the Licensee shall require any new and external promoter hiring the premises to complete the 'Hire Venue Agreement' provided by Southwark Council, and once completed shall ensure that provide a copy of the completed agreement is provided to the Police Licensing Unit a minimum of 14 days prior to the date of hire.

**805** That signs shall be displayed at the entrance to the premises that state 'Drug Free Signs' and 'No Search, No Entry. Management reserve the right to Refuse Entry'.

**808** There shall be no new entry, or re-entry, to the premises after 01:00 with the exception of customers who have temporarily left after a cigarette. Such customers must be identifiable and subject again to the full search procedure.

**811** That suitable notices shall be displayed and announcements made requesting that customers leave the premises in a quiet and orderly manner so as not to disturb local residents.

**813** That there shall be no movement of musical or amplification equipment, to or from the premises, between the hours of midnight and 08.00

**836** A personal licence holder shall be on the premises and on duty at all

times that intoxicating liquor is supplied after 22:00Hrs

**840** That the premises licence holder and/or Designated premises supervisor join and support a local Pub watch scheme should there be one in existence for the area in which the premises is located.

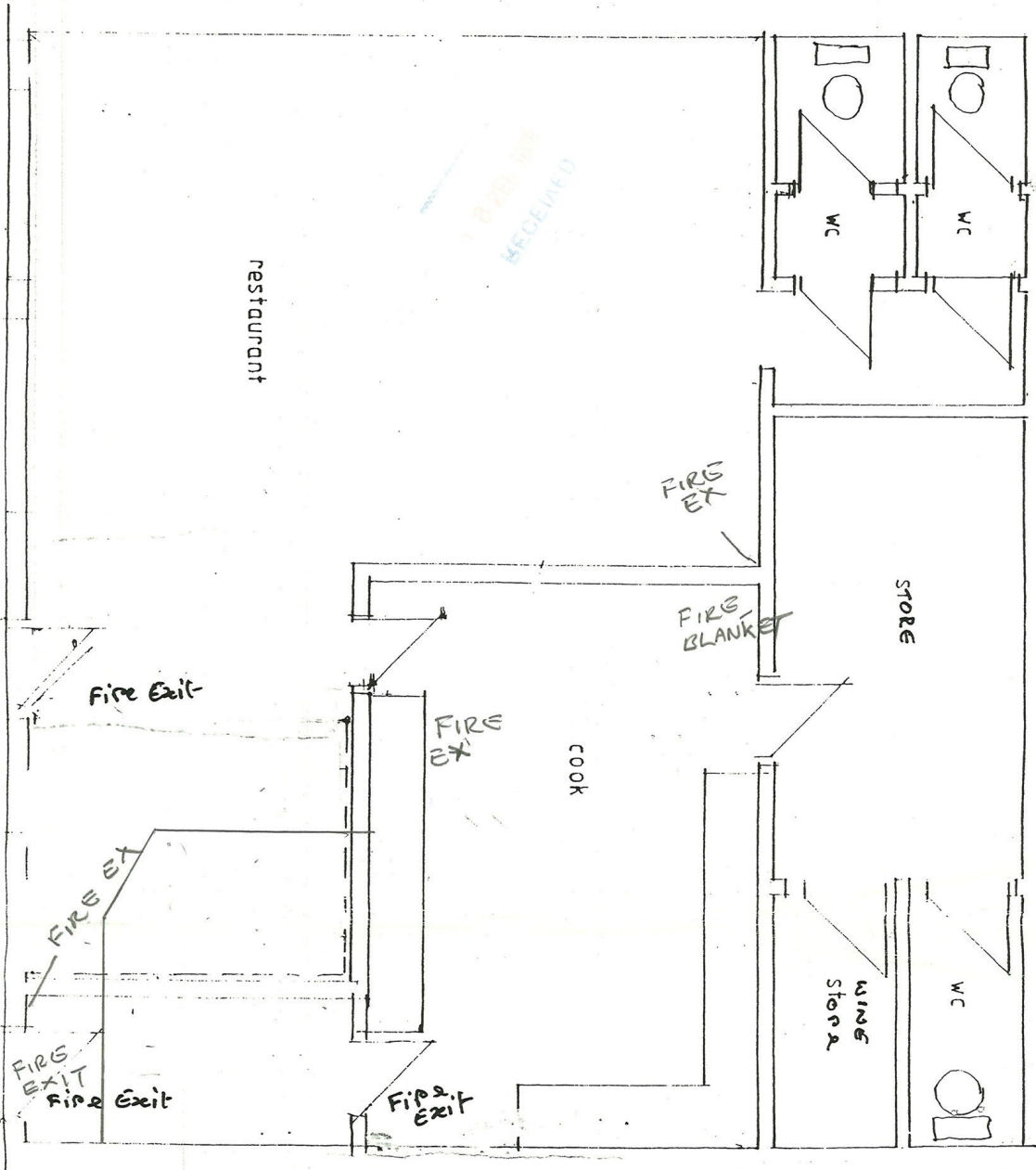
**841** That all matters relating to drugs shall be in accordance with the Metropolitan Police best Practice Guide on the handling of drugs in pubs and club.

**843** Signs shall be displayed saying that alcohol will not be sold without proof of age



**Annex 4 - Plans - Attached**

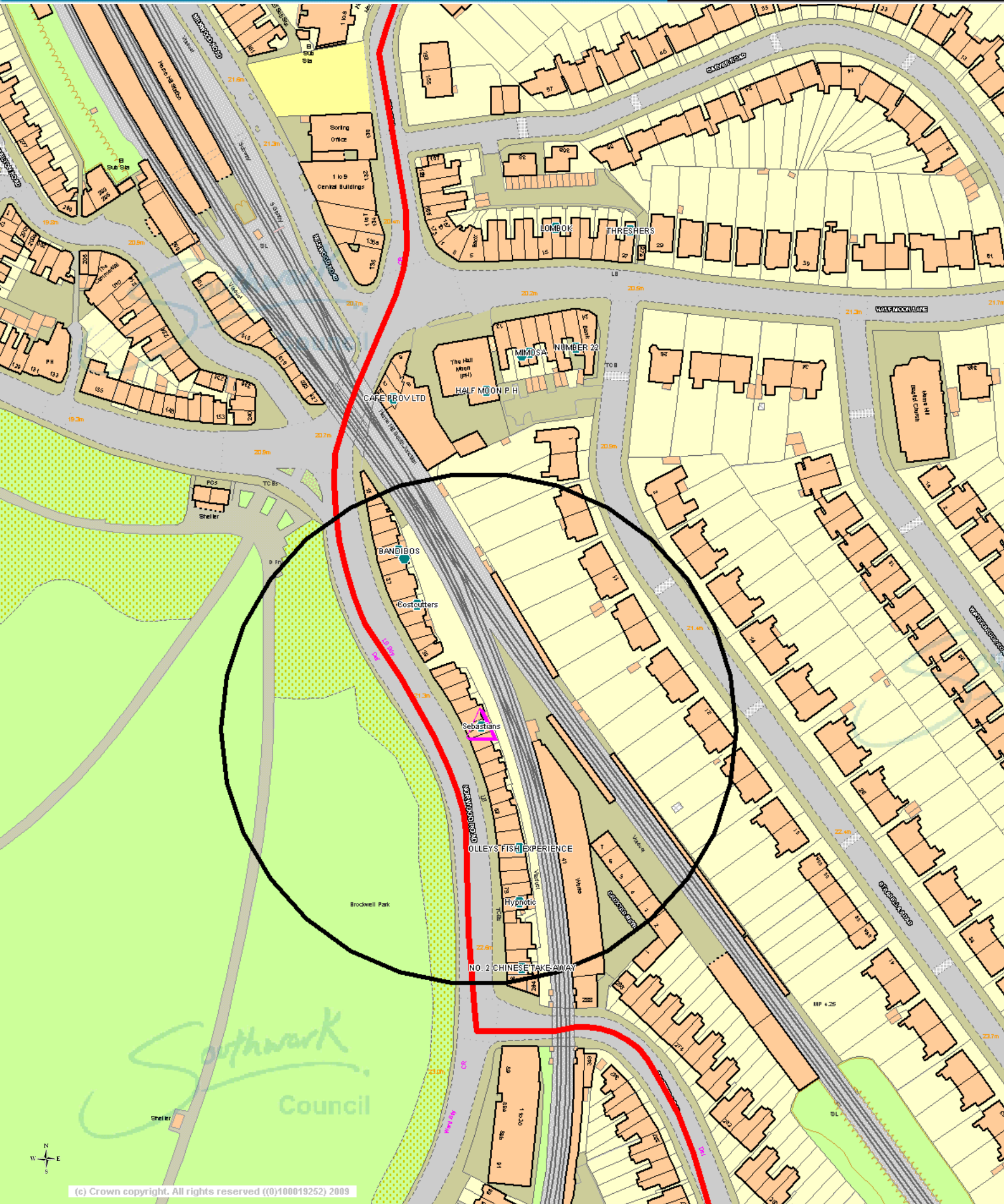
Licence No.	828210
Plan No.	N/A
Plan Date	28 July 2005



Fire Exit  
 Fire Catcher  
 Fire Blanket

RECEIVED  
 9 SEP 2009

28/4 HASLWATER  
 1A WESTERN PARADE  
 BIRMINGHAM  
 DEVON EX13 5NY TEL 07947 12  
 PROJECT 49/ST NORWOOD ROAD  
 LONDON SE21  
 DRAWING PROPOSED LAYOUT  
 Scale 1:50 DIMS A4 01/09



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<b>Item No. 6</b>	<b>Classification:</b> Open	<b>Date:</b> DECEMBER 14 2009 - 10.00am	<b>MEETING NAME</b> Licensing Sub-Committee
<b>Report title:</b>		<b>Registration under the Manufacture and Storage of Explosives Regulations 2005 - 365 WALWORTH ROAD, SE17 2AL</b>	
<b>Ward(s) or groups affected:</b>		<b>Premises are within: FARADAY WARD</b>	
<b>From:</b>		<b>Strategic Director of Environment &amp; Housing</b>	

## RECOMMENDATION

1. That the Licensing Sub-Committee considers a request by the Licensing Unit for the revocation of the registration issued under the Manufacture and Storage of Explosives Regulations 2005 granted to Capalina News/Walworth Convenience Store, situated at 365 Walworth Road, SE17 2AL.

## BACKGROUND INFORMATION.

### The Manufacturer and Storage of Explosives Regulations 2005 (MSER).

2. The Manufacturer and Storage of Explosives Regulations came into force in April 2005. The Regulation provides a new registration and licensing regime for the storage and sale of fire and explosive measures. The local authority, are responsible for ensuring that anyone who wishes to store and sell fireworks holds the appropriate registration or obtain a licence for storing larger quantities of explosives. Explosives are classified by their Hazard Type: –
  - Hazard type 1 - having a mass explosion hazard
  - Hazard type 2 - having a serious projection hazard but not a mass explosion hazard
  - Hazard type 3 - having a fire hazard and either a minor blast hazard or a minor projection hazard or both, but not a mass explosion hazard
  - Hazard type 4 - having a fire or slight explosion hazard or both, with only local effect. (Fireworks generally come under Hazard Type 4)

### Fire and Explosion Measures.

3. Any person who manufactures or stores explosives shall take appropriate measures:
  - a) to prevent fire or explosion
  - b) to limit the extent of fire or explosion including measures to prevent the spreading of fires and the communication of explosions from one location to another; and
  - c) to protect persons from the effects of fire or explosions.

### Registration in Relation to Storage.

4. The duty for registration falls on the person or company who is manufacturing and/or storing the explosives. The licensee is accountable for compliance with the terms of the registration/licence it is therefore essential that the person who holds the registration/licence has effective control over the activities covered by the

registration/licence. Therefore registration/licences are now granted to a person or a company and not to the site.

5. The maximum quantity of explosives that can be kept in a licensed store will depend on the separation distance available and may not exceed 2000kg. The maximum quantity of explosives that can be kept in registered premises may not exceed one of the following:
  - Up to 30kg of explosive of any Hazard Type
  - up to 100kg of Hazard Type 3
  - up to 100kg of Hazard Type 3 and 4
  - up to 250kg of Hazard Type 4 OR
  - up to 250kg small arms ammunition and 30kg shooter's powder

The weights given are calculated as the net explosive weight less packaging etc (normally taken to be 25% of the total weight).

Registrations are now issued subject to conditions relating to storage methods. Until recently information on recommended storage methods was provided under a leaflet issued by Trading Standards Services. A copy of the leaflet is attached as Appendix A to the report.

### **Separation Distance.**

6. Separation Distance means the distance between the store or the building in which explosives are, or are to be, manufactured and a building, or other place in or at which people are or are likely to be present either all the time or from time to time  
A table of separation distances for Hazards Types 3 and 4 is attached as **Appendix B** to the report.

### **Storage of Fireworks.**

7. The MSER Approved Code Of Practice And Guidance advises on the safe storage of fireworks for quantities of 75 kg of Hazard Type 4 pyrotechnical articles where the storage is adjacent or in the same building as domestic/sleeping accommodation.
8. The premises is a ground floor shop, with mixed commercial / residential units above it.
9. The premises has commercial units adjacent to either side of it at ground floor level with mixed commercial / residential units adjacent to either side above ground floor level. A map of the local vicinity is attached as **Appendix C**. The premises is at the centre of the circle on the map. The circle has a radius of 100 metres and is for the purposes of scale only.

### **Registration and Licence.**

10. The Local Authority is responsible for licensing storage of explosives up to two (2) tonnes. If the storage is more than two (2) tonnes, the applicant applies to the Health and Safety Executive for a licence.
11. There are restrictions on when sales can be made. The Fireworks Regulations 2004 allows a premises that holds a registration or licence to store explosives to sell fireworks only during the following times:
  - 5 November (from 15 October to November 10)
  - New Year's Eve (from December 26 to December 31)
  - Chinese New Year (The first the day of Chinese New Year and three days immediately preceding it)



- Diwali (the day of Diwali and three days immediately preceding it)

In order to sell fireworks outside of these times a separate licence under the Fireworks Regulations 2004 is necessary in addition to a registration/licence under the MSER.

12. The Fireworks (Safety) Regulations 1997, as amended, bans the supply of certain types of fireworks, this includes any banger.
13. In carrying out its licensing functions, a licensing authority must also have regard to
  - a) The Manufacture Storage of Explosives Regulations 2005;
  - b) The approved code of practice and guidance issued by the HSE;
  - c) The Fireworks Act 2003
  - d) The Fireworks Regulations 2004
  - e) Fireworks (Safety) Regulations 1997
  - f) The application submitted
  - g) Relevant representations

#### **The Current Registration.**

14. The existing registration number 830605 was issued to Sivaguru Sivaruban of Capalina News/Walworth Convenience Store, situated at 365 Walworth Road, SE17 2AL on the 21 September 2009, it gives consent for the storage and supply of fireworks, a copy of the application form for the existing registration and a copy of the existing registration is attached as **Appendix D** to the report. **Part E** of appendix D shows the quantities of explosives that the applicant stated he intended to keep. The applicant stated that he did not intend to store more than **62.5kg** net in the premises of explosives that were previously registered as a 'Mode B' store and that she did not intend to store more than **75kg** of ammunition or pyrotechnic articles in a building that contains or adjoins domestic premises.

#### **MATTERS FOR CONSIDERATION.**

##### **The Application for Revocation (Section 17(1)(a)(b) of MSER 2005).**

15. The application for revocation is sought by the Licensing Unit under Section 17(1)(a)(b) of MSER 2005 following a request from the Council's Trading Standards Service after visits made to the premises. Matters observed included the breakdown of management responsibilities leading to the storing of fireworks in an improper manner and in disregard to advice previously given to the registration holder, and the sale of fireworks to an underage person. A copy of the representation from Trading Standards is attached as **Appendix E** to the report.. A copy of the revocation notification sent to the registration holder by the licensing Unit is attached as **Appendix F**.

##### **Additional information on the past operating history of the premises.**

16. The premises has held explosives registrations for a number of years , first in the name of Sivaguru Sivanewaran and now in the name of Sivaguru Sivaruban. Sivaguru Sivaruban has been the registration holder since October 2007.

#### **Resource Implications**

17. No fee is payable in respect of an application to revoke a registration
18. The fee for registration to store less than 250 kg of fireworks is £51.

### **Community Impact Statement**

19. Each application is required by law to be considered upon its own individual merits with all relevant matters taken into account.

### **SUPPLEMENTARY ADVICE FROM OTHER OFFICERS**

#### **Strategic Director of Communities, Law & Governance**

20. The Sub-Committee are asked to determine an application for revocation under section 17(1)(a) and or (b) of The Manufacture and Storage of Explosives Regulations 2005.
21. The principles that the Sub-Committee must apply are set out below.

#### **Principles for making the determination**

22. Where the licensing authority has granted a licence or registered a person for the storage of explosives under The Manufacture and Storage of Explosives Regulations 2005, the authority may, pursuant to regulation 17(1) revoke that licence or registration:
23. **(A)** Where there has been a change in circumstances such that the site, or within it, any place in which explosives are stored which licence or, as the case may be, registration relates to is no longer suitable of explosives:
24. **(B)** Where it appears to the licensing authority on information obtained after the grant of the licence or registration that the licensee or registration that the licensee or registered person is not a fit person to store explosives, in the case of a registered person or a person licensed to store explosives.
25. Where the authority proposes to revoke a licence or registration it shall, before taking such action, notify the applicant, licensee or registered person, as the case may be, of its proposed course of action and afford him the opportunity of making representations to the licensing authority about it, within a period of 28 days from the date of notification.
26. Representations may be made in writing, or both in writing and orally.
27. Where the licensing authority decides to revoke a licence or registration it shall provide in writing to the applicant, licensee or registered person, as the case may be, the reasons for its decision.
28. Where the licensing authority decides to revoke a licence or registration, that revocation shall take effect from a date to be determined by the licensing authority that shall be a date after the 28-day notification period.

#### **Hearing Procedures.**

29. Subject to the Licensing Hearing regulations, the Licensing Committee may determine its own procedures. Key elements of the regulations are that
- The hearing shall take the form of a discussion led by the authority. Cross examination shall not be permitted unless the authority considered that it is required for it to consider the representations
  - Members of the authority are free to ask any question of any party or other person appearing at the hearing
  - The committee must allow the parties an equal maximum period of time in which to exercise their rights to
    - Address the authority

- If given permission by the committee, question any other party.
- In response to a point which the authority has given notice it will require clarification, give further information in support of their application.
- The committee shall disregard any information given by a party which is not relevant
  - to the particular application before the committee, and
  - the registration objectives.
- The hearing shall be in public, although the committee may exclude the public from all or part of a hearing where it considers that the public interest in doing so outweighs the public interest in the hearing, or that part of the hearing, taking place in private.
- In considering any representations or notice made by a party the authority may take into account documentary or other information produced by a party in support of their application, representations or notice (as applicable) either before the hearing or, with the consent of all the other parties, at the hearing.

### **Council's multiple roles and the role of the Licensing Sub-Committee.**

30. Sub-Committee members will note that, in relation to this application, the Council has multiple roles. Council officers from various departments have been asked to consider the application from the perspective of the Council as authority responsible respectively for environmental health, trading standards, health and safety and as the planning authority.
31. Members should note that the Licensing Sub-Committee is meeting on this occasion solely to perform the role of licensing authority. The Sub-Committee sits in quasi-judicial capacity, and must act impartially. It must offer a fair and unbiased hearing of the application. In this case, Members should disregard the Council's broader policy objectives and role as statutory authority in other contexts. Members must direct themselves to making a determination solely based upon the Licensing Law, Guidance and the Council's Statement of Licensing Policy.
32. As a quasi-judicial body the Licensing Sub-Committee is required to consider the application on its merits. The Sub-Committee must take into account only relevant factors, and ignore irrelevant factors. The decision must be based on evidence, that is to say material, which tends logically to show the existence or non-existence of relevant facts, or the likelihood or unlikelihood of the occurrence of some future event, the occurrence of which would be relevant. The Licensing Sub-Committee must give fair consideration to the contentions of all persons entitled to make representations to them.
33. The Licensing Sub-Committee is entitled to consider events outside of the premises if they are relevant, i.e. are properly attributable to the premises being open. The proprietors do not have to be personally responsible for the incidents for the same to be relevant. However, if such events are not properly attributable to the premises being open, then the evidence is not relevant and should be excluded. Guidance is that the licensing authority will primarily focus on the direct impact of the activities taking place at the licensed premises on members of the public, living, working or engaged in normal activity in the area concerned.
34. Members will be aware of the Council's Code of Conduct, which requires them to declare personal and prejudicial interests. The Code applies to Members when considering licensing applications. In addition, as a quasi-judicial body, Members are required to avoid both actual bias, and the appearance of bias.



**Guidance.**

35. Members are required to have regard to the DCMS Guidance in carrying out the functions of licensing authority. However, guidance does not cover every possible situation, so long as the guidance has been properly and carefully understood, members may depart from it if they have reason to do so. Full reasons must be given if this is the case.

Background Papers	Held At	Contact
MSER 2005 DCMS Guidance Secondary Regulations Various papers from the premises file.	The Chaplin Centre, Thurlow Street, SE17 2DG	Mrs Kirty Read at the Chaplin Centre Telephone 0207 525 5748

## APPENDICES

No.	Title
Appendix a	Copy of Trading Standards leaflet
Appendix b	Copy of table of separation distances for Hazards
Appendix c	Map of local vicinity
Appendix d	Copy existing registration and existing application
Appendix e	copies of the representation and photos from Trading Standards
Appendix f	Copy of revocation notification

## AUDIT TRAIL

Lead Officer	Gill Davies, Strategic Director of Environment & Housing	
Report Author	Dorcas Mills, Principal Licensing Officer	
Version	Final	
Dated	December 4 2009	
Key Decision?	No	
<b>CONSULTATION WITH OTHER OFFICERS / DIRECTORATES / EXECUTIVE MEMBER</b>		
Officer Title	Comments Sought	Comments included
Strategic Director of Communities, Law & Governance	Yes	Yes
Finance Director	No	No
Executive Member	No	No
Date final report sent to Constitutional Team	December 4 2009	

## APPENDIX A.



# Fireworks registration and storage

Trading Standards Information

[www.southwark.gov.uk](http://www.southwark.gov.uk)

## 1. Introduction

Fireworks contain explosives and must be stored safely and securely. Anyone wishing to store explosives must either register with the council or, for larger quantities obtain a licence. Most small retailers will find that the registration provisions are sufficient for the level of stock that they keep.

This leaflet details the relevant requirements for **registration only**. You must also be aware that regulations affect what types of fireworks you can sell, their labelling and what notices you must display. Please refer to our leaflet entitled 'Firework safety and age-restricted sales'.

## 2. New storage regulations

The Manufacture and Storage of Explosives Regulations 2005 (MSER) are now in force and largely replace the Explosives Act 1875. Fees have increased and are listed in section 15. If your old registration has expired your application has to be treated as a new initial registration.

Registration is now granted to a person (or company) and not to the site. You must not store any fireworks until you have been granted registration and the council can now refuse to register you if it considers you to be an unfit person or if it considers the proposed storage site is unsuitable.

## 3. New restrictions on when you can sell

You are only permitted to supply or expose for supply adult fireworks at the following times of year—

- From the 15<sup>th</sup> of October to the 10<sup>th</sup> of November
- From the 26<sup>th</sup> to the 31<sup>st</sup> of December
- The first day of the Chinese New Year and the three days immediately preceding it (2007 date is 18 February)
- The day of Diwali and the three days immediately preceding it (2006 date is 21 October)

If you wish to **supply** them at any other times a separate £500 licence is required. You can **store** fireworks throughout the year but this is not recommended as they may not have a long shelf life.

Continues/...

#### 4. New information retention requirement

You must retain details of the name and address of your firework supplier, the date you obtained the fireworks and the total amount of explosives contained in them. You must produce this information to local authority officers if requested.

#### 5. Explosives classification and Net Explosive Quantity (NEQ)

The majority of fireworks that retailers will stock are classified as Hazard Type 4 (HT4) explosives. Some larger fireworks may be more dangerous and be classified Hazard Type 3 (HT3). It is important to know which type you have as the quantities permitted to be stored depend on the Hazard Type so check with your supplier if you are unsure.

The maximum quantities in the Regulations now refer to Net Explosive Quantity (NEQ). This is the quantity of explosive contained within the fireworks and not the gross weight. If the NEQ weight is not available, then it is presumed to be one quarter (25%) of the gross weight of the fireworks excluding packaging.

#### 6. What quantities can I store when I am registered?

The total amount permitted (NEQ) to be stored at the premise is;

- Up to 250kg (just under 40 stone) of Hazard Type 4
- Up to 100kg of a combination of Hazard Type 3 and 4
- Up to 100kg of Hazard Type 3

Stock may be held in a storage area and in the sales area. The amount that may be stored in the sales area depends on how big that area is. For example a small shop with a sales area up to 20 square metres can store up to 12.5kg NEQ / 50kg gross (just under 8 stone) of fireworks in the shop front area.

Shops having a larger sales area can store more but individual display cabinets must hold no more than 12.5kg NEQ / 50kg gross. See section 15 for details.

If more than 250kg (NEQ) is to be stored stricter conditions apply and a licence will be needed.

#### 7. Are there any exemptions to registration?

Registration is not required if;

- the total net explosive quantity (NEQ) of the fireworks you intend to store is 5kg or less. The NEQ quantities may be indicated on the outer packaging of fireworks or your suppliers may provide the information. If the NEQ is not available the law assumes it to be one quarter of the gross weight of the fireworks (excluding packaging) so you can store 20kg gross of fireworks without registration; or
- you only store the fireworks for 24 hours or less at the premises (you must be able to prove this).

Note that even if you are exempt from registration you must still comply with the **safety requirements** in the regulations concerning fire prevention and control.

**Continued/...**

## 8. What are the safety requirements in the regulations?

You must take appropriate measures to:

- Prevent fire or explosion
- Limit the extent of fire or explosion including measures to prevent the spreading of fires and the communication of explosives from one location to another and
- To protect persons from the effects of fire or explosion

Also, no person who stores explosives shall permit a person under the age of 18 to work in that storage area except under appropriate supervision.

## 9. How should I store fireworks in the shop sales area?

- Do not allow smoking anywhere where fireworks are stored or sold.
- Store them in a display case or storage cupboard or cabinet. These must be designed to protect against sparks or other sources of ignition.
- Lights or electrical fittings in display cabinets/cases must be disconnected
- Do not store any other goods with fireworks.
- Keep the display cabinets/cases in a designated area where no unauthorised person could access them and well away from sources of ignition such as heaters.
- Avoid putting glass showcases containing fireworks in your shop window. If you want a window display use empty 'dummy' packets.

## 10. How should I store fireworks kept elsewhere?

All explosives must be stored in a suitable place depending on the quantity and type of explosives being kept. The key principles are to ensure that the store, container or cupboard is, where appropriate:

- Suitably waterproof
- Designed to ensure that explosives do not come into contact with substances with which they are incompatible
- Kept clean with steps taken to prevent grit entering unpackaged explosives
- Used only to keep explosives and tools/implements connected with the keeping of explosives

Suitable precautions must be taken to exclude possible sources of ignition such as matches, smoking materials, grit, rust and other contaminants.

Fireworks should be kept in closed transport packaging and only opened when needed.

Don't put loose fireworks into metal dustbins. There is a danger that the articles will become mixed up or damaged with loose compound collecting at the bottom of the dustbin.

**Continues/...**

Where fireworks are kept in a warehouse (or similar room or building) that holds significant quantities of other combustible materials, the storage should be either:

- in an ISO transport container (or similar fully enclosed metal structure)
- using storage cupboards or cabinets
- building a structural partition
- using a wire mesh screen or cage or
- metal dustbins (provided fireworks are kept in their transport packaging)

#### 11. Storage adjoining or in the same building as domestic/sleeping accommodation

If more than 75kg (NEQ) of Hazard Type 4 are kept in a store within or adjoining, a building containing domestic/sleeping accommodation, suitable steps must be taken to protect residents of those premises in the event of a fire. The following precautions must be taken:

- a fire detection system must be installed in the shop;
- the domestic parts of the building must have access/exit routes that are fire-separated from those used for the firework store;
- there must be suitable fire separation between the firework store and the domestic accommodation; and
- the store must be closed off and secured from the domestic part of the property in order to prevent unauthorised access and to help prevent accidental introduction of sources of ignition.

#### 12. What happens if I don't comply with these requirements?

Failure to comply with these Health & Safety requirements could result in goods being seized and prosecution. On conviction the Courts may impose fines of up to £5000.

#### 13. Further information

If you require further assistance on these requirements, or would like additional related information leaflets, please contact our Business Help Desk at the address given. To obtain a registration application form please contact Southwark's Licensing Section ☎020 7525 2000

#### 14. Fees

Registration	One year	£72
	Two years	£108
	Three years	£145
Variations/transfers		£31

Renewal	One year	£36
	Two years	£72
	Three years	£105

Continues/...

### 15. Quantities in sales area

The amount that may be stored in the sales area depends on how big the floor space of that area is. The table below gives details. Note that only a maximum of 12.5kg explosives (50kg gross) may be kept in any one cabinet.

Floor area of sales area (sq. metres)	Quantity of explosives (kilograms NEQ)	Assumed gross weight (if unable to determine NEQ weight) (kg)
not exceeding 20	12.5	50
not exceeding 40	15	60
not exceeding 60	20	80
not exceeding 80	25	100
not exceeding 100	30	120
not exceeding 150	35	140
not exceeding 200	40	160
not exceeding 250	45	180
not exceeding 300	50	200
not exceeding 350	55	220
not exceeding 400	60	240
not exceeding 450	65	260
not exceeding 499	70	280
equal to or exceeding 500	75	300

## APPENDIX B

Table 7: External separation distances

## Hazard Type 3

Quantity of explosives (kg)	Footpath <sup>(y)</sup>	Minor road <sup>(y)</sup>	Major road <sup>(y)</sup>
	Lightly used road <sup>(y)</sup>	Railway line <sup>(w)</sup>	Place of public resort
	Waterway (metres)	(metres)	Buildings <sup>(x)</sup> (metres)
0.1-25	0	0	0
25-50	8	12	23
50-75	8	13	25
75-100	10	15	29
100-150	11	17	33
150-200	12	19	37
200-300	14	21	42
300-400	16	24	47
400-450	16	24	47
450-500	17	25	50
500-600	17	26	51
600-700	18	27	53
700-800	18	27	54
800-900	18	28	55
900-1000	21	32	63
1000-1100	23	35	70
1100-1200	24	36	71
1200-1300	24	36	72
1300-1400	24	37	73
1400-1500	25	37	74
1500-1600	25	38	75
1600-1700	25	38	76
1700-1800	26	39	78
1800-1900	26	40	79
1900-2000	27	40	80
2000-3000	30	41	91
3000-4000	33	50	100
4000-5000	36	54	107
5000-10 000	45	68	136
10 000-15 000	52	78	156
15 000-20 000	57	86	172
20 000-25 000	62	93	185
25 000-30 000	66	100	199

(w) Use these distances also for any aerodromes, dock, pier, jetty, river wall, sea wall, reservoir.

(x) Use these distances for any dwelling, retail shop, government and public buildings, church, college, chapel, school, hospital, theatre, cinema or other building where the public are accustomed to assemble; motorway; caravan site for which planning permission for this area has been granted and on which is located an occupied caravan for a total period in excess of 28 days in any one calendar year; factory; building or works used for the storage in bulk of petroleum spirit, gas, or other inflammable substances; buildings or works used for the storage and manufacture of explosives or of articles which contain explosives.

(y) 'Footpath' includes a bridleway or other thoroughfare which is not a road, but does not include a footpath used by no more than 20 persons every 24 hours. 'Lightly used road' means a road used by more than 20 or fewer than 500 vehicles every 24 hours. 'Minor road' means a road used by more than 500 vehicles every 24 hours, other than a major road. 'Major road' means a road used by more than 10 000 vehicles every 24 hours. 'Waterway' does not include a waterway navigated by no more than 20 persons every 24 hours.

Note: For Hazard Type 3 and Hazard Type 4 explosives, there are no extended distances for vulnerable buildings. Apply the distances in Column 4 of Table 7 or Table 8 as appropriate for such building.



Table 8: External separation distances

## Hazard Type 4

Quantity of explosives (kg)	Footpath <sup>(bb)</sup>	Minor road <sup>(bb)</sup>	Major road <sup>(bb)</sup>
	Lightly used road <sup>(bb)</sup>	Railway line <sup>(z)</sup>	Place of public resort
	Waterway (metres)	(metres)	Buildings <sup>(aa)</sup> (metres)
0.1-250	0	0	0
250-300	1	1	1
300-340	1	1	2
340-370	1	2	3
370-400	1	2	4
400-450	2	3	5
450-500	2	3	6
500-550	2	4	7
550-650	3	4	8
650-700	3	5	10
700-750	4	6	11
750-800	4	6	12
800-900	4	7	13
900-950	5	7	14
950-1000	5	8	15
1000-1100	5	8	16
1100-1150	6	9	17
1150-1200	6	9	18
1200-1300	6	10	19
1300-1350	7	10	20
1350-1400	7	11	21
1400-1450	7	11	22
1500-1550	8	12	23
1550-1600	8	12	24
1600-1650	8	13	25
1650-1700	9	13	26
1700-1800	9	14	27
1800-1850	9	14	28
1850-1900	10	15	29
1900-2000	10	15	30
2000-3000	12	18	35
3000-4000	13	20	40
4000-5000	15	23	45
5000-10 000	17	26	51
10 000-15 000	18	27	54
15 000-20 000	18	28	55
20 000-25 000	19	29	58
25 000-30 000	20	30	60

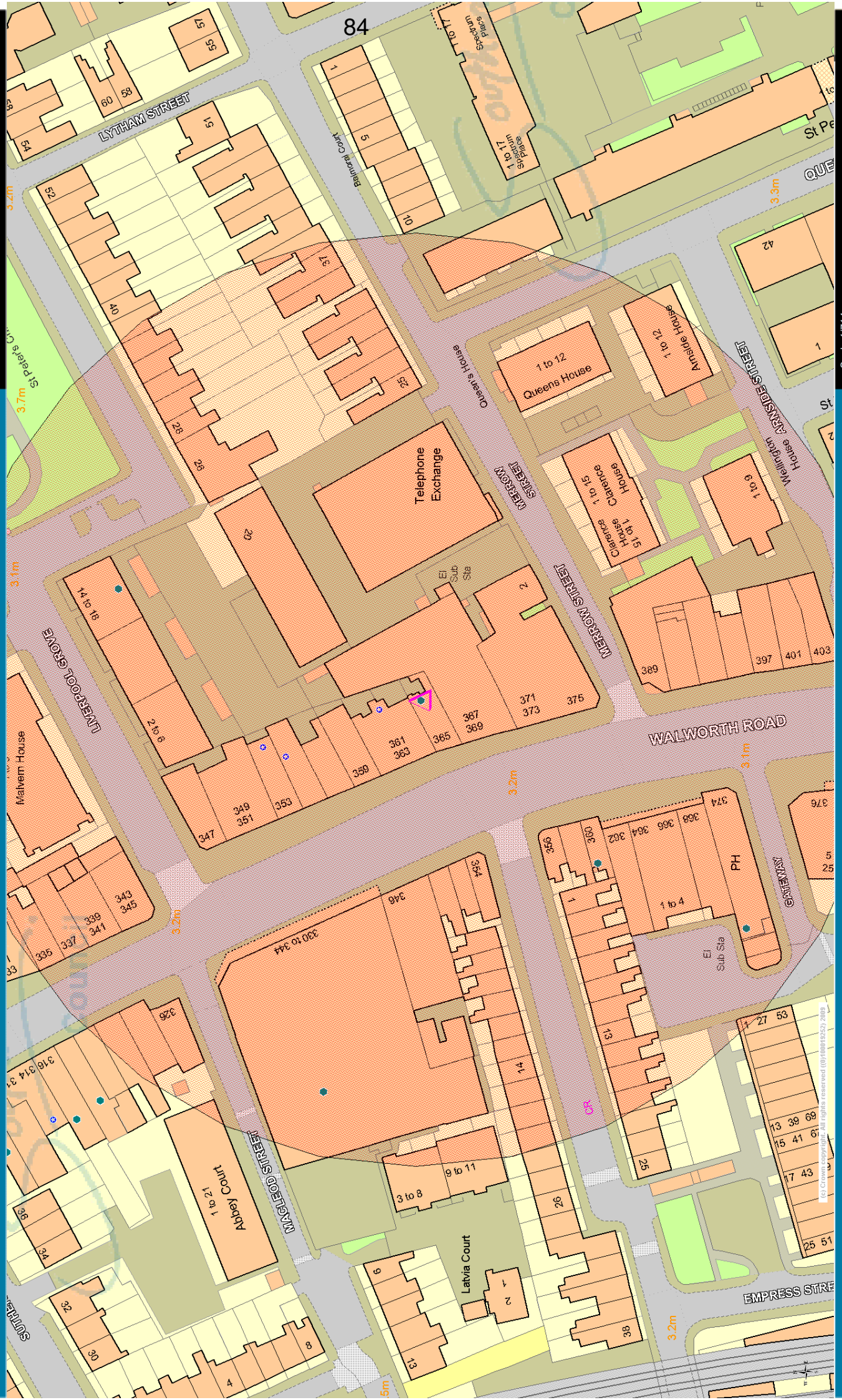
(z) Use these distances also for any aerodromes, dock, pier, jetty, river wall, sea wall, reservoir.

(aa) Use these distances for any dwelling, retail shop, government and public buildings, church, college, chapel, school, hospital, theatre, cinema or other building where the public are accustomed to assemble; motorway; caravan site for which planning permission for this area has been granted and on which is located an occupied caravan for a total period in excess of 28 days in any one calendar year; factory; building or works used for the storage in bulk of petroleum spirit, gas, or other inflammable substances; buildings or works used for the storage and manufacture of explosives or of articles which contain explosives.

(bb) 'Footpath' includes a bridleway or other thoroughfare which is not a road, but does not include a footpath used by no more than 20 persons every 24 hours. 'Lightly used road' means a road used by more than 20 or fewer than 500 vehicles every 24 hours. 'Minor road' means a road used by more than 500 vehicles every 24 hours, other than a major road. 'Major road' means a road used by more than 10 000 vehicles every 24 hours. 'Waterway' does not include a waterway navigated by no more than 20 persons every 24 hours.

**Note:** For Hazard Type 3 and Hazard Type 4 explosives, there are no extended distances for vulnerable buildings. Apply the distances in Column 4 of Table 7 or Table 8 as appropriate for such buildings.









**Sivaguru Sivaruban**  
**365 Walworth Road**  
**London**  
**SE17 2AL**

**Licensing Unit**  
**Direct Dial - 020 7525 5748**  
**Facsimile - 020 7525 5705**

24th September 2009

**Dear Sir/Madam**

**RE: REGISTRATION TO STORE EXPLOSIVES ISSUED UNDER THE  
MANUFACTURE AND STORAGE OF EXPLOSIVES REGULATIONS 2005**

I have the pleasure of forwarding to you your premises Explosives Registration for the premises:

**Capalina News**  
**365 Walworth Road**  
**London**  
**SE17 2AL**

I would draw your attention to the days on which fireworks can be sold from the premises at the bottom of the licence.

If you require any additional information please contact me on the above telephone number.

Yours sincerely,

*Kirby Read*

**Kirby Read**  
Senior Licensing Support Officer  
Licensing@southwark.gov.uk

**REGISTRATION TO STORE EXPLOSIVES ISSUED  
UNDER THE MANUFACTURE AND STORAGE OF  
EXPLOSIVES REGULATIONS 2005**



Environmental Health & Trading Standards  
Chaplin Centre  
Thurlow Street  
London SE17 2DG  
Phone - 020 7525 5748  
Facsimile - 020 7525 5705

This registration is issued this day by:

**London Borough of Southwark**

to: **Sivaguru Sivaruban**  
of: **365 Walworth Road**  
**London**  
**SE17 2AL**

who is authorised to keep explosives at:  
**Capalina News**  
**365 Walworth Road**  
**London**  
**SE17 2AL**

The maximum quantity of explosives that can be kept in registered premises may not exceed *one* of the following:

1. 30 kg of explosives of any hazard type;
2. 100 kg of hazard type 3 explosives;
3. 100 kg of a combination of hazard type 3 and hazard type 4 explosives;
4. 250 kg of hazard type 4 explosives; or
5. 250 kg of small arms ammunition and percussion caps and 30 kg of shooters' powder.

Note: all quantities are net mass of explosives

This registration replaces all other registrations previously issued for this site and is valid for the period

from: 01/10/2009 to: 30/09/2010

Authorised by: Richard Parkins Licensing Manager

Signature:

Date: 21/09/2009

Licence number

830605

**Fireworks may only be sold on the following days:**

- November 5 (15 October to 10 November);
- New Year's Eve (December 26 to 31 December);
- Chinese New Year (the day of Chinese New Year and 3 days immediately before);
- Diwali (the day of Diwali and 3 days immediately before).



Application for Registration under the Manufacture and Storage of Explosives Regulations 2005

- Please read the guidance notes before completing this form.
- Please do not use this form if you plan to store smokeless powder or any explosive requiring an explosives certificate
- Please note that it is an offence under Section 33 of the Health and Safety at Work Act to provide false information. Incomplete or inaccurate information could result in a delay in processing your application.
- The information entered in this form may be stored electronically. The information may, where appropriate be shared with other relevant bodies such as other licensing authorities or the Health and Safety Executive. You have the right to request a copy of any personal information and to have any inaccuracies corrected.

Part A - Details of the Applicant

Name of applicant **SIVAGURU - SIVARUBAN**

Please put name of company or partnership if this is a corporate application

Date and place of birth (where applicant is an individual) **21-06-1978 JAFFNA**

Address (including postcode)  
**CAPALINA NEWS  
365 WALWORTH ROAD  
LONDON SE17 2AL**

Daytime tel no **020-7703 1080**  
**07941 356 833**  
Email **-**  
Fax No **-**

Name and address of contact for queries regarding this application

Name of Contact **SIVARUBAN**

Address (if different from above)  
**SAME ABOVE**

Daytime tel no  
Email  
Fax No

Part B - Store location (if different from applicant's address)

Please state below the full address (including postcode) where the store is located

**SAME ABOVE** Postcode  
**RECEIVED 21 SEP 2009**

Details of the person with management responsibilities for the store

Name of Contact

Position

Address (if different from above)

Daytime tel no  
Fax No

Out of hours contact details – please give the name and telephone number, including mobile if appropriate, of the person to be contacted in an emergency

Name

SIVARUBAN

Telephone no

020 - 7703 1080

Mobile no

07941 356833

**Part C – Other information in support of this application**

This application is for:

a new registration a renewal registration 

Date that the registration is to commence

01 - OCT - 2009

If this is a renewal application please state the name of the issuing authority, the date of expiry, and any reference number

LONDON BOROUGH OF SOUTHWARK 30-09-2009  
825018

Have you had a previous licence or registration refused or revoked?

Yes No 

If you have answered yes, please state the name of the authority, whether the licence or registration was refused or revoked; the date of refusal or revocation, and the reasons given.

Have you been convicted of any offence under legislation on health and safety or sale of fireworks?

Yes No 

If yes, please give date and details

**Part D – Nature of Business** (please tick the category or categories that apply to this application)

Fireworks- retail Fireworks – import/ wholesale Fireworks – display operator Recreational user 

Other (please specify);

**Part E - Type and amount of explosives being kept**

Fireworks Other pyrotechnics 

Other (please specify);

Total quantity (net mass)

50 kg

Are you intending to store more than 62.5 kg net in premises that were previously registered as a 'Mode B' store?

Yes No 

Are you intending to store more than 75kg of ammunition or pyrotechnic articles in a building that contains or adjoins domestic premises?

Yes No

Are you intending to sell fireworks?

Yes

No

If yes, do you intend to sell them only at: (please tick the relevant box or boxes below):

New Year



Chinese New Year



Oct 15 – Nov 10



Diwali



Other (please specify);

NB: you may also need to make a separate application for a licence to comply with the Firework Regulations 2004. Please seek advice from your local licensing authority.

**Part F – Signature of applicant (or applicant's representative)**

Signed

*S. Sivaran*

Date

21/09/09

Name

S. SIVARUBAN

Position

MANAGER

Organisation (if applicable)

Please return this form to:

The information gathered in this form may constitute personal data as defined in the Data Protection Act 1998. Any personal data will be processed in accordance with the requirements of that Act.



**Guidance to applicants applying for a registration certificate**

Please complete the application form using either black ink or type. If there is insufficient room to provide the information requested please continue on a separate sheet(s). You should also put your name and address at the top of each sheet(s) before attaching the sheet(s) to your application form.

Please contact the Licensing Service if you have any questions about completing this form or about your application.

**This form should only be used for explosives that do not require an explosive certificate – for example, fireworks, other pyrotechnic substances and articles, and small arms ammunition.**

The maximum quantities that can be stored under a registration are:

- 250 kilograms of small arms ammunition and percussion caps and 30 kilograms of shooters' powder;
- 250 kilograms of Hazard Type 4 explosives (e.g. most consumer fireworks and other pyrotechnic articles).

If you are keeping any of the more powerful Hazard Type 3 explosives then the quantities are reduced to 100 kg. If you are keeping any Hazard Type 1 explosives the quantity reduces to 30 kg.

Please seek further advice from your supplier if you are uncertain about the hazard type of the substances you wish to store.

The quantities referred to are the '*net mass*' of the explosives. This means the weight of the explosive contained within an article (i.e. less packaging, casings etc). In the case of fireworks and other pyrotechnic articles this is assumed to be one quarter of the gross weight of the article – unless you have more specific information from the supplier.

If the store location does not have a postal address (e.g. a store in a field) please include a map (1:25000) showing its location. We may also wish to see a floor plan of the sales area if you plan to store or display more than 12.5 kg of fireworks there.

*Period of validity:* registration certificates for fireworks and other explosives that do not require an explosive certificate are renewable annually. We will send you a reminder when this is due but it is your responsibility to ensure that your registration is maintained.

**Important notes**

It is your responsibility to ensure you are aware of, and complying with the regulations on the manufacture and storage of explosives.

Authorised Officers from the Licensing Service or the Council's Trading Standards Service may visit your premises before granting a registration. The Council may prohibit storage of explosives at the site if it is believed that the site is unsafe. The Council may also take enforcement action if you are not storing safely.

If you are planning to sell fireworks outside certain limited periods of the year you may also need a licence under the Fireworks Regulations 2004. Please ask one of our officers if you require further information.

Please return this form to:

**The Licensing Service**  
**Environmental Health and Trading**  
**Standards**  
 The Chaplin Centre  
 Thurlow Street  
 London SE17 2DG  
 Tel. 020 7525 5748  
 Fax. 020 7525 5705

## Registration to store explosives issued under the Manufacture and Storage of Explosives Regulations 2005

### Conditions of Registration

1. The amount of permitted explosives that may be stored in the sales area may not exceed the maximum permitted amount, dependent upon the available floor space (see table below)...

<i>Floor area of sales area (sq. metres)</i>	<i>NEC quantity / gross weight explosives (kg)</i>	<i>Floor area of sales area (sq. metres)</i>	<i>NEC quantity / gross weight explosives (kg)</i>
not exceeding 20	12.5 / 50	not exceeding 250	45 / 180
not exceeding 40	15 / 60	not exceeding 300	50 / 200
not exceeding 60	20 / 80	not exceeding 350	55 / 220
not exceeding 80	25 / 100	not exceeding 400	60 / 240
not exceeding 100	30 / 120	not exceeding 450	65 / 260
not exceeding 150	35 / 140	not exceeding 499	70 / 280
not exceeding 200	40 / 160	equal to or exceeding 500	75 / 300

2. A maximum of 12.5kg of explosives (50kg gross) may be kept in any one cabinet
3. All explosives must be stored in a suitable place depending upon the quantity and type of explosives being kept. The key principles are to ensure that the store, container or cupboard is, where appropriate:
  - a. Suitably waterproof;
  - b. Designed to ensure that explosives do not come into contact with substances with which they are incompatible;
  - c. Kept clean with steps taken to prevent grit entering unpackaged explosives; and
  - d. Used only to keep explosives and tools / implements connected with the keeping of explosives.
4. No explosives may be kept on open shelves or displayed in any open area.
5. No boxes of fireworks may be displayed open or be opened on the premises or at the point of sale.
6. No smoking shall be permitted on any registered premises by staff or by members of the public. A "no smoking" sign shall be displayed upon the premises.
7. Suitable precautions must be taken to exclude possible sources of ignition such as matches, smoking materials, grit, rust and other contaminants.
8. Fireworks shall be kept in transport packaging and only removed when needed.
9. Loose fireworks shall not be stored in metal dustbins.

10. Where fireworks are kept in a warehouse (or similar room or building) that holds significant quantities of other combustible materials, the storage shall be either –
  - a. In an ISO transport container (or similar fully enclosed metal structure);
  - b. Using storage cupboards or cabinets;
  - c. Building a structural partition;
  - d. Using a wire mesh screen or cage; or
  - e. Metal dustbins (provided fireworks are kept in their transport packaging).
11. If more than 75kg (NEQ) of Hazard Type 4 are kept in a store within or adjoining a building containing domestic / sleeping accommodation, suitable steps may be taken to protect residents of those premises in the event of a fire. The following precautions must be taken –
  - a. A fire detection system must be installed in the shop;
  - b. The domestic parts of the building must have access / exit routes that are fire separated from those used for the firework store;
  - c. There must be suitable fire separation between the firework store and the domestic accommodation; and
  - d. The store must be closed off and secured from the domestic part of the property in order to prevent unauthorised access and to help prevent accidental introduction of sources of ignition.
12. Appropriate measures must be taken to –
  - a. Prevent fire or explosion;
  - b. Limit the extent of fire or explosion including measures to prevent the spreading of fires and the communication of explosives from one location to another; and
  - c. To protect persons from the effects of fire or explosion.
13. No person who stores explosives shall permit a person under the age of 18 to work in that storage area except under appropriate supervision.
14. No person may supply any adult fireworks or explosives to any person under the age of 18 years.
15. A notice at least 297 mm x 420 mm (A3) must be prominently displayed, in any premises where fireworks are supplied, stating that it is illegal to supply adult fireworks to anyone under 18, and that it is illegal for anyone under 18 to possess adult fireworks in a public place.
16. The following fireworks can not be supplied, purchased or possessed –
  - a. Air bombs;
  - b. Mini rockets;
  - c. Bangers of any kind;
  - d. Aerial maroons, aerial shells, shell-in-mortars and maroon-in-mortars;
  - e. Any fireworks with erratic flight, for example squibs, jumping crackers and helicopters;
  - f. Combinations containing any type of banger such as Chinese crackers and other batteries (these are designed for use in large open spaces and are classified as Category 3 fireworks);
  - g. Also Category 3 fireworks, which produce sound pressure levels exceeding 120 decibels, are prohibited from being supplied, purchased or possessed.
17. Fireworks in a selection box or pack must not be split up or sold individually.
18. All fireworks intended for use by the general public must comply with British Standard 7114:1988.
19. Sparkler packs must be labelled with the statement "warning: not to be given to children under 5 years of age".

20. Suppliers are required to keep records for 3 years if over 50kg net explosive content of fireworks are supplied in a single transaction, detailing –
- a. The name and address of the person who supplied him;
  - b. The name and address of the person he supplied;
  - c. The date of supply; and
  - d. The total quantity of explosive supplied.

Further guidance can be found in the MSER 2005 approved Code of Practice published by the Health & Safety Executive.





## MEMO: Trading Standards

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<b>To</b>	Richard Parkins	<b>Date</b>	22/10/2009		
<b>Copies</b>	Sally Slade				
<b>From</b>	Paul Gander	<b>Telephone</b>	020 7525 5742	<b>Fax</b>	020 7525 5705
<b>Email</b>	tradingstandards@southwark.gov.uk				

---

**Subject** MR SIVARUBAN SIVAGURU – MSER 2005 Registration number 10273  
 T/A WALWORTH CONVENIENCE STORE, 365 WALWORTH ROAD,  
 SE17 2AL (Location La ref 1359)

I request you consider revoking the above registration under the provisions of Regulation 17(1)(b)(i) of the Manufacture and Storage of Explosives Regulations 2005.

In considering revocation I would report the following matters as discovered during a fireworks storage inspection on 21st October 2009 by Hedley Setahul and myself with the assistance of Police Officers. Mr SIVASKNTHAN SIVAGURU (SS), Manager and joint owner of the business, was present throughout the inspection. No one is listed by the MSER applicant as a person with Management responsibilities for the store. The inspection, although planned, was brought forward in response of reports alleging that underage persons were obtaining fireworks from the premises.

1. On commencement of the Inspection a small quantity of fireworks were observed to be correctly stored in secure display cabinets within the shop floor area. SS stated there were no other fireworks in the premises and they were waiting to get more stock in next week. In fact a further 49.5kg (gross) more fireworks were discovered behind the shop counter area and 25.35kg were found in the basement.
2. The fireworks stored behind the counter were not stored securely and were stored adjacent to other goods, electrical plugs and sockets as well as a working electric heater (selected photographs of the scene as found at the premises are attached to this memo)
3. The fireworks found in the basement were in their transport packaging but were being stored with all kinds of other shop stock including alcohol, cigarettes and food stuffs.
4. The incorrectly stored fireworks were removed from the premises and whilst they were being itemised numerous people who appeared to be under the age of 18 came into the shop and showed an interest in the fireworks on display. No suspect sales were seen but it appears that the goods were being stored

**Trading Standards** - EH & TS, Chaplin Centre, Thurlow Street, London SE17 2DG  
**Switchboard** - 020 7525 5000 **Website** - [www.southwark.gov.uk](http://www.southwark.gov.uk)  
**Strategic Director Environment & Leisure** - Gill Davies

behind the counter to facilitate a quick transaction once the customer had chosen from the display cabinets rather than the staff having to go to the display cabinets to obtain stock.

5. The majority of stock taken away consisted of Roman Candles and Rockets i.e. those which are most associated with misuse anti-social behaviour and the biggest variety of these were 52 packs of five selling at 99p each

Although unrelated to the storage of explosives I would also point out that two people associated with the premises have been previously convicted with regard to underage sales namely;

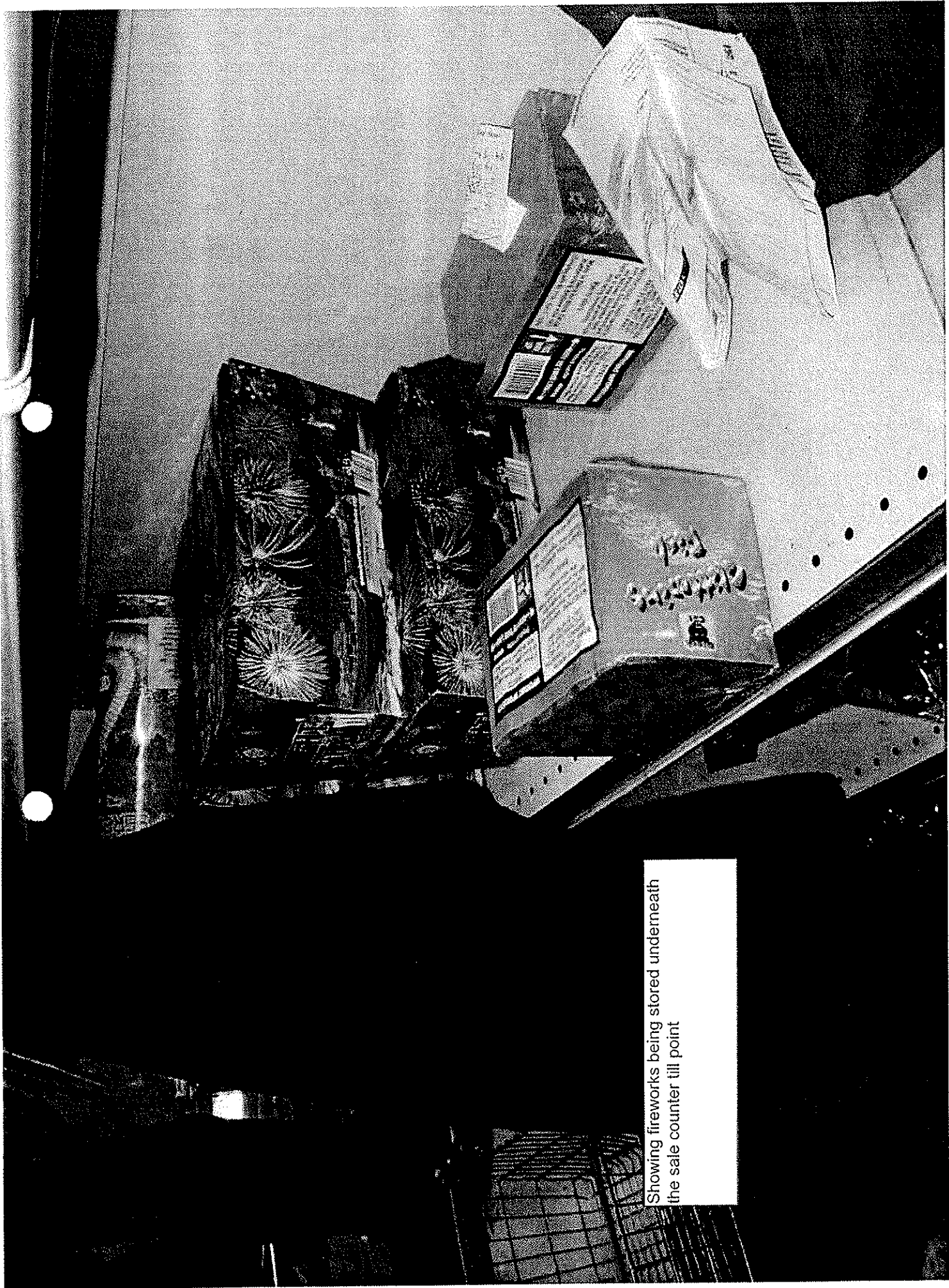
Mr Sivaneswaren Sivaguru, - underage sale of fireworks on 26/10/2006 (convicted 4/7/07)

Mr Kumar Parathan (believed to be an alias of SIVASKNTHAN SIVAGURU) – underage sale of alcohol 9/8/05 (convicted 25/7/06)

I believe the above facts indicate breaches of Regulation 4(1)(b) of the Manufacture and Storage of Explosives Regulations 2005 and Section 33 (1)(c) of the Health & Safety at Work Act 1974. For this purpose paragraphs 260-262, 267-268, 275, 293,307 of the MSER Approved Code of Practice are relevant.

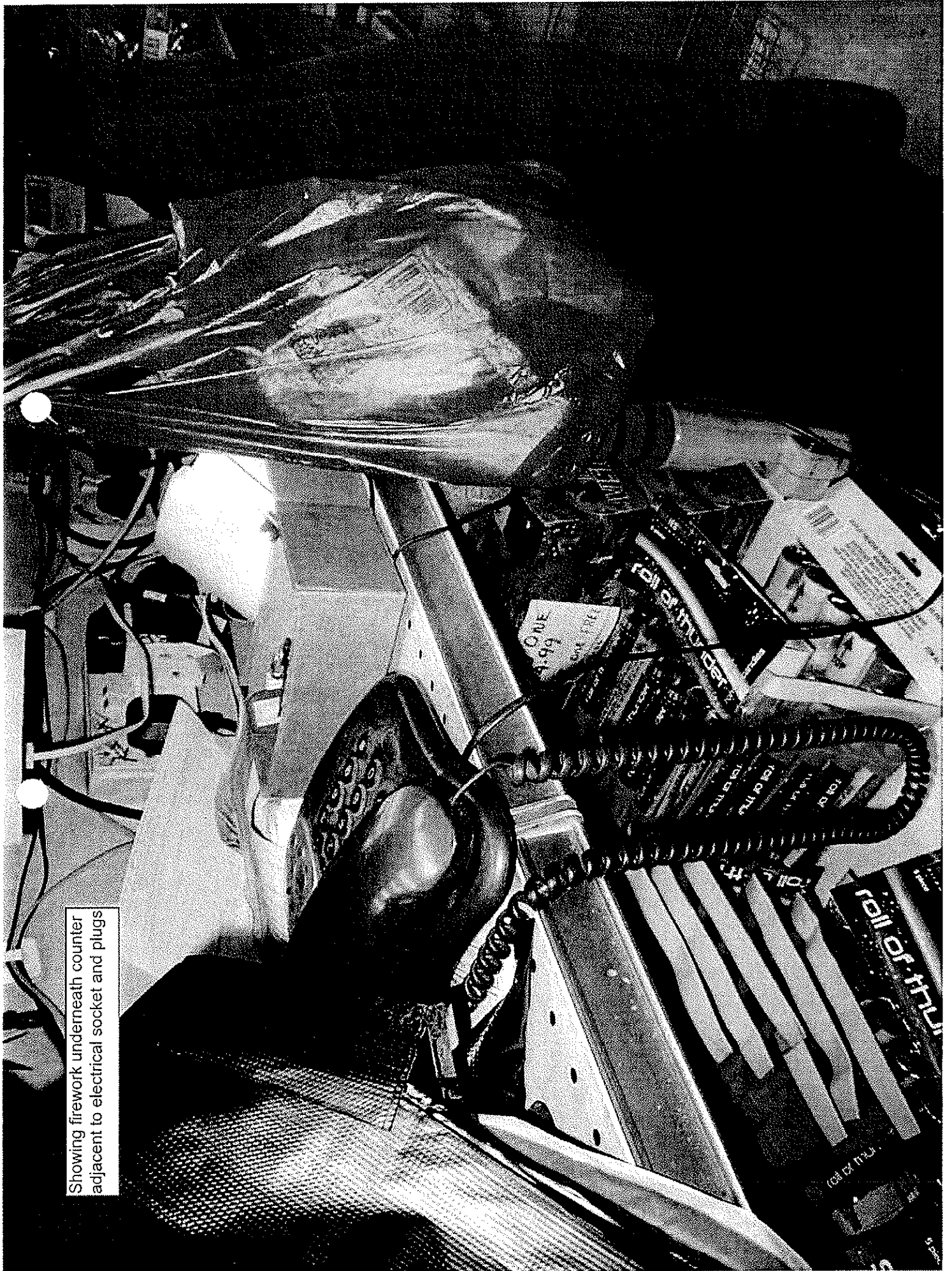
Furthermore I submit that these breaches were not just a result of incompetence but show a deliberate disregard of the law and advice given regarding safe storage. There is therefore doubt that persons associated with this business can be relied upon to store explosives without risk to public safety.

We intend to conduct a PACE interview with regard to these facts and I will inform you of any further relevant information when it comes to hand, In the meantime if you require any further information or photographs please contact me.



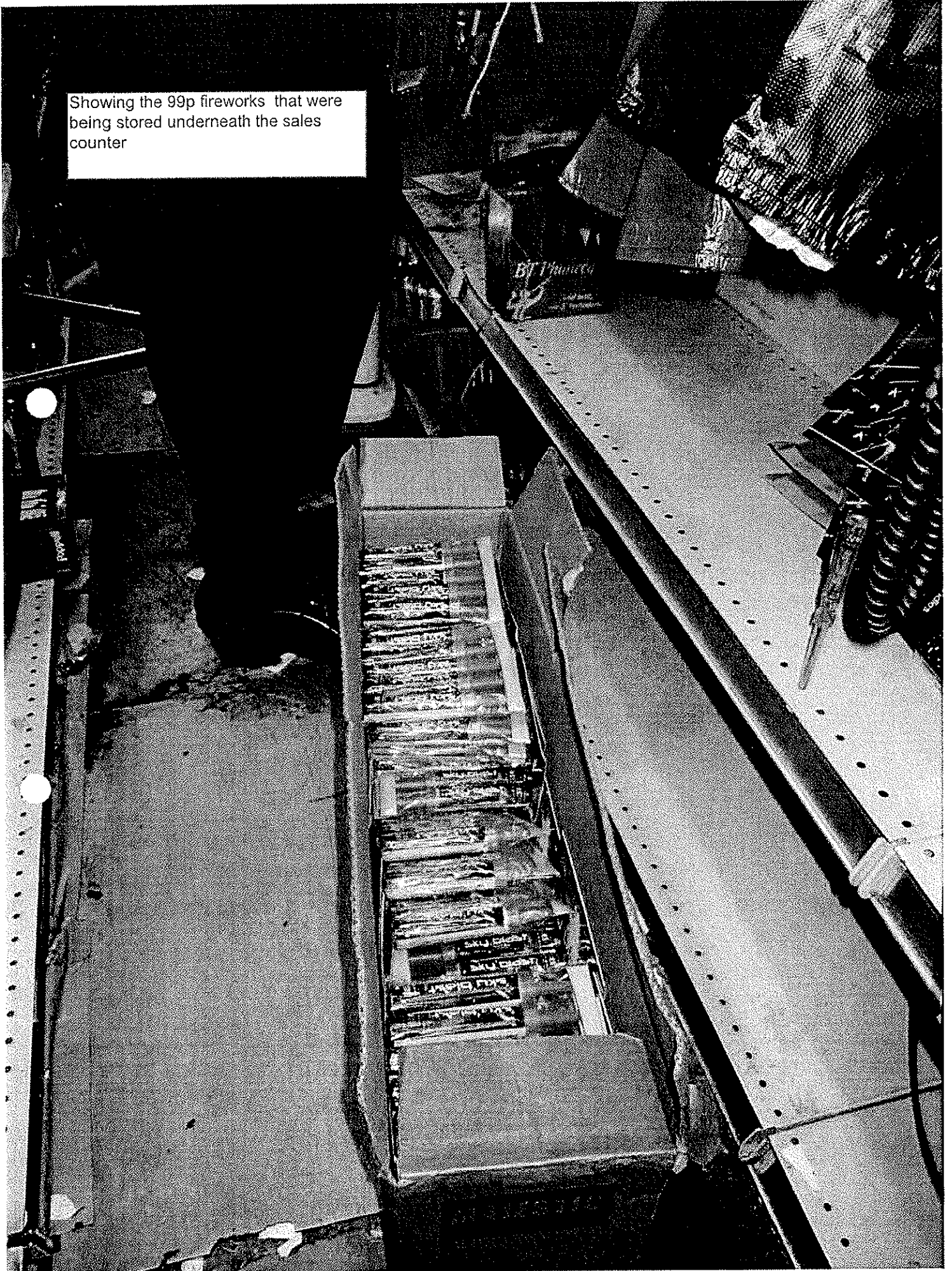
Showing fireworks being stored underneath the sale counter till point





Showing firework underneath counter adjacent to electrical socket and plugs

Showing the 99p fireworks that were being stored underneath the sales counter







Showing the electric heater in operation as found adjacent to the loose rockets and other fireworks on the shelves





Mr Sivaguru Sivaruban  
Capalina News  
365 Walworth Road  
London SE17 2AL

Direct Dial: 020 7525 5698  
Facsimile: 020 7525 5705

Our Ref: LOC 1359

06 November 2009

Dear Sir / Madam

Notice of intent to revoke a registration under regulations (17) & (18) of:

**THE MANUFACTURE AND STORAGE OF EXPLOSIVES REGULATIONS 2005.**

**Re: 365 Walworth Road, London SE17 2AL - Registration number: 830605**

I refer to the above registration for the manufacture and storage of explosives held under the Manufacture and Storage of Explosives Regulations 2005 (MSER 2005) in respect of the above premises.

The council's **Trading Standards Service** has requested that the Licensing Unit revokes the above registration. A copy of the correspondence from the Trading Standards Unit in regards to this matter is enclosed.

In view of the Trading Standards Services request and information that they have provided you are informed that the Licensing Unit seeks to revoke your registration. The proposed date that the revocation shall take effect from is: **The 14<sup>th</sup> of December 2009**

In consideration of the above, this letter notifies you formally that a Licensing Sub-Committee hearing has been convened to consider the matter at **10.00 HRS** on the **14<sup>th</sup> of December 2009** at **Peckham Town Hall, Peckham Road, London SE5.**

You are informed you may make representations in support of upholding your registration. You may also make representations in respect of the proposed revocation date. Any representations submitted will be considered at the above hearing. Representations may be provided in writing or orally.

If you wish to make a written representation you must provide it to the Licensing Unit at the address given at the bottom of this letter within 28 days of the date given on this letter.

If you wish to make an oral representation, you will need to provide notification in writing to the licensing Unit. You will then be able to submit your oral representation before the Sub-Committee hearing on the above date.

You should note that you are entitled to attend the hearing, except for when this Authority considers it to be in the public interest to exclude the public from all or part of a hearing.

You are also entitled to be assisted or to be represented at the meeting by any person whether or not that person is legally qualified to do so.

A report will be prepared prior to the hearing that will include a copy of your registration and details of any representations. A copy of the report will be sent to you as soon as it is available, and will also be made available on the Council's website at [www.southwark.gov.uk](http://www.southwark.gov.uk)

You are informed that you may appeal against the decision of the Licensing Sub-Committee to the Secretary of State under Section 44 of the Health and Safety at Work act 1974 in accordance with regulation 19 of the above regulations.

Attached to this letter is important information regarding the representation and hearing procedure. Please read it carefully. If there is any matter contained in this letter of which you are unclear then please contact this office.

Yours faithfully



**Dorcas Mills**  
**Principal Licensing Officer**

[licensing@southwark.gov.uk](mailto:licensing@southwark.gov.uk)

## IMPORTANT INFORMATION ABOUT THE REPRESENTATION AND HEARING PROCEDURES.

### PLEASE READ CAREFULLY.

At the hearing you will be entitled to

- (a) Give further information in support of your application in response to any point upon which this Authority has provided notice that it will want clarification;
- (b) If given permission by this Authority, question any other party; and
- (c) Address the Licensing Sub-Committee.

In order to assist the smooth running of the hearing you are required to inform the Licensing Service no later than 5 working days before the date of the hearing whether:

- (i) You will be attending the hearing;
- (ii) You will be represented at the hearing, and if so, the name of the person who will be representing you,
- (iii) You wish to call witnesses, and if so, the name of each witness and a brief description of the points that the witness will make to assist the Committee; and
- (iv) You consider a hearing to be unnecessary. (In the circumstances that all involved parties agree that a hearing is unnecessary this Authority may dispense with the hearing and you will be advised accordingly).

For this purpose a proforma response form is provided below. This notice must be completed and returned to the Licensing Service no later than **30 NOVEMBER 2009.**

**Please note that should you inform this Authority that you do not intend to attend or to be represented at the hearing, the hearing may proceed in your absence.**

**Furthermore, should you notify this Authority that you intend to attend or to be represented at the hearing and then fail to attend or be represented the Authority may, where it considers it to be necessary in the public interest, adjourn the hearing to a specified date, or otherwise hold the hearing in your absence.**

You should be aware that at the meeting the Licensing Sub-Committee would require clarification of the issues raised in the representations. Please ensure that you are able to address each point raised at the meeting.

Enclosed for your information is a copy of the procedure to be followed at the meeting. Please read this document carefully. ***Please note that the procedure for sub-committee hearings in respect of the above regulations is the same as the procedure set out in respect of the Licensing Act 2003. Please ignore appendix A in the Licensing Committee and Sub-Committee procedure notes supplied.***





**THE MANUFACTURE AND STORAGE OF EXPLOSIVES REGULATIONS 2005.**

**PROFORMA REPLY NOTICE TO THE LICENSING UNIT:**

Please tick as appropriate or complete missing information:

1. I intend to attend the hearing Yes   
No

2. I intend that I will be  
(a) assisted by   
(b) represented by

Mr / Mrs / Ms / Miss.....

Please state your assistant / representative's position

.....

3. I request permission to call the following witnesses

(a) (i) Name of witness.....  
(a) (ii) Brief description of points that this witness may be able to assist  
the Authority in relation to the application .....

.....

.....

(b) (i) Name of witness.....  
(b) (ii) Brief description of points that this witness may be able to assist  
the Authority in relation to the application.....

.....

.....

- (c) (i) Name of witness.....
- (c) (ii) Brief description of points that this witness may be able to assist the Authority in relation to the application.....

.....

.....

If further witnesses are required please continue on a separate sheet giving the same information for each person.

REGISTRATION HOLDERS NAME: **Mr Sivaguru Sivaruban**

PREMISES ADDRESS: **Capalina News,365 Walworth Road,London SE17 2AL**

NAME (PLEASE PRINT USING BLOCK CAPITALS):.....

DATE:.....

Please note that you must return this proforma reply to **The Licensing Service, C/O Southwark Environmental Health and Trading Standards at the Chaplin Centre, Thurlow Street, London SE17 2DG** no later than the date indicated in the covering letter.

<b>Item No.</b> 7	<b>Classification:</b> Open	<b>Date:</b> December 14 2009 at 10am	<b>MEETING NAME</b> Licensing Sub-Committee
<b>Report title:</b>		<b>LICENSING ACT 2003 – BANANAS BAR, 374 WALWORTH ROAD, LONDON SE17 2NF</b>	
<b>Ward(s) or groups affected:</b>		<b>Premises are within: FARADAY</b>	
<b>From:</b>		<b>Strategic Director of Environment &amp; Housing</b>	

### RECOMMENDATION

1. That the Licensing Sub-Committee considers an application made by Candido Rodrigues to vary a Premises Licence granted under the Licensing Act 2003 in respect of the premises known as: Bananas Bar, 374 Walworth Road, London SE17 2NF.
2. **Notes:**
  - a) *The application seeks to vary existing licensable activities held under current legislation in respect of the premises known as: Bananas Bar under Section 34 of the Licensing Act 2003. Existing permitted licensable activities are not the subject of representations and are not under consideration at this meeting. The variation application is subject to representations from interested parties and is therefore referred to the Sub-Committee for determination;*
  - b) *Paragraphs 12 to 16 of this report provide a summary of the application under consideration by the Sub-Committee (A copy of the full application is provided as Appendix a).*
  - c) *Paragraphs 17 & 18 of this report deals with the representations and comments received to the application. (copies of relevant representations and conciliations are attached as Appendices c & d).*

### BACKGROUND INFORMATION

#### The Licensing Act 2003

3. The Licensing Act 2003 received Royal Assent on 10 July 2003. The Act provides a new licensing regime for:
  - a) The sale of and supply of alcohol
  - b) The provision of regulated entertainment
  - c) The provision of late night refreshment
4. Within Southwark, this Council wholly administers the licensing responsibility.
5. The Act requires the licensing authority to carry out its functions under the Act with a view to promoting the four stated licensing objectives. These are
  - a) The prevention of crime and disorder;
  - b) The promotion of public safety
  - c) The prevention of nuisance; and
  - d) The protection of children from harm.
6. In carrying out its licensing functions, a licensing authority must also have regard to

- a. The Act itself;
  - b. The Guidance to the act issued under Section 182 of the Act;
  - c. Secondary regulations issued under the Act;
  - d. The Licensing Authority's own Statement of Licensing Policy
  - e. The application, including the operating schedule submitted as part of the application
  - f. Relevant representations
7. The Act established a transitional period between 7 February 2005 and 6 August 2005 under which holders of existing Justices Licences, Public Entertainment Licences and Night café Licences were able to apply to the local licensing authority for "grandfather rights" conversion of those existing licences into the relevant licences under the new system. Licences that were so converted were converted on existing terms, conditions and restrictions. The 6 August date having now passed operators are still able to apply to secure the new licences before the date upon which the new licensing regime comes into being – 24 November 2005 – but must now apply for new licences.
  8. The applications process involves the provision of all relevant information required under the Act to the licensing authority with copies provided by the applicant to the relevant responsible bodies under the Act. The application must also be advertised at the premises and in the local press. The responsible authorities and other interested parties within the local community may make representations on any part of the application where relevant to the four licensing objectives.
  9. Although applications submitted after 6 August 2005 no longer carry "grandfather" conversion rights, licensing authorities are directed that applicants do have an "added protection" under the law. Where an applicant seeks a Premises Licence intended to cover the retail sale of alcohol and that premises operation is currently covered by a Justices Licence, the licensing authority concerned cannot apply conditions restricting the hours at which alcohol is sold at present unless there has been a material change in the circumstances since the Justices Licence was granted, or the Police have made representations in connection with the prevention of crime.

## MATTERS FOR CONSIDERATION

### The current Premises Licence

10. The current licence in respect of the premises known as Bananas Bar, 374 Walworth Road, London SE17 2NF was granted to the applicant on 3 September 2009. It allows the following licensable activities.
  - **Recorded music; facilities for dancing**  
Monday –Sunday from 11.00- 00.00;
  - **Sale and Supply of alcohol on and off the premises:**  
Monday – Saturday from 09.00- 01.00;  
Sunday 12.00 – 01.00
  - **Operating hours of premises;**  
Monday – Saturday from 09.00- 01.30;  
Sunday 12.00 – 01.30
11. A copy of the existing Premises Licence is attached as appendix b.

### The variation application

12. On 2 October 2009, Candido Rodriques applied to this Council to vary the Premises Licence issued in respect of the premises known as Bananas Bar 374 Walworth Road, LONDON SE1 2NF under section 34 of the Licensing Act 2003.

### Details of the variation application

13. The variation application is summarized as follows:

- **To permit the provision of regulated entertainment**  
*(live music, performance of dance, provision of facilities for making music, and anything of a similar description to making music and dancing)*
  - Mon – Thurs from 15.00 - 03.00
  - Fri ,Sat & Sun from 15.00 – 04.30
- **To extend the terminal hour permitted for recorded music and provision of facilities for dancing:**
  - Mon – Thurs from 00.00 - 03.00
  - Fri ,Sat & Sun from 00.00 – 04.30
- **To permit the provision of late night refreshment**
  - Mon – Thurs from 23.00 - 02.00
  - Fri ,Sat & Sun from 23.00 – 03.00
- **To extend the terminal hour for the sale and supply of alcohol:**
  - Mon – Thurs from 01.00 - 03.00
  - Fri ,Sat & Sun from 01.00 – 04.30
- **The opening hours of the premises requested are**
  - Mon – Thurs from 09.00 to 03.30
  - Fri ,Sat & Sun from 09.00 – 05.00
- **Non standard timings (for requested activities)**
  - Bank Holiday weekend to remain open till 05.00
  - New Years Eve to remain open till 05.00

A copy of the application to variation application is attached to the report as Appendix a.

14. The variation application form provides the applicant's operating schedule. Parts E, F, G, H, I, J, K, L, M and O set out the proposed operating hours in full.
15. Part P of the variation application provides any additional steps that might be proposed by the applicant to promote the four licensing objectives as set out in the Licensing Act 2003. In the event that the Sub-Committee should approve the application any proposals stated here must become licence conditions.

### **Designated Premises Supervisor**

16. The designated premises supervisor under the existing Premises Licence is Sandra Da Costa, she holds a Personal Licence issued by Wandsworth Council.

### **Representations From Interested Parties**

17. There is one representation lodged a local residents. The representation is primarily concerned with the prevention of crime and disorder, public and noise nuisance. The representation is attached as appendix c to the report.

### **Representations From Responsible Authorities**

18. There are two representations lodged by the Metropolitan Police and the Council's Environmental Protection Team (EPT). Both representations outline control measures that should be undertaken to reduce the risk of crime and disorder and noise nuisance if the licence is granted. The representations are attached as appendix d to the report.

### **Conciliation**

19. Conciliation was offered as part of the application process, however noise and crime and disorder issues are unresolved. As such the application is being submitted for determination by the Licensing Sub-Committee.

### **Additional information relating to operation of the premises**

20. On 23 June 2009 an application was made to transfer the licence from the previous owner of the premises then known as Liam Ogs to Mr Candido Rodriques.
21. Compliants were received from the Environmental Enforcement Team with regards to several noise nuisance complaints received and witnessed by their officers and also reported the premises operating beyond their terminal hours.
22. On 14 July 2009 a warning letter was hand delivered to Mr Rodriques with regards to noise complaints and unlicensed activities outside the terminal hours permitted by the licence.

### **Temporary Events Notices**

23. On 22 October a Temporary Event Notice was requested for a private party to extend the terminal hours from 01.30 to 4.30 on 27 November 2009. This application was granted without objection.
24. On 17 November 2009, 4 sets of temporary events notices were requested for various dates 4/5 of December 2009; 11/12 December 2009; 18/19 December 2009, 25/26 December 2009 all between 01.00 hrs to 04.00 hrs daily.
25. Objections were made by the Metropolitan Police with regards to recent crime and disorder issues both inside and outside of the premises and as such the applications were referred to the Licensing Sub-Committee on 25 November 2009 for determination.
26. The Licensing Sub-Committee considered the objection notice submitted by the Metropolitan Police Licensing Service on the four temporary Events Notice under Section 100 of the Licensing Act 2003 and having considered each of the four

events, the sub-committee accepted the evidence of the Police that a number of crime & disorder incidents had occurred in and outside the premises in recent weeks and as a result, considered that granting the Temporary Event Notices would have an adverse impact on the crime & disorder objective and therefore issued counter notice to refuse the applications.

### **Additional statement from Metropolitan Police**

27. A witness statement issued by the Metropolitan Police with regards to the temporary event notices is attached as appendix e.

### **The Local Vicinity**

28. A map of the local vicinity is attached as appendix f. The operating terminal hours of the following premises licensed for regulated entertainment and late night refreshment are shown on the map:

#### **Off Licences**

- **Capalina Stores**, 365 Walworth Road SE17 (Mon - Sat until 23:00 and Sun 22.30)
- **Oli Centre**, 332 344 Walworth Road, SE17 (Mon – Sun 24hrs.)
- **Iceland Stores**, 332 344 Walworth Road, SE17 (Mon- Sat 23:00; Sun till 22.30)

#### **Public Houses with entertainment**

- **RED LION**, 407 Walworth Road, SE17 (Sun – Thurs till 00:30; Fri & Sat till 01.30)

#### **Late Night Refreshment**

- **WALWORTH KEBAB & BURGER BAR**, 360 Walworth Road, SE17 (Sun – Thurs till 02.00; Friday & Saturday till 04:00)
- **LA LUNA**, 380 Walworth Road, SE17 (Mon – Sat 00:30; Sun till 00.00)
- **WINNER**, 3 Westmoreland Road, SE17 (Mon - Thurs till 00:00; Fri & Sat till 00.30; Sun till 23.30)

### **Southwark Council Statement of Licensing Policy**

29. Council Assembly approved the Southwark Statement of Licensing Policy on 2 April 2008. Sections of the Statement that are considered to be of particular relevance to this application are

- a. Section 3 which sets out the purpose and scope of the policy and reinforces the four licensing objectives
- b. Section 5 which sets out the Council's approach with regard to the imposition of conditions including mandatory conditions to be attached to the licence
- c. Section 6 details other relevant Council and Government policies, strategies, responsibilities and guidance, including the relevant Articles under the Human Rights Act 1998
- d. Section 7 provides general guidance on dealing with crime and disorder and deals with licensing hours

- e. Section 8 provides general guidance on ensuring public safety including safe capacities
  - f. Section 9 provides general guidance on the prevention of nuisance
  - g. Section 10 provides general guidance on the protection of children from harm.
30. The purpose of Southwark's Statement of Licensing Policy is to make clear to applicants what considerations will be taken into account when determining applications and should act as a guide to the Sub-Committee when considering the applications. However, the Sub-Committee must always consider each application on its own merits and allow exceptions to the normal policy where these are justified by the circumstances of the application.

### **Resource implications**

31. A fee of £190.00 has been paid by the applicant in respect of this application being the statutory fee payable for a premises within non-domestic rateable value Band B.

### **Consultation**

32. Consultation has been carried out on this application in accordance with the provisions of the Licensing Act 2003. A public notice was placed in a local news and a similar notice exhibited outside of the premises.

### **Community Impact Statement**

33. Each application is required by law to be considered upon its own individual merits with all relevant matters taken into account.

## **SUPPLEMENTARY ADVICE FROM OTHER OFFICERS**

### **STRATEGIC DIRECTOR OF COMMUNITIES, LAW & GOVERNANCE**

34. The Sub-Committee is asked to determine the application for a variation of a converted premises licence. The converted licence was itself granted automatically under the new Licensing Act 2003, without need for a hearing, as no relevant objections were received from the Police, on crime and disorder grounds, to the conversion.
35. It is important to distinguish the application for variation of a converted licence under the Licensing Act 2003 from the type of applications previously heard by the Sub-Committee, where a licence was renewed or an applicant sought to vary. The principles that apply are significantly different in many respects (although the requirement to give all parties a fair, unbiased hearing remains).
36. The Sub-Committee can only consider matters within the application that have been raised through representations from interested parties and responsible authorities. Interested Parties must live in the vicinity of the premises. This will be decided on a case-by-case basis.
37. Under the Human Rights Act 1998, the Sub-Committee needs to consider the balance between the rights of the applicant and those making representations to the application when making their decision. The Sub-Committee has a duty under Section 17 Crime and Disorder Act 1998 when making its decision to do all it can to prevent and crime and disorder in the Borough.



38. Interested Parties, Responsible Authorities and the applicant have the right to appeal the decision of the Sub-Committee to the Magistrates' Court within a period of 21 days beginning with day on which the applicant was notified by the licensing authority of the decision to be appealed against.

39. The principles that Sub-Committee members must apply are set out below.

### **Principles for making the determination**

40. Section 35 of the Licensing Act 2003 sets out the licensing authority's powers and duties in considering the determination of an application for variation.

41. The general principle is that applications for variation must be granted unless relevant representations are received. This is subject to the proviso that the applicant has complied with regulations in advertising and submitting the application.

42. Relevant representations are those which

- Are about the likely effect of the granting of the application on the promotion of the licensing objectives
- Are made by an interested party or responsible authority
- Have not been withdrawn (in this case, the initial objections from the Fire Service have been withdrawn).
- Are not, in the opinion of the relevant licensing authority, frivolous or vexatious.

43. If relevant representations are received then the Sub-Committee must have regard to them, in determining whether it is necessary for the promotion of the licensing objectives to

- Add to, omit, and/or alter the conditions of the licence or,
- Reject the whole or part of the application for variation

### **Conditions**

44. The Sub-Committee's discretion is thus limited. It can only modify the conditions put forward by the applicant, or refuse the variation, if it is necessary to do so. Conditions must be necessary and proportionate for the promotion of one of the four licensing objectives, and not for any other reason. Conditions must also be within the control of the licensee, and should be worded in a way which is clear, certain, consistent and enforceable.

45. The four licensing objectives are

- a. The prevention of crime and disorder;
- b. Public safety;
- c. The prevention of nuisance; and
- d. The protection of children from harm.

46. Members should note that each objective is of equal importance. There are no other licensing objectives, and the four objectives are paramount considerations at all times.

47. Conditions will not be necessary if they duplicate a statutory position. Conditions relating to night café and take away aspect of the license must relate to the night time operation of the premises and must not be used to impose conditions which could not be imposed on day time operators.

48. The Licensing Act requires mandatory conditions in respect of supply of alcohol, the exhibition of films and in respect of door supervisors.

49. Members are also referred to the DCMS guidance on conditions, specifically section 7, and Annexes D, E, F and G.

### **Reasons**

50. If the Sub-Committee determines that it is necessary to modify the conditions, or to refuse the application for variation, it must give reasons for its decision.

### **Hearing Procedures**

51. Subject to the Licensing Hearing regulations, the Licensing Committee may determine its own procedures. Key elements of the regulations are that

- The hearing shall take the form of a discussion led by the authority. Cross examination shall not be permitted unless the authority considered that it is required for it to consider the representations
- Members of the authority are free to ask any question of any party or other person appearing at the hearing
- The committee must allow the parties an equal maximum period of time in which to exercise their rights to
  - Address the authority
  - If given permission by the committee, question any other party.
  - In response to a point which the authority has given notice it will require clarification, give further information in support of their application.
- The committee shall disregard any information given by a party which is not relevant
  - to the particular application before the committee, and
  - the licensing objectives.
- The hearing shall be in public, although the committee may exclude the public from all or part of a hearing where it considers that the public interest in doing so outweighs the public interest in the hearing, or that part of the hearing, taking place in private.
- In considering any representations or notice made by a party the authority may take into account documentary or other information produced by a party in support of their application, representations or notice (as applicable) either before the hearing or, with the consent of all the other parties, at the hearing.

52. As this matter relates to the determination of an application to vary under section 34 of the Licensing Act 2003, regulation 26(1)(a) requires the Sub-Committee to make its determination at the conclusion of the hearing.

### **Council's multiple roles and the role of the Licensing Sub-Committee**

53. Sub-Committee members will note that, in relation to this application, the Council has multiple roles. Council officers from various departments have been asked to consider the application from the perspective of the Council as authority responsible respectively for environmental health, trading standards, health and safety and as the planning authority.

54. Members should note that the Licensing Sub-Committee is meeting on this occasion solely to perform the role of licensing authority. The Sub-Committee sits in quasi-judicial capacity, and must act impartially. It must offer a fair and unbiased hearing of the application. In this case, Members should disregard the Council's broader policy objectives and role as statutory authority in other contexts. Members must direct themselves to making a determination solely based upon the Licensing Law, Guidance and the Council's Statement of Licensing Policy.

55. As a quasi-judicial body the Licensing Sub-Committee is required to consider the application on its merits. The Sub-Committee must take into account only relevant factors, and ignore irrelevant factors. The decision must be based on evidence, that is to say material, which tends logically to show the existence or non-existence of relevant facts, or the likelihood or unlikelihood of the occurrence of some future event, the occurrence of which would be relevant. The Licensing Sub-Committee must give fair consideration to the contentions of all persons entitled to make representations to them.
56. The Licensing Sub-Committee is entitled to consider events outside of the premises if they are relevant, i.e. are properly attributable to the premises being open. The proprietors do not have to be personally responsible for the incidents for the same to be relevant. However, if such events are not properly attributable to the premises being open, then the evidence is not relevant and should be excluded. Guidance is that the licensing authority will primarily focus on the direct impact of the activities taking place at the licensed premises on members of the public, living, working or engaged in normal activity in the area concerned.
57. Members will be aware of the Council's Code of Conduct that requires them to declare personal and prejudicial interests. The Code applies to Members when considering licensing applications. In addition, as a quasi-judicial body, Members are required to avoid both actual bias, and the appearance of bias.

#### Guidance

58. Members are required to have regard to the DCMS Guidance in carrying out the functions of licensing authority. However, guidance does not cover every possible situation, so long as the guidance has been properly and carefully understood, members may depart from it if they have reason to do so. Full reasons must be given if this is the case.

Background Papers	Held At	Contact
Licensing Act 2003 DCMS Guidance Secondary Regulations Statement of Licensing Policy Various papers from the premises file.	The Chaplin Centre, Thurlow Street, SE17 2DG	Mrs Kirty Read at the Chaplin Centre Telephone 0207 525 5748

#### APPENDICES

No.	Title
Appendix a	Copy of the application
Appendix b	Copy of the existing premises
Appendix c	Copies of the representation from interested parties
Appendix d	Copy of the response from Responsible authorities
Appendix e	Copy of police witness statement
Appendix f	Copy of the local area map

## AUDIT TRAIL

Lead Officer	Gill Davies, Strategic Director of Environment & Housing	
Report Author	Dorcas Mills, Principal Licensing Officer	
Version	Final	
Dated	3 December 2009	
Key Decision?	No	
CONSULTATION WITH OTHER OFFICERS / DIRECTORATES / EXECUTIVE MEMBER		
Officer Title	Comments Sought	Comments included
Strategic Director for Communities, Law & Governance	Yes	Yes
Finance Director	No	No
Executive Member	No	No
Date final report sent to Constitutional Team	3 December 2009	

Application to vary a premises licence under the Licensing Act 2003

PLEASE READ THE FOLLOWING INSTRUCTIONS FIRST

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

You may wish to keep a copy of the completed form for your records.

RECEIVED  
2 OCT 2009  
*Resubmitted*

I/We CANDIDO RODRIGUES  
(Insert name(s) of applicant)

being the premises licence holder, apply to vary a premises licence under section 34 of the Licensing Act 2003 for the premises described in Part 1 below

Premises licence number	6863
-------------------------	------

Part 1 – Premises Details

Postal address of premises or, if none, Ordnance Survey map reference or description			
BANANA'S BAR 374 WALWORTH ROAD LONDON SE17			
Post town		Post code	SE17 2NF

Telephone number at premises (if any)	0207 703 3295
Non-domestic rateable value of premises	£ 315.00

Part 2 – Applicant details

Daytime contact telephone number	077 6638 3405		
E-mail address (optional)			
Current postal address if different from premises address			
Post Town		Postcode	29 67

RECEIVED  
29 SEP 2009

RECEIVED

Part 3 - Variation

Please tick yes

Do you want the proposed variation to have effect as soon as possible?

If not do you want the variation to take effect from

Day	Month	Year

Please describe briefly the nature of the proposed variation (Please see guidance note 1)

TO EXTEND HOURS FOR ALCOHOL  
RETAIL AND REGULATED ENTERTAINMENT  
AND TO INCLUDE LIVE MUSIC AS  
PART OF THE LICENSING ACTIVITY.

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

N/A
-----

**Part 4 Operating Schedule**

Please complete those parts of the Operating Schedule below which would be subject to change if this application to vary is successful.

**Provision of regulated entertainment**

Please tick yes

- |  |                                     |
|--|-------------------------------------|
| a) plays (if ticking yes, fill in box A)   | <input type="checkbox"/>            |
| b) films (if ticking yes, fill in box B)   | <input type="checkbox"/>            |
| c) indoor sporting events (if ticking yes, fill in box C)  | <input type="checkbox"/>            |
| d) boxing or wrestling entertainment (if ticking yes, fill in box D)   | <input type="checkbox"/>            |
| e) live music (if ticking yes, fill in box E)  | <input checked="" type="checkbox"/> |
| f) recorded music (if ticking yes, fill in box F)  | <input checked="" type="checkbox"/> |
| g) performances of dance (if ticking yes, fill in box G)   | <input checked="" type="checkbox"/> |
| h) anything of a similar description to that falling within (e), (f) or (g)<br>(if ticking yes, fill in box H) | <input checked="" type="checkbox"/> |

**Provision of entertainment facilities:**

- |  |                                     |
|--|-------------------------------------|
| i) making music (if ticking yes, fill in box I)  | <input type="checkbox"/>            |
| j) dancing (if ticking yes, fill in box J)   | <input checked="" type="checkbox"/> |
| k) entertainment of a similar description to that falling within (i) or (j)<br>(if ticking yes, fill in box K) | <input checked="" type="checkbox"/> |

**Provision of late night refreshment (if ticking yes, fill in box L)****Sale by retail of alcohol (if ticking yes, fill in box M)**

In all cases complete boxes N, O and P

**A**

<b>Plays</b> Standard days and timings (please read guidance note 6)			Will the performance of a play take place indoors or outdoors or both – please tick (please read guidance note 2)	Indoors <input type="checkbox"/>
				Outdoors <input type="checkbox"/>
Day	Start	Finish		Both <input type="checkbox"/>
Mon			Please give further details here (please read guidance note 3)	
Tue				
Wed			State any seasonal variations for performing plays (please read guidance note 4)	
Thur				
Fri			Non standard timings. Where you intend to use the premises for the performance of plays at different times to those listed in the column on the left, please list (please read guidance note 5)	
Sat				
Sun				



## B

Films Standard days and timings (please read guidance note 6)			Will the exhibition of films take place indoors or outdoors or both – please tick (please read guidance note 2)	Indoors	<input type="checkbox"/>
Day	Start	Finish		Outdoors	<input type="checkbox"/>
Mon			<b>Please give further details here</b> (please read guidance note 3)	Both	<input type="checkbox"/>
Tue					
Wed			<b>State any seasonal variations for the exhibition of films</b> (please read guidance note 4)		
Thur					
Fri			<b>Non standard timings. Where you intend to use the premises for the exhibition of films at different times to those listed in the column on the left, please list</b> (please read guidance note 5)		
Sat					
Sun					

C

<b>Indoor sporting events</b> Standard days and timings (please read guidance note 6)			Please give further details (please read guidance note 3)
Day	Start	Finish	
Mon			State any seasonal variations for indoor sporting events (please read guidance note 4)
Tue			
Wed			
Thur			Non standard timings. Where you intend to use the premises for indoor sporting events at different times to those listed in the column on the left, please list (please read guidance note 5)
Fri			
Sat			
Sun			

D

<b>Boxing or wrestling entertainments</b> Standard days and timings (please read guidance note 6)			<b>Will the boxing or wrestling entertainment take place indoors or outdoors or both – please tick</b> (please read guidance note 2)	Indoors	<input type="checkbox"/>
				Outdoors	<input type="checkbox"/>
				Both	<input type="checkbox"/>
Day	Start	Finish	<b>Please give further details here</b> (please read guidance note 3)		
Mon					
Tue			<b>State any seasonal variations for boxing or wrestling entertainment</b> (please read guidance note 4)		
Wed					
Thur			<b>Non standard timings. Where you intend to use the premises for boxing or wrestling entertainment at different times to those listed in the column on the left, please list</b> (please read guidance note 5)		
Fri					
Sat					
Sun					

E

Live music Standard days and timings (please read guidance note 6)			Will the performance of live music take place <u>indoors or outdoors or both – please tick</u> (please read guidance note 2)	Indoors	<input checked="" type="checkbox"/>
Day	Start	Finish		Outdoors	<input type="checkbox"/>
Mon	15.00	02.00	Please give further details here (please read guidance note 3)	Both	<input type="checkbox"/>
Tue	15.00	02.00			
Wed	15.00	02.00	State any seasonal variations for the performance of live music (please read guidance note 4)		
Thur	15.00	02.00			
Fri	15.00	02.30	Non standard timings. Where you intend to use the premises for the performance of live music at different times to those listed in the column on the left, please list (please read guidance note 5)		
Sat	15.00	02.30			
Sun	15.00	02.30			

BANK HOLIDAY WEEKEND  
TILL - 05.00

NEW YEARS EVE TILL - 05.00

F

Recorded music Standard days and timings (please read guidance note 6)			Will the playing of recorded music take place <u>indoors or outdoors or both – please tick</u> (please read guidance note 2)	Indoors	<input checked="" type="checkbox"/>
				Outdoors	<input type="checkbox"/>
				Both	<input type="checkbox"/>
Day	Start	Finish	<u>Please give further details here</u> (please read guidance note 3)		
Mon	00.00	03.00			
Tue	00.00	03.00			
Wed	00.00	03.00	<u>State any seasonal variations for the playing of recorded music</u> (please read guidance note 4)		
Thur	00.00	03.00			
Fri	00.00	04.30	<u>Non standard timings. Where you intend to use the premises for the playing of recorded music at different times to those listed in the column on the left, please list</u> (please read guidance note 5)		
Sat	00.00	04.30	BANK HOLIDAY WEEKEND TILL - 05.00		
Sun	00.00	04.30	NEW YEARS EVE TILL 05.00		

G

Performances of dance Standard days and timings (please read guidance note 6)			Will the performance of dance take place indoors or outdoors or both – please tick (please read guidance note 2)	Indoors	<input checked="" type="checkbox"/>
				Outdoors	<input type="checkbox"/>
				Both	<input type="checkbox"/>
Day	Start	Finish	<u>Please give further details here</u> (please read guidance note 3)		
Mon	15.00	03.00			
Tue	15.00	03.00			
Wed	15.00	03.00	<u>State any seasonal variations for the performance of dance</u> (please read guidance note 4)		
Thur	15.00	03.00	<u>Non standard timings. Where you intend to use the premises for the performance of dance at different times to those listed in the column on the left, please list</u> (please read guidance note 5)  SEE (F)		
Fri	15.00	04.30			
Sat	15.00	04.30			
Sun	15.00	04.30			

H

Anything of a similar description to that falling within (e), (f) or (g) Standard days and timings (please read guidance note 6)			<u>Please give a description of the type of entertainment you will be providing</u>		
Day	Start	Finish	<u>Will this entertainment take place indoors or outdoors or both – please tick</u> (please read guidance note 2)	Indoors	<input checked="" type="checkbox"/>
Mon	15.00	03.00		Outdoors	<input type="checkbox"/>
Tue	15.00	03.00	<u>Please give further details here</u> (please read guidance note 3)	Both	<input type="checkbox"/>
Wed	15.00	03.00			
Thur	15.00	03.00			
Fri	15.00	04.30	<u>State any seasonal variations for entertainment of a similar description to that falling within (e), (f) or (g)</u> (please read guidance note 4)		
Sat	15.00	04.30			
Sun	15.00	04.30	SEE (F)		

<b>Provision of facilities for making music</b> Standard days and timings (please read guidance note 6)			<b>Please give a description of the facilities for making music you will be providing</b>		
			<b>Will the facilities for making music be indoors or outdoors or both – please tick</b> (please read guidance note 2)		Indoors
			Outdoors	<input type="checkbox"/>	
			Both	<input type="checkbox"/>	
Day	Start	Finish	<b>Please give further details here</b> (please read guidance note 3)		
Mon	15.00	03.00			
Tue	15.00	03.00	<b>State any seasonal variations for the provision of facilities for making music</b> (please read guidance note 4)		
Wed	15.00	03.00			
Thur	15.00	03.00	<b>Non standard timings. Where you intend to use the premises for provision of facilities for making music at different times to those listed in the column on the left, please list</b> (please read guidance note 5)  see (F)		
Fri	15.00	04.30			
Sat	15.00	04.30			
Sun	15.00	04.30			



J

Provision of facilities for dancing Standard days and timings (please read guidance note 6)			Will the facilities for dancing be indoors or outdoors or both – please tick (see guidance note 2)	Indoors	<input checked="" type="checkbox"/>
				Outdoors	<input type="checkbox"/>
				Both	<input type="checkbox"/>
			<b>Please give a description of the facilities for dancing you will be providing</b>		
Day	Start	Finish	<b>Please give further details here</b> (please read guidance note 3)		
Mon	00.00	03.00	<b>State any seasonal variations for providing dancing facilities</b> (please read guidance note 4)		
Tue	00.00	03.00			
Wed	00.00	03.00			
Thur	00.00	03.00			
Fri	00.00	04.30			
Sat	00.00	04.30			
Sun	00.00	04.30			
			<b>Non standard timings. Where you intend to use the premises for the provision of facilities for dancing at different times to those listed in the column on the left, please list</b> (please read guidance note 5)		
			SEE (F)		

K

<b>Provision of facilities for entertainment of a similar description to that falling within i or j</b> Standard days and timings (please read guidance note 6)			<u>Please give a description of the type of entertainment facility you will be providing</u>		
Day	Start	Finish	<b>Will the entertainment facility be indoors or outdoors or both – please tick</b> (please read guidance note 2)	Indoors	<input checked="" type="checkbox"/>
Mon	15.00	03.00		Outdoors	<input type="checkbox"/>
				Both	<input type="checkbox"/>
Tue	15.00	03.00	<u>Please give further details here</u> (please read guidance note 3)		
Wed	15.00	03.00			
Thur	15.00	03.00	<u>State any seasonal variations for the provision of facilities for entertainment of a similar description to that falling within i or j</u> (please read guidance note 4)		
Fri	15.00	04.30			
Sat	15.00	04.30	<u>Non standard timings. Where you intend to use the premises for the provision of facilities for entertainment of a similar description to that falling within i or j at different times to those listed in the column on the left, please list</u> (please read guidance note 5)		
Sun	15.00	04.30	SEE (F)		

L

Late night refreshment Standard days and timings (please read guidance note 6)			Will the provision of late night refreshment take place indoors or outdoors or both – please tick (please read guidance note 2)	Indoors	<input checked="" type="checkbox"/>
Day	Start	Finish		Outdoors	<input type="checkbox"/>
Mon	23.00	02.00	<b>Please give further details here</b> (please read guidance note 3)	Both	<input type="checkbox"/>
Tue	23.00	02.00			
Wed	23.00	02.00	<b>State any seasonal variations for the provision of late night refreshment</b> (please read guidance note 4)		
Thur	23.00	02.00			
Fri	23.00	03.00	<b>Non standard timings. Where you intend to use the premises for the provision of late night refreshment at different times, to those listed in the column on the left, please list</b> (please read guidance note 5)  SEE (F)		
Sat	23.00	03.00			
Sun	23.00	03.00			

M

<b>Supply of alcohol</b> Standard days and timings (please read guidance note 6)			<b>Will the supply of alcohol be for consumption (Please tick box)</b> (please read guidance note 7)	On the premises <input checked="" type="checkbox"/>	
				Off the premises <input type="checkbox"/>	
Day	Start	Finish	Both <input type="checkbox"/>		
Mon	01.00	03.00	<b>State any seasonal variations for the supply of alcohol</b> (please read guidance note 4)		
Tue	01.00	03.00			
Wed	01.00	03.00			
Thur	01.00	03.00	<b>Non-standard timings. Where you intend to use the premises for the supply of alcohol at different times to those listed in the column on the left, please list</b> (please read guidance note 5)		
Fri	01.00	04.30			
Sat	01.00	04.30			
Sun	01.00	04.30			
SEE (F)					

N

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

None

0

<b>Hours premises are open to the public</b> Standard days and timings (please read guidance note 6)			<b>State any seasonal variations</b> (please read guidance note 4)
Day	Start	Finish	
Mon	09.00	03.30	
Tue	09.00	03.30	<b>Non standard timings. Where you intend the premises to be open to the public at different times from those listed in the column on the left, please list</b> (please read guidance note 5)  BANK HOLIDAY WEEKENDS TILL 05.30.  NEW YEAR EVE - TILL 05.30
Wed	09.00	03.30	
Thur	09.00	03.30	
Fri	09.00	05.00	
Sat	09.00	05.00	
Sun	09.00	05.00	

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

—

Please tick yes

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

If you have not ticked one of these boxes please fill in reasons for not including the licence, or part of it, below

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

TRANSFER OF LICENCE IN PROGRESS WITH  
LICENSING

P Describe any additional steps you intend to take to promote the four licensing objectives as a result of the proposed variation:

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

b) The prevention of crime and disorder

1. TO PROVIDE DOOR SUPERVISORS FOR LATE EVENTS ONLY

c) Public safety

1. SECURITY CAMERAS
2. TO NOT ALLOW CUSTOMERS TO TAKE GLASS OUT OF THE PREMISES

d) The prevention of public nuisance

1. CUSTOMERS TO LEAVE PREMISES QUIETLY
2. TO NOT DISTURB NEIGHBOURS WITH LOUD MUSIC

e) The protection of children from harm

1. TO OPERATE PROOF OF AGE SCHEME
2. TO NOT SELL ALCOHOL TO UNDERAGE CHILDREN BY ASKING FOR PROOF OF AGE (ID)





Please tick yes

- I have made or enclosed payment of the fee
- I have sent copies of this application and the plan to responsible authorities and others where applicable
- I understand that I must now advertise my application
- I have enclosed the premises licence or relevant part of it or explanation
- I understand that if I do not comply with the above requirements my application will be rejected

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

**Part 5 – Signatures** (please read guidance note 10)

**Signature of applicant (the current premises licence holder) or applicant’s solicitor or other duly authorised agent** (please read guidance note 11). **If signing on behalf of the applicant please state in what capacity.**

Signature	<i>C. Rodriguez</i>
Date	<i>29 - 09 - 2009</i>
Capacity	<i>OWNER</i>

**Where the premises licence is jointly held signature of 2nd applicant (the current premises licence holder) or 2nd applicant’s solicitor or other authorised agent** (please read guidance note 12). **If signing on behalf of the applicant please state in what capacity.**

Signature	
Date	
Capacity	

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

<b>Post town</b>		<b>Post code</b>	
<b>Telephone number (if any)</b>			
<b>If you would prefer us to correspond with you by e-mail your e-mail address (optional)</b>			

# Licensing Act 2003 Premises Licence

FILE COPY



Environmental Health & Trading Standards  
Licensing Unit  
Chaplin Centre  
Thurlow Street  
London SE17 2DG

Premises licence number

830513

## Part 1 - Premises details

Postal address of premises, or if none, ordnance survey map reference or description	
Banana's Bar 374 Walworth Road London SE17 2NF	
Ordnance survey map reference (if applicable), 177946532411	
<b>Post town</b> London	<b>Post code</b> SE17 2NF
<b>Telephone number</b> 020 7703 3295	

Where the licence is time limited the dates

Licensable activities authorised by the licence

Recorded Music  
Facilities for Dancing - Indoors  
Sale by retail of alcohol to be consumed on premises  
Sale by retail of alcohol to be consumed off premises

The opening hours of the premises

For any non standard timings see Annex 2

Monday	09:00 - 01:30
Tuesday	09:00 - 01:30
Wednesday	09:00 - 01:30
Thursday	09:00 - 01:30
Friday	09:00 - 01:30
Saturday	09:00 - 01:30
Sunday	12:00 - 01:30

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

Sale by retail of alcohol to be consumed on premises  
Sale by retail of alcohol to be consumed off premises

The times the licence authorises the carrying out of licensable activities

For any non standard timings see Annex 2 of the full premises licence

**Recorded Music**

Monday	11:00 - 00:00
Tuesday	11:00 - 00:00
Wednesday	11:00 - 00:00
Thursday	11:00 - 00:00
Friday	11:00 - 00:00
Saturday	11:00 - 00:00
Sunday	11:00 - 00:00

**Facilities for Dancing - Indoors**

Monday	11:00 - 00:00
Tuesday	11:00 - 00:00
Wednesday	11:00 - 00:00
Thursday	11:00 - 00:00
Friday	11:00 - 00:00
Saturday	11:00 - 00:00
Sunday	11:00 - 00:00

**Sale by retail of alcohol to be consumed on premises**

Monday	09:00 - 01:00
Tuesday	09:00 - 01:00
Wednesday	09:00 - 01:00
Thursday	09:00 - 01:00
Friday	09:00 - 01:00
Saturday	09:00 - 01:00
Sunday	12:00 - 01:00

**Sale by retail of alcohol to be consumed off premises**

Monday	09:00 - 01:00
Tuesday	09:00 - 01:00
Wednesday	09:00 - 01:00
Thursday	09:00 - 01:00
Friday	09:00 - 01:00
Saturday	09:00 - 01:00
Sunday	12:00 - 01:00

## Part 2

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

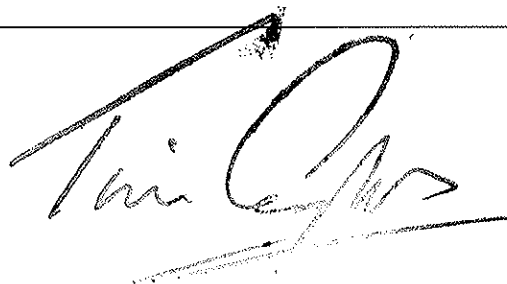
Candido Pereira Rodrigues  
 374 Walworth Road  
 London  
 SE17 2NF  
 02077033295

**Registered number of holder, for example company number, charity number (where applicable)****Name, address and telephone number of designated premises supervisor where the premises licence authorises for the supply of alcohol**

Sandra Da Costa  
 9 Ashley Crescent  
 Lavender Hill  
 SW11 5QZ

**Personal licence number and issuing authority of personal licence held by designated premises supervisor where the premises licence authorises for the supply of alcohol**

Licence No. LBWANDS/02256  
 Authority L B Wandsworth



Licence Issue date 03/09/2009

.....  
 Community Safety Enforcement  
 Business Unit Manger  
 Chaplin Centre  
 Thurlow Street  
 London SE17 2DG  
 020 7525 5748  
 licensing@southwark.gov.uk

**Annex 1 - Mandatory conditions**

**100** No supply of alcohol may be made under the Premises Licence –

a. At a time when there is no Designated Premises Supervisor in respect of the Premises Licence; or

b. At a time when the Designated Premises Supervisor does not hold a Personal Licence or his Personal Licence is suspended

**101** Every supply of alcohol under the Premises Licence must be made, or authorised by, a person who holds a Personal Licence

## **Annex 2 - Conditions consistent with the operating Schedule**

**109** Alcohol shall not be sold or supplied except during permitted hours. In this condition permitted hours means a. On weekdays, other than Christmas Day, Good Friday or New Year's Eve, 1000 to 2300 hours b. On Sundays, other than Christmas Day or New Year's Eve, 1200 to 2230 hours c. On Good Friday, 1200 to 2230 hours d. On Christmas Day, 1200 to 1500 hours, and 1900 to 2230 hours e. On New Year's Eve, except on a Sunday, 1000 to 2300 hours f. On New Year's Eve on a Sunday, 1200 to 2230 hours g. On New Year's Eve from the end of permitted hours on New Year's Eve to the start of permitted hours on the following day (or, if there are no permitted hours on the following day, midnight on 31st December). The above restrictions do not prohibit; i) During the first twenty minutes after the above hours the consumption of the alcohol on the premises; ii) During the first twenty minutes after the above hours, the taking of the alcohol from the premises unless the alcohol is supplied or taken in an open vessel; iii) During the first thirty minutes after the above hours the consumption of the alcohol on the premises by persons taking meals there if the alcohol was supplied for consumption as ancillary to the meals; iv) Consumption of the alcohol on the premises or the taking of sale or supply of alcohol to any person residing in the licensed premises; v) The ordering of alcohol to be consumed off the premises, or the dispatch by the vendor of the alcohol so ordered; vi) The sale of alcohol to a trader or club for the purposes of the trade or club; vii) The sale or supply of alcohol to any canteen or mess, being a canteen in which the sale or supply of alcohol is carried out under the authority of the Secretary of State or an authorised mess of members of Her Majesty's naval, military or air forces; viii) The taking of alcohol from the premises by a person residing there; or ix) The supply of alcohol for consumption on the premises to any private friends of a person residing there who are bona fide entertained by him at his own expense, or the consumption of alcohol by the persons so supplied; or x) The supply of alcohol for consumption on the premises to persons employed there for the purposes of the business carried on by the holder of the licence, or the consumption of alcohol so supplied, if the alcohol is supplied at the expense of their employer or the person carrying on, or in charge of, the business on the premises

**110** No statutory regulations for music and dancing shall apply so as to require any licence for the provision in the premises of public entertainment by the reproduction of wireless (including television) broadcasts or of programmes included in any programme service (within the meaning of the Broadcasting Act 1990) other than a sound or television broadcasting service, or of public entertainment by way of music and singing only which is produced solely by the reproduction of recorded sound

**111** This licence provides for the provision of private music and dancing entertainment that is promoted for private gain

**172 a.**The Licensee / Duty Manager shall ensure that an adequate and appropriate supply of first aid equipment and materials is available on the premises. **b.**If required, at least one suitably trained first aider shall be on duty when the public are present. If more than one suitably trained first-aider is present, each person's responsibilities shall be clearly identified.

**288** That the CCTV system installed upon the premises shall be maintained in good working condition and operable at all times

**311** That notices shall be displayed and announcements made requesting that customers leave the premises in a quiet and orderly manner

**325** That after 21.00 hours children under 16 shall not be admitted in any area where alcohol is sold and consumed

**332** All children on the premises under 18 will be accompanied by a parent or responsible adult at all times

**340** That an emergency lighting system is to be installed on the premises

**Annex 3 - Conditions attached after a hearing by the licensing authority**



**Annex 4 - Plans - Attached**

Licence No.	830513
Plan No.	LO/001
Plan Date	October 2006

5 Gateway  
LONDON  
SE17 3HQ

20<sup>th</sup> October 2009

Southwark Licensing  
Chaplin Centre  
Thurlow Street  
London  
SE17 2DG

RECEIVED  
22 OCT 2009

Dear sirs,

**RE: APPLICATION TO VARY LICENSE AT BANANAS BAR, 374  
WALWORTH ROAD, LONDON, SE17 2NF**

I would like to oppose the application for the above premises on the following grounds

1. Since the opening of the Bananas Bar my weekends have become nightmares. I live next door to this pub and I have had to call the environment noise teams most Friday nights in the early hours of the morning.
2. The noise is such that I have been unable to open my windows when the weather has been hot . Even with the window closed it is like the noise of the music is in my house.
3. The noise of the music has gone on until 5am or later most weekends. The noise team has visited the premises and asked them to turn down the music , but as soon as they leave they turn it back up again. I read their application and not that they wish to extend the times on week-ends to 5am and 3am during the week. They already open until 5am on week-ends. If they are granted permission to extend their hours to 3am during the week I will not get any sleep during the week.
4. They also have no control over their customers who fight and make a lot of noise on these late nights. The environment teams say they cannot do anything about the people and I have to call the police which I have done.
5. I raised this problem at the last tenants association meeting and found there were other tenants who have also been affected by the noise form the Bananas Bar.

If you require any further information, please do not hesitate to contact me.  
I do not know if any of the other tenants have also raised objections.  
I look forward to hearing from you.

Yours truly

A handwritten signature in cursive script, appearing to read "Margaret Pershard".

Margaret Pershard

# MEMO: Environmental Protection Team

---

**To** Regen Licensing      **Date** 09 October 2009

**Copies** File

**From** Debbie Lawless      **Telephone** 020 7525 5759      **Fax** 020 7525 5728

**Email** debra.lawless@southwark.gov.uk

---

**Subject** **Licensing Act 2003-Banana's Bar, 374 Walworth Road, London SE17  
2NF Ref: 401925**

The applicant's proposals if granted will allow for the premises to operate with both live and recorded music based entertainment on Monday-Sunday until 03.00 Monday-Thursday and 04.30 Friday-Sunday.

Environmental Protection Team are concerned that regulated entertainment is likely to give rise to nuisance and / or that patrons on the premises may give rise to undue disturbance because:

- The premises does not appear to be adequately sound contained for this purpose due to: Equipment fixed to party wall, Party wall with adjoining residential premises.
- There is inadequate extract ventilation / air cooling to prevent door/windows being opened in summer months.
- The sound system is not equipped with sound limitation devise.
- admission of new customers/ re-entry of patrons after Midnight until the terminal hour is likely to rise to public nuisance.
- Dispersal of customers during the hours 01.00 hours until terminal may give rise to public nuisance.
- importing of additional sound making equipment onto the premises would compromise the established sound limitation.
- Removal and loading of equipment from the premises between terminal hour until 0800 day following, may give rise to nuisance.
- The use of smoking area by more than 10 patrons and /or by smokers taking drinks outside may give rise public nuisance.
- The premises is in a saturation area where this type of premises and public nuisance have been identified as issues of concern, the applicant has not specifically / satisfactorily addressed this.

The applicants have not specified adequate measures to prevent public nuisance in their operating schedule.

These deficiencies could be addressed either by changes to the operating schedule or by conditions applied to the license should it be granted.

The Environmental Protection Team make representations until these matters have been adequately addressed and confirmed in writing.

**Debbie Lawless**  
**Enforcement Officer**  
**Environmental Protection Team**

Your reference: .



Our reference: MD/21/1857/09

Date: 22nd October 2009

The Licensing Unit  
The Chaplin Centre  
Thurlow Street  
London SE17 2DG

**Metropolitan Police Service**  
**Licensing Office**  
Walworth Police Station,  
12-28 Manor Place,  
LONDON,  
SE17 3RL

Tel: 020 -7232 – 6210 Fax6282

Dear Sir/Madam

**Banana Bar 374 Walworth Road, SE17 2NF**

Police are in receipt of an application from the above to vary the existing Premises Licence and have the following representation to make:

The applicant has applied for a significant increase in the permitted hours for the premises to be open to the public and sale and supply of alcohol. The premises although located on a busy thoroughfare is within close proximity of many dwellings and as a consequence additional control measures would be required to ensure that there would be no detrimental effect upon the local community and indicate that the management of the premises have given sufficient consideration to the four main licensing objectives.

Regrettably section P of the application form which details how the applicant would promote the four licensing objectives has not been satisfactorily completed, which would indicate that the applicant has failed to give them sufficient consideration. Police require the applicant to address this shortcoming before further consideration could be given to this application.

However if the permitted hours for the sale/supply of alcohol were to be increased as per the application, Police would like to see the following control measures placed on the Premises Licence:

1. That SIA registered Door Supervisor, shall be employed at **all** times after 22.00hrs and the terminal hour that the premises are in use under this licence and provided with Hand held metal detection units in order to ensure that searches are carried out in respect of all admissions to the premises, whether members of the public or performers and their

assistants and Mechanical counting devices to ensure that the maximum accommodation limit of the premises is not exceeded.

2. That signs shall be displayed in the entrance foyer to the premises that state 'Drugs Free Zone' and 'No Search No Entry, Management reserve the right to refuse entry'
3. That all matters relating to drugs shall be in accordance with the Metropolitan Police Best Practice Guide on the handling of drugs in pubs and clubs
4. That suitable notices shall be displayed and announcements made requesting people to leave the premises in a quiet and orderly manner so as not to disturb local residents
5. That a CCTV system be installed at the premises and be maintained in good working order and be continually recording at all times the premises are in use under the licence. The CCTV System must be capable of capturing an image of every person who enters the premises.
6. That all CCTV footage shall be kept for a period of thirty one (31) days and shall, upon request, be made immediately available to Officers of the Police and the Council
7. That you shall require any regular and external promoters hiring the premises to complete the 'Venue Hire Agreement' provided by Southwark Council and, once completed, you shall ensure that a copy of the agreement is provided to the Police and Licensing Unit a minimum of fourteen days prior to the date of hire.
8. That a Personal Licence holder is on the premises and on duty at **all** times that intoxicating liquor is supplied.
9. That the Premises Licence holder and/or Designated Premises Supervisor join and support a local Pub Watch Scheme should there be one in existence for the area in which the premises is located.
10. Customers shall use no outside area after 22.00hrs other than those who temporarily leave the premises to smoke a cigarette. Those who do temporarily leave for this reason shall be the subjected to the requirement of a further search.
11. The premises install a computer based identification entry system I.E Clubscan or similar and that details of all persons, including staff are passed through the system prior to being permitted entry to the premises.

I respectfully submit this representation in order that it is given consideration by your Licensing Committee and would be obliged if you could acknowledge receipt.

Paul Compton PC294MD

Licensing Officer (Southwark North)

☎ Phone: 0207 232 6210

☎ Mobile: 07990901483

 Fax: 0207 232 6282  
 E-mail: [paul.compton@met.police.uk](mailto:paul.compton@met.police.uk)  
 Mail: Licensing Office, Walworth Police Station,  
12/28 Manor Place Walworth London  
SE17 3RL



**WITNESS STATEMENT**

CJ Act 1967, s.9; MC Act 1980, ss.5A(3)(a) and 5B; Criminal Procedure Rules 2005, Rule 27.1

**Statement of** Ian Clements PC 362MD..... URN: 

--	--	--	--

Age if under 18 **Over 18**..... (if over 18 insert 'over 18') Occupation: **Police Officer** .....

This statement (consisting of: ....**2**.... pages each signed by me) is true to the best of my knowledge and belief and I make it knowing that, if it is tendered in evidence, I shall be liable to prosecution if I have wilfully stated anything in it which I know to be false, or do not believe to be true.

Signature: ..... Date: 01/12/2009.....

Tick if witness evidence is visually recorded  (supply witness details on rear)

*I am Ian Clements PC362MD/193760 and currently posted to the Police Licensing Office at Walworth Police Station, 12/28 Manor Place, Walworth, London, SE17 3RL. I am authorised to represent the Metropolitan Police in all issues connected to Licensed Premises located within the London Borough of Southwark.*

*On Wednesday the 25th November 2009 I attended Southwark Town Hall to represent Southwark Police Licensing. The hearing was as a result of representations submitted by myself opposing the granting of four temporary event notices submitted by Miss Sandra Da Costa. The temporary events were to extend the opening hours of the Banana Bar 374 Walworth Road SE17 from 1am to 4am.*

*My representations were made as a result of research on the venue revealed an unacceptable level of crime and disorder related calls to the premises. Several of the incidents reported to police suggested that the premises were open beyond their terminal hour.*

*During the hearing Mr Rodrigues openly admitted to trading beyond the terminal hour and operating in breach of his licensing conditions. Mr Rodrigues explained that there was insufficient trade during his normal licensing hours and remained open outside his permitted hours to attract the late night trade.*

*I am aware that Mr Rodrigues and Miss Sandra Da Costa have applied to vary their licensing hours to 4am. The applicants have already displayed a disregard for the licensing objective, as a result Police have had to attend the premises on a number of occasions to deal with drink related violence. These actions are irresponsible, and have resulted in number of*

Signature: ..... Signature witnessed by: .....

Continuation of Statement of .....

*assaults and arrests that may have been avoided had the applicants been operating in accordance with their licence conditions.*

Signature: ..... Signature witnessed by: .....

**Witness contact details**

Home address: .....  
..... Postcode: .....  
Home telephone number ..... Work telephone number .....  
Mobile/pager number ..... Email address: .....  
Preferred means of contact: .....  
**Male** / ~~Female~~ (delete as applicable) Date and place of birth: .....  
Former name: ..... Ethnicity Code (16+1): ..... Religion/belief: .....

**Dates of witness non-availability** .....  
.....

**Witness care**

- a) Is the witness willing and likely to attend court? **No.** If 'No', include reason(s) on **MG6**.
- b) What can be done to ensure attendance?
- c) Does the witness require a Special Measures Assessment as a vulnerable or intimidated witness?  
**No.** If 'Yes' submit **MG2** with file.
- d) Does the witness have any specific care needs? **No.** If 'Yes' what are they? (Disability, healthcare, childcare, transport, , language difficulties, visually impaired, restricted mobility or other concerns?)

**Witness Consent (for witness completion)**

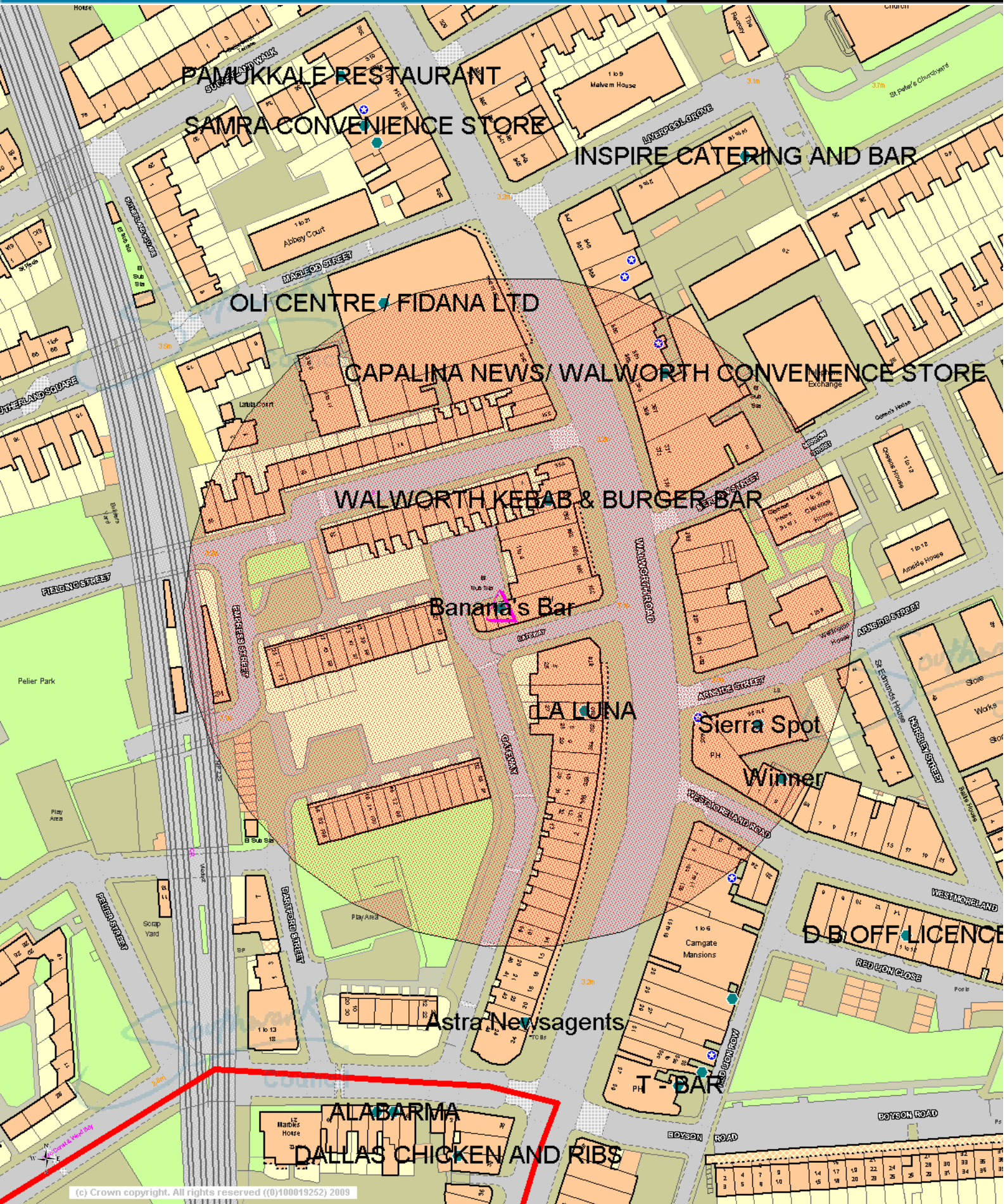
- a) The criminal justice process and Victim Personal Statement scheme (victims only) has been explained to me Yes  No
- b) I have been given the Victim Personal Statement leaflet Yes  No
- c) I have been given the leaflet 'Giving a witness statement to police — what happens next?' Yes  No
- d) I consent to police having access to my medical record(s) in relation to this matter: (obtained in accordance with local practice) Yes  No  N/A
- e) I consent to my medical record in relation to this matter being disclosed to the defence: Yes  No  N/A
- f) I consent to the statement being disclosed for the purposes of civil proceedings e.g. child care proceedings, CICA Yes  No
- g) The information recorded above will be disclosed to the Witness Service so they can offer help and support, unless you ask them not to. Tick this box to decline their services:

Signature of witness: ..... Print name: .....  
Signature of parent/guardian/appropriate adult: ..... Print name: .....  
Address and telephone number if different from above: .....

Statement taken by (print name): ..... Station: .....

Time and place statement taken: .....

Date 19/11/2009



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<p><b>Distribution List</b></p> <p><b>Open</b></p> <p><b>Licensing Sub-Committee</b></p>	<p><b>Municipal Year 2009-10</b></p> <p><b>Date of Meeting: 14.12.2009</b></p> <p><b>Time: 10.00AM</b></p>
<p><b>Note:</b> Original held in Constitutional Team; all amendments/queries to Sean Usher, Constitutional Team, Tel: 020-7525-7222.</p>	
<p><b>Councillors</b></p> <p>Councillor Sandra Rhule Councillor Mackie Sheik Councillor Althea Smith</p> <p>Councillor Ian Wingfield (Reserve)</p> <p><b>Officers</b></p> <p>Kate Heap, Legal Services, Tooley Street Sean Usher, Floor 2, Tooley Street (2 copies) Dave Swaby, Licensing Unit, Chaplin Centre Dorcas Mills, Licensing Unit, Chaplin Centre Debra Lawless, Environmental Protection Team Dennis Sangweme, Planning Department Alan Blissett, Environmental Protection Team</p> <p><b>Ward Councillors (Notified by Email)</b></p> <p>East Walworth, Faraday and Village</p>	<p><b>Item 5 - Sebastians</b></p> <p>Adrian Hill, 4 Stradella Road, London SE24 9HA</p> <p>Dr John Brunton, The Herne Hill Society P.O Box 27845 London SE24 9AX</p> <p>Christina Bell &amp; Frances Pierce, Flat 10, 89 Norwood Road, London SE24 9AA</p> <p>Mr Ben Perry, Flat 15, 89 Norwood Road, London SE24 9AA</p> <p>Bianca Levy, 42 Guernsey Grove, Herne Hill, SE24 9DE</p> <p>Graeme Boyd, Flat 13, 89 Norwood Road, SE24 9AA.</p> <p>Sebastians Bar Restaurant 49/51 Norwood Road SE24 9AA</p> <p>T. Moore, Streeter Marshall, 74 High Street, Croydon CR9 2UU</p> <p><b>Item 6 – Capalina Stores</b></p> <p>Sivaguru Sivaruban, Capalina Stores/Walworth Convenient Stores, 365 Walworth Road, London SE17 2AL</p> <p>Paul Gander, Trading Standards Chaplin Centre, London SE17 2DG</p> <p><b>Item 7 – Banana’s Bar</b></p> <p>Mr Rodriques, Bananas Bar , 374 Walworth Road, London SE17</p> <p>Margaret Pershard, 5 Gateway, London SE17 3HQ</p> <p>PC Paul Compton, Southwark Licensing Officer Walworth Police Station, London SE17 3RL</p>
<p><b>Total Copies to be printed: 33</b></p> <p><b><u>PLEASE BRING YOUR PAPERS TO THE MEETING.</u></b></p>	<p><b>Total copies to be circulated: 25</b></p> <p><b>All spares to be delivered to Sean Usher, Room 2.06 Southwark Town Hall</b></p> <p><b>Day of Despatch: 4.12.2009</b></p>