



Report of: **Service Director, Public Protection**

Meeting of	Date	Agenda Item	Ward(s)
Licensing Sub-Committee	3 rd October 2013	B2	St. Mary's

Delete as appropriate		Non-exempt
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Subject: PREMISES LICENCE REVIEW APPLICATION
RE: LE VITA E BELLA, 16 THEBERTON STREET, LONDON, N1 0QX

1. Synopsis

- 1.1 This is an application by *The Theberton Street Residents' Association* for a Review of the Premises Licence under Section 51 of the Licensing Act 2003. A copy of the review application is attached as Appendix 1.
- 1.2 The grounds for review are related to the licensing objectives:
 - i) The prevention of Public Nuisance.*

2. Recommendations

- 2.1 To determine the application to review the premises licence under Section 52 of the Licensing Act.
- 2.2 The Committee must have regard to the application and any relevant representations. The Committee must take such steps as necessary for the promotion of the four licensing objectives.
- 2.3 The steps stated in Sections 52(4) of the Act are as follows:
 - a) to modify the conditions of the licence; and for this purpose the conditions of the licence are modified if any of them are altered, omitted or any new condition is added;
 - b) to exclude a licensable activity from the scope of the licence;
 - c) to remove the designated premises supervisor;
 - d) to suspend the licence for a period not exceeding three months;

- e) to revoke the licence;
- f) the Committee also have the option to leave the licence in its existing state;
- g) the Committee also has the power in relation to steps a) and b) to provide that the modification and exclusion only has effect for a limited period not exceeding three months.

3. Background

3.1 The premises currently holds a licence allowing:

- i) The sale by retail of alcohol, on supplies only, Mondays to Saturdays from 10:00 until 23:30 and Sundays from 10:00 until 23:00.

3.2 This premises licence was originally granted to the licence holder of 18 Theberton Street. The two businesses were to operate in unison and share the potential outside area, the operating schedule and resultant licence conditions were developed with this in mind.

The licence was subsequently transferred and now operates separately from 18 Theberton Street. As a result, some licence conditions relating to the management of the outside area are no longer applicable.

3.3 Papers are attached as follows:-

Appendix 1: application form and supporting photo evidence;

Appendix 2: current premises licence;

Appendix 3a: name & address details of those persons making representations;

Appendix 3: representations;

Appendix 4: licensee correspondence:

- i. response to Licensing Authority proposals;
- ii. invite to meeting – 22Aug13; and
- iii. invite to re-arranged meeting – 13Sep13

Appendix 5: council officer inspection notes;

Appendix 6: warning letter dated 17th July 2013;

Appendix 7: case history – tables & chairs on Theberton Street

Appendix 8: photos illustrating the authorised curtilage area for the placing of outside furniture for restaurants between 18 Theberton Street and the corner of Upper Street;

Appendix 9: planning comments;

Appendix 10: suggested conditions and map of premise location.

3.4 Brief licensing history at the premises:

16 Theberton Street:

- 12th August 2009, new premises licence granted for ground floor of 16 Theberton Street;
- 21st April 2011, premises licence transfer approved, Mr Mehmet Kocakerim new licensee;
- 2nd January 2013, premises licence variation application received to extend the licensable area of 16 Theberton Street into the basement area;
- 15th January 2013, premises licence variation application withdrawn after premises inspection. The inspection showed that this application could not be deemed valid given that the new premises layout included access across all addresses encompassing the ground and basement levels of 10 to 16 Theberton Street.

10-16 Theberton Street:

- 22nd January 2013, new premises licence application received;
- 1st February 2013, Section 19 Closure Notice served. Closure notice refers to the illicit use of the non-licensed parts of the restaurant;
- 20th March 2013; new premises licence application suspended whilst on-going planning issues are resolved.

3.5 The Licensing Authority has received 9 letters of representation, none of which are from people who requested that they remain anonymous.

4. Planning Implications

4.1 See appendix 9 for details.

5. Conclusion and reasons for recommendations

5.1 The Council is required to consider this application for review in the light of all relevant information from the applicant and the licence holder. It may attach such conditions necessary to promote the licensing objectives.

Background papers:

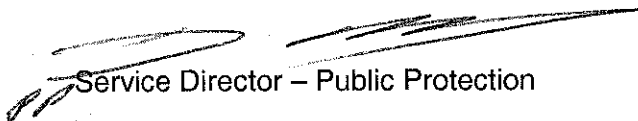
The Council's Statement of Licensing Policy

Licensing Act 2003

Secretary of States Guidance

Final Report Clearance

Signed by


Service Director – Public Protection

Date

24th September 2013

Received by

Head of Scrutiny and Democratic Services

Date

Report author: Licensing Service

Tel: 020 7527 3031

Fax: 020 7527 3430

E-mail: licensing@islington.gov.uk

Application for the review of a premises licence or club premises certificate 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 The Theberton Street Residents' Association

(Insert name of applicant)

apply for the review of a premises licence under section 51 under section 87 of the Licensing Act 2003 for the premises described in Part 1 below

Part 1 – Premises

Postal address of premises or, if none, ordnance survey map reference or description 16 Theberton Street,	
Post town London	Post code (if known) N1 0QX

Name of premises licence holder or club holding club premises certificate (if known) Mr Mehmet Kocakerim
--

Number of premises licence or club premises certificate (if known)

Part 2 - Applicant details

I am

Please tick ✓ yes

- 1) an individual, body or business which is not a responsible authority (please read guidance note 1, and complete (A) or (B) below)
- 2) a responsible authority (please complete (C) below)
- 3) a member of the club to which this application relates (please complete (A) below)

(A) DETAILS OF INDIVIDUAL APPLICANT (fill in as applicable)

Please tick ✓ yes

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

Surname

First names

Please tick ✓ yes

I am 18 years old or over

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

Post town

Post Code

Daytime contact telephone number

**E-mail address
(optional)**

(B) DETAILS OF OTHER APPLICANT

Name and address

The Theberton Street Residents' Association
c/o 41 Theberton Street, London, N1 0QY
c/o 19 Theberton Street, London, N1 0QY
c/o 39 Theberton Street, London, N1 0QY

Telephone number (if any)

E-mail address (optional)

(C) DETAILS OF RESPONSIBLE AUTHORITY APPLICANT

Name and address
Telephone number (if any)
E-mail address (optional)

This application to review relates to the following licensing objective(s)

- 1) the prevention of crime and disorder
- 2) public safety
- 3) the prevention of public nuisance
- 4) the protection of children from harm

Please tick one or more boxes ✓

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

Prevention of public nuisance. The licensee persistently places tables and chairs on the pavement outside the premises, beyond the curtilage of the buildings. This makes it difficult for pedestrians to pass easily and extremely difficult for wheelchairs and pushchairs to pass. Customers of the restaurant also block the pavement with personal items, such as pushchairs positioned by tables.

Please provide as much information as possible to support the application (please read guidance note 3)

There have been numerous complaints to the Licensing Team and to the Network Management Team at Islington Council. The email complaints have included photographic evidence of tables blocking the pavement. Most recently complaints, with supporting photographic evidence, were sent to these teams on 2/6/13, 31/5/13, 27/5/13, 26/5/13, 25/5/13, 19/5/13, 6/5/13, 5/5/13, 4/5/13, 2/5/13, 1/5/13, 24/4/13.

The licensee is the same as for 8-10 Theberton Street and this licensee has previously been warned about blocking the pavement with tables outside 8 Theberton Street (warning letter to the Licensee of 8 Theberton Street, from Julia Olinski, dated 16/12/2008). We understand more recently that the licensee was warned about tables blocking the pavement outside 16 Theberton Street by Islington Council's Network Management Team in the week beginning 22nd April 2013.

This application is supported by Islington Council's Network Management Team. It is also supported by the Moon Street and Studd Street Association.

Please tick ✓ yes

Have you made an application for review relating to the premises before

If yes please state the date of that application

Day Month Year

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

The Theberton Street Residents' Association made representations in January 2013 objecting to a licensing application for a licence variation (this application is currently suspended). The grounds for objection to this application are based on public nuisance and breach of Islington Council's Location, Cumulative Impact and Saturation guidelines in the Council's Licensing Policy (2011-14).

Please tick ✓

yes

- I have sent copies of this form and enclosures to the responsible authorities and the premises licence holder or club holding the club premises certificate, as appropriate X
- I understand that if I do not comply with the above requirements my application will be rejected X

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 3 – Signatures (please read guidance note 4)

Signature of applicant or applicant’s solicitor or other duly authorised agent (please read guidance note 5). **If signing on behalf of the applicant please state in what capacity.**

Signature

.....

Date

.....

Capacity

.....

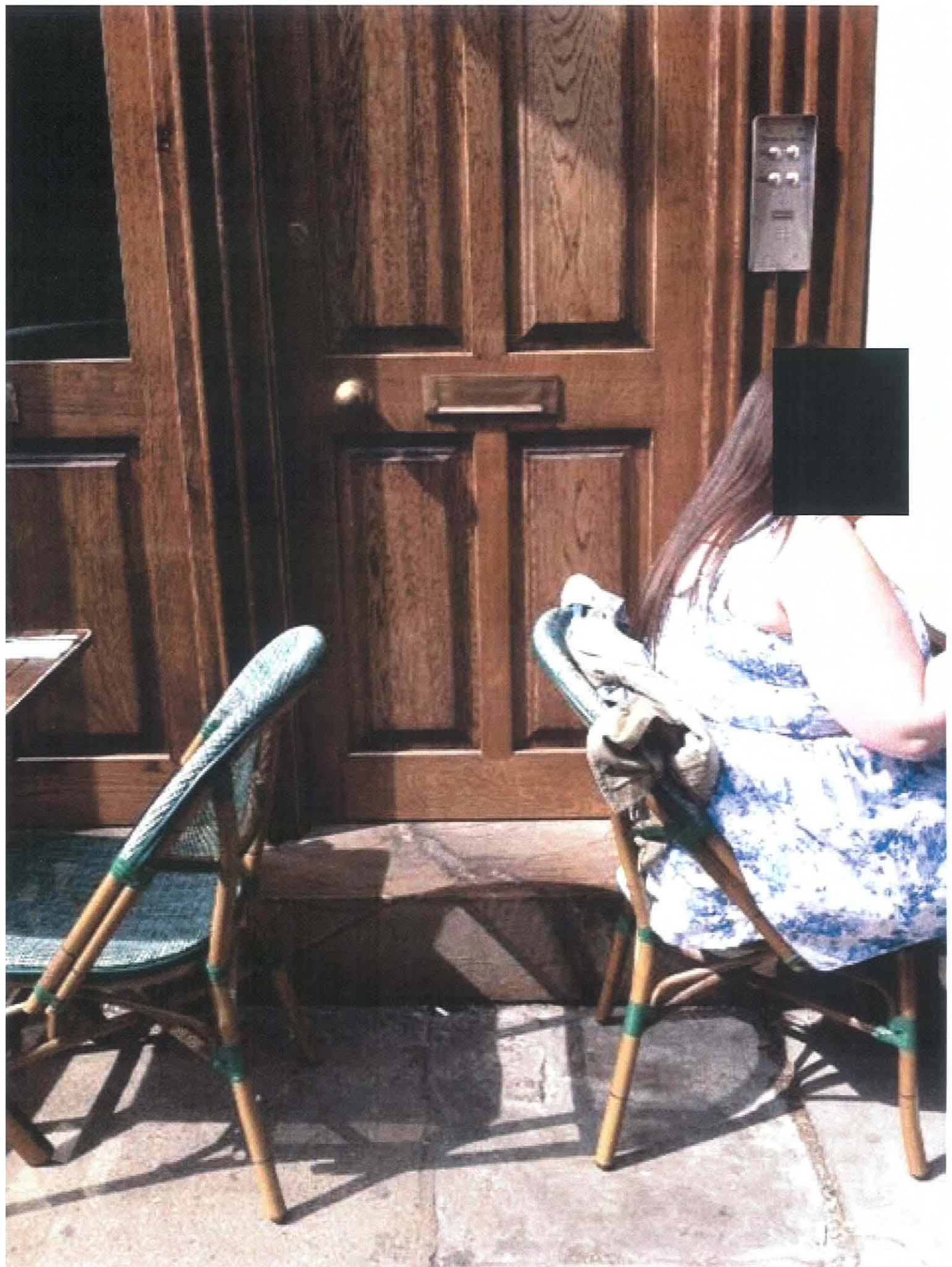
Contact name (where not previously given) and postal address for correspondence associated with this application (please read guidance note 6) The Theberton Street Residents’ Association c/o 41 Theberton Street c/o 19 Theberton Street c/o 39 Theberton Street	
Post town London	Post Code N1 0QY
Telephone number (if any)	
If you would prefer us to correspond with you using an e-mail address your e-mail address (optional)	

Notes for Guidance

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



10a Thebert1051st June.jpg

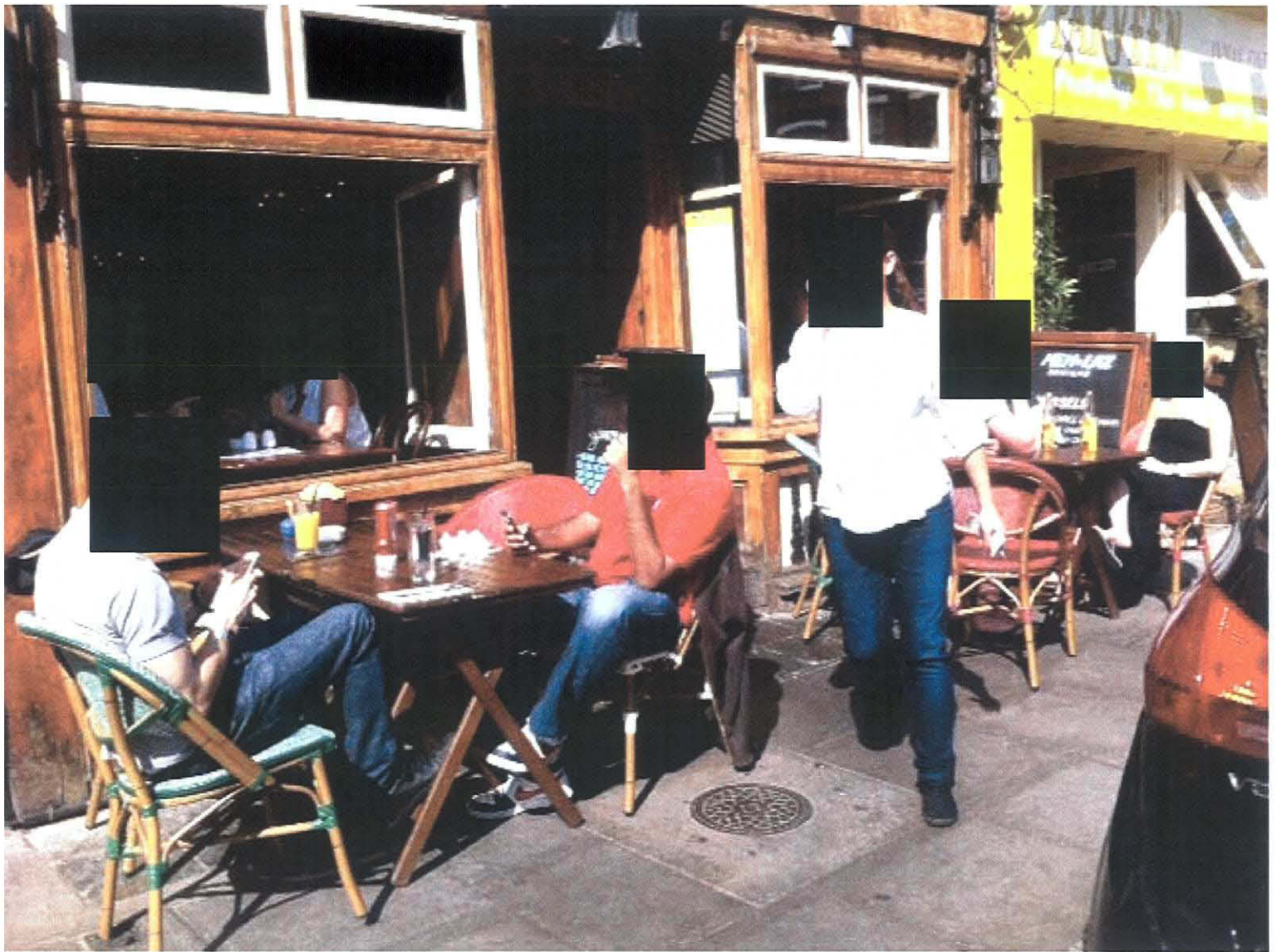




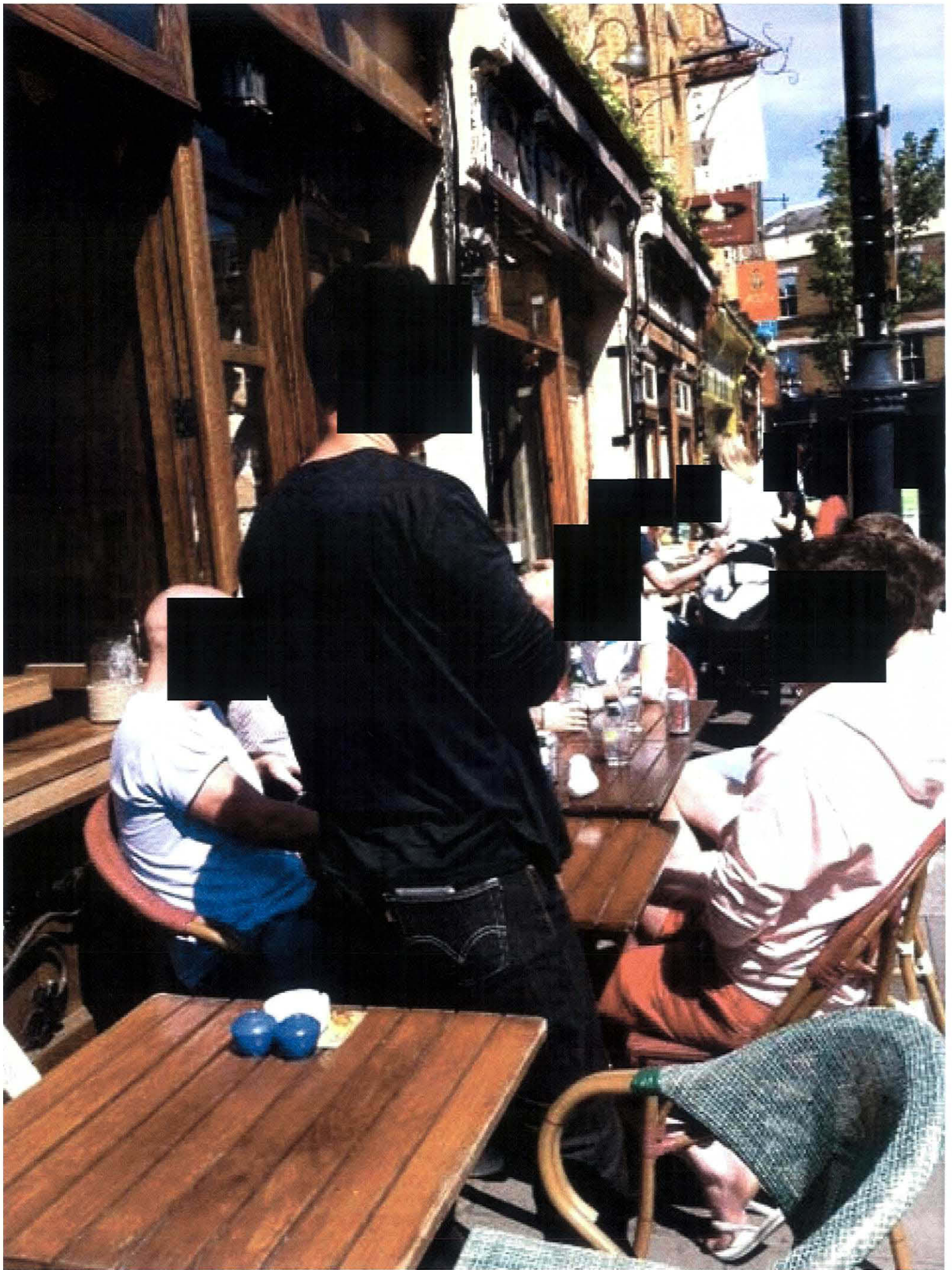








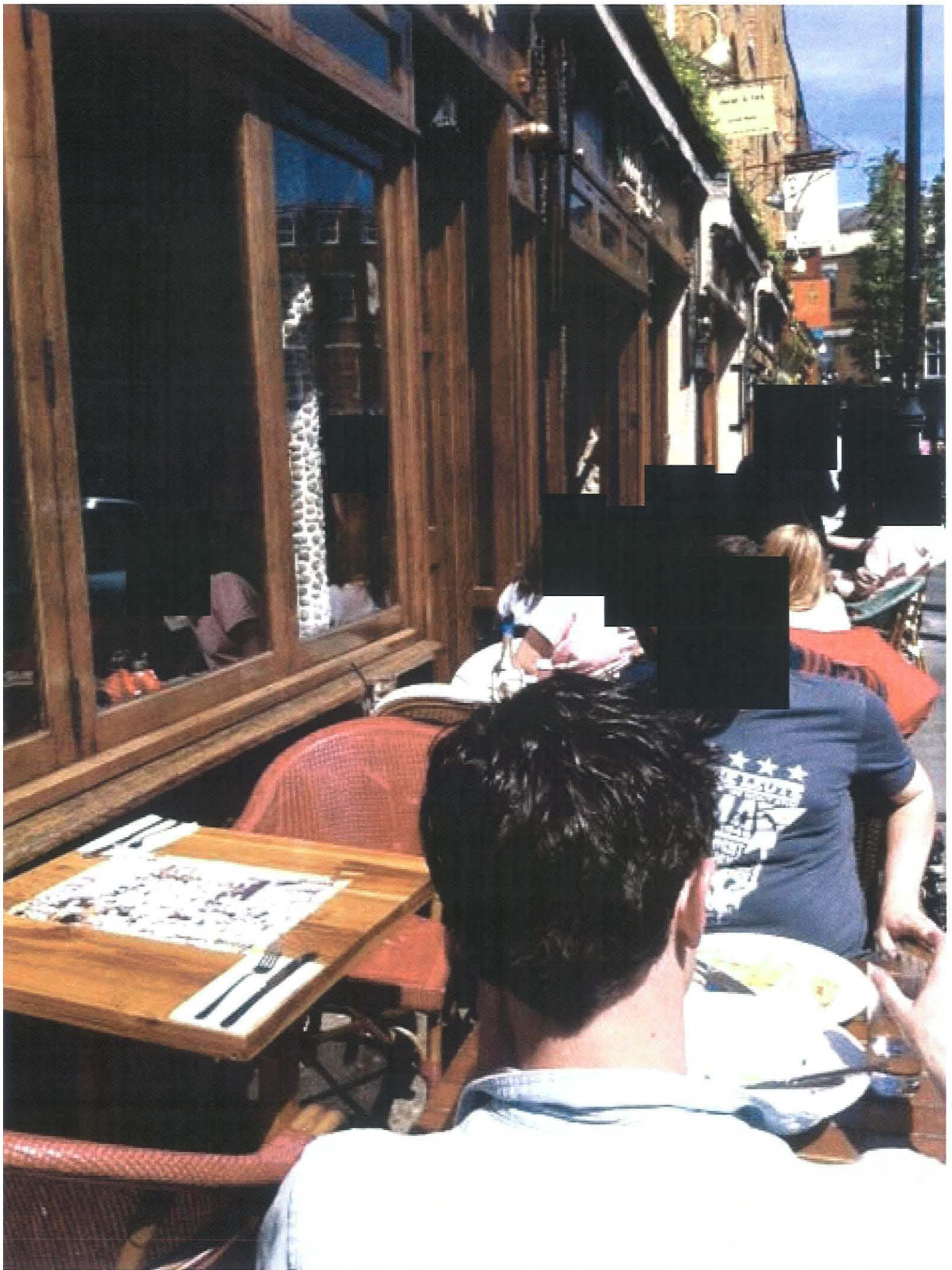


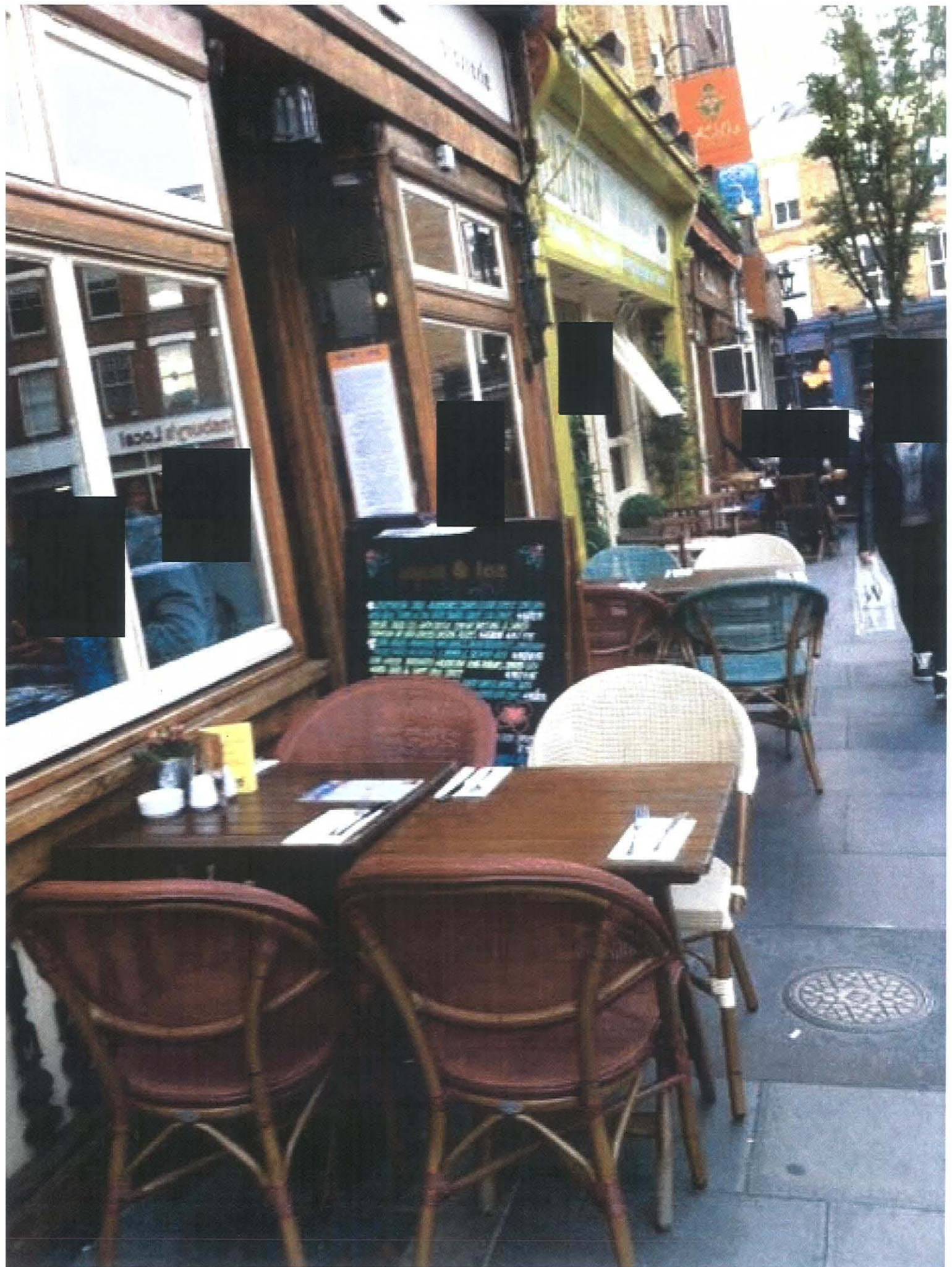




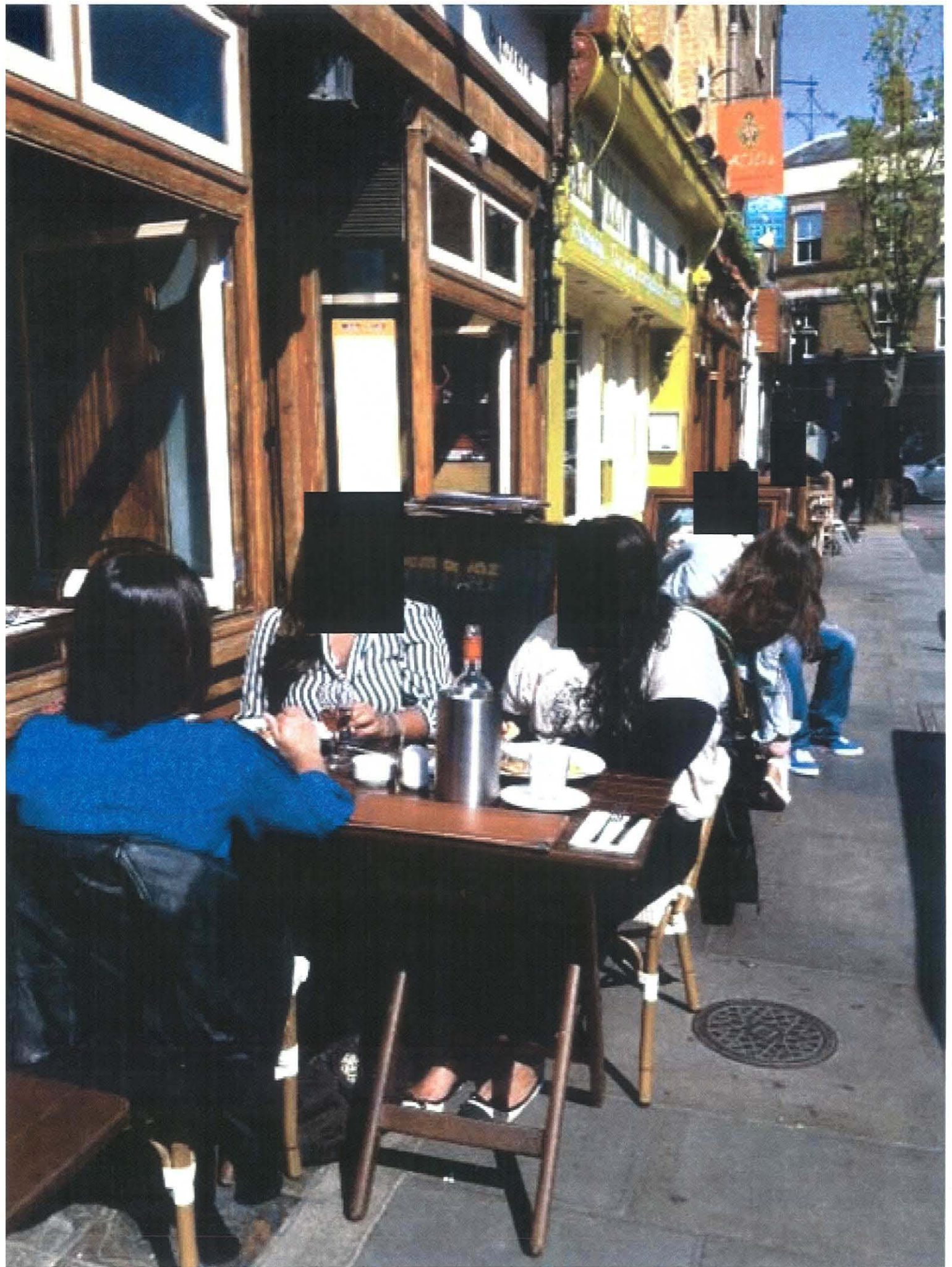


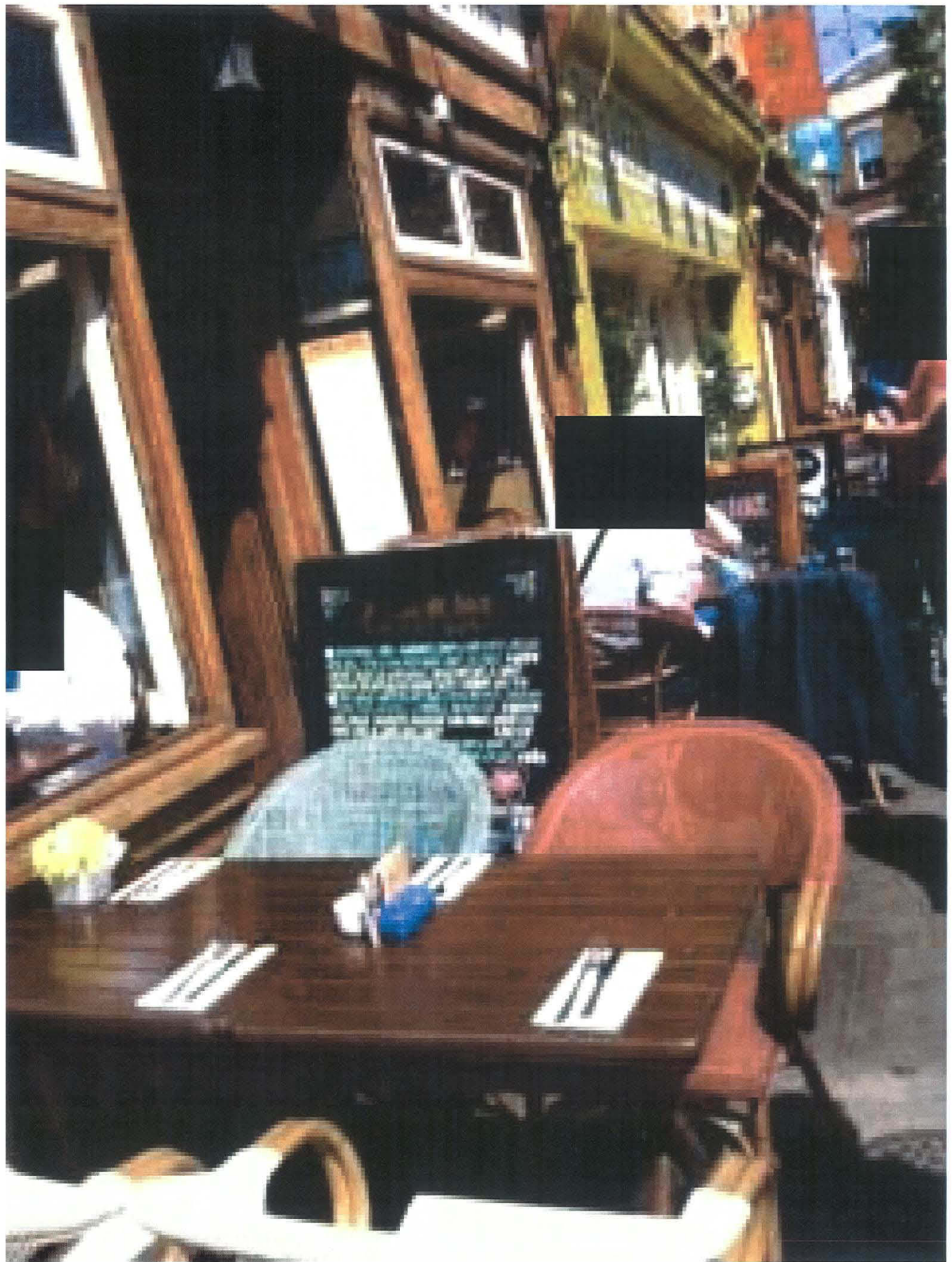




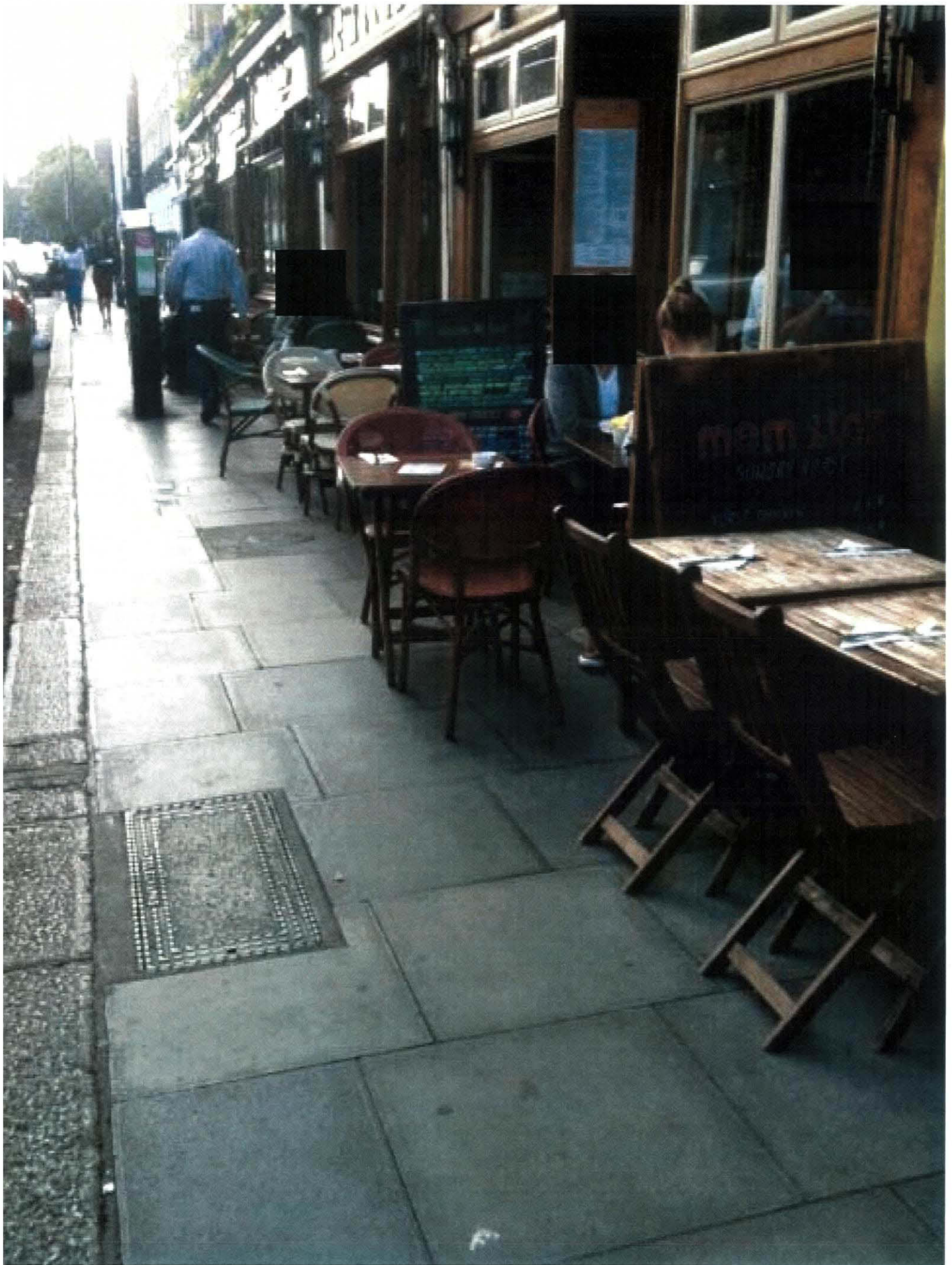




















8-16 Theberton Street 127 1st May 5.15pm.jpg



**PREMISES LICENCE
LICENSING ACT 2003**

Premises licence number	LN/11615-270213		
Postal address of premises, or if none, ordnance survey map reference or description			
LA VITA E BELLA 16 THEBERTON STREET			
Post town	London	Post code	N1 0QX
Telephone number	020 7704 9089		

Where the licence is time limited the dates
Not Applicable

Licensable activities authorised by the licence
Ground floor

- The sale by retail of alcohol

The times the licence authorises the carrying out of licensable activities

- The sale by retail of alcohol:

Monday	10:00	to	23:30
Tuesday	10:00	to	23:30
Wednesday	10:00	to	23:30
Thursday	10:00	to	23:30
Friday	10:00	to	23:30
Saturday	10:00	to	23:30
Sunday	10:00	to	23:00

The opening hours of the premises:

Monday	10:00	to	23:30
Tuesday	10:00	to	23:30
Wednesday	10:00	to	23:30
Thursday	10:00	to	23:30
Friday	10:00	to	23:30
Saturday	10:00	to	23:30
Sunday	10:00	to	23:00

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

Name, (registered) address, telephone number and e-mail (where relevant) of holder of premises licence
Mr Mehmet Kocakerim
Flat 16
125 Aldermans Hill
London
N13 4QB

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 the supply of alcohol

Mr Mehmet Kocakerim
Flat 16
125 Aldermans Hill
London
N13 4QB

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

Islington Council
Public Protection Division
222 Upper Street
London N1 1XR
Tel: 020 7527 3031
Email: licensing@islington.gov.uk


Service Manager - Commercial

3/4/13
Date of Issue

Annex 1 - Mandatory conditions

1. No supply of alcohol may be made under the premises licence:
 - a) at a time when there is no designated premises supervisor in respect of the premises licence, or
 - b) at a time when the designated premises supervisor does not hold a personal licence or his personal licence is suspended.
2. Every supply of alcohol under the premises licence must be made or authorised by a person who holds a personal licence.
3. All door supervisors shall be licensed by the Security Industry Authority.
4. The admission of children to the exhibition of a film shall be restricted in accordance with the recommendation of a film classification body as defined in the Video Recordings Act 1984 or Islington Council acting as the licensing authority where it has given notice in section 20(3) of the Licensing Act 2003.
5. The responsible person shall take all reasonable steps to ensure that staff on relevant premises do not carry out, arrange or participate in any "irresponsible promotions" in relation to the premises.

In this condition, an "irresponsible promotion" means any one or more of the following activities, or substantially similar activities, carried on for the purpose of encouraging the sale or supply of alcohol for consumption on the premises in a manner which carries a significant risk of leading or contributing to crime and disorder, prejudice to public safety, public nuisance, or harm to children:

- a) games or other activities which require or encourage, or are designed to require or encourage, individuals to:
 - i) drink a quantity of alcohol within a time limit (other than to drink alcohol sold or supplied on the premises before the cessation of the period in which the responsible person is authorised to sell or supply alcohol), or
 - ii) drink as much alcohol as possible (whether within a time limit or otherwise);
 - b) provision of unlimited or unspecified quantities of alcohol free or for a fixed or discounted fee to the public or to a group defined by a particular characteristic (other than any promotion or discount available to an individual in respect of alcohol for consumption at a table meal, as defined in section 159 of the Act);
 - c) provision of free or discounted alcohol or any other thing as a prize to encourage or reward the purchase and consumption of alcohol over a period of 24 hours or less;
 - d) provision of free or discounted alcohol in relation to the viewing on the premises of a sporting event, where that provision is dependent on:
 - i) the outcome of a race, competition or other event or process, or
 - ii) the likelihood of anything occurring or not occurring;
 - e) selling or supplying alcohol in association with promotional posters or flyers on, or in the vicinity of, the premises which can reasonably be considered to condone, encourage or glamorise anti-social behaviour or to refer to the effects of drunkenness in any favourable manner.
6. The responsible person shall ensure that no alcohol is dispensed directly by one person into the mouth of another (other than where that other person is unable to drink without assistance by reason of a disability).
 7. The responsible person shall ensure that free tap water is provided on request to customers where it is reasonably available.

8. The premises licence holder or club premises certificate holder shall ensure that an age verification policy applies to the premises in relation to the sale or supply of alcohol.

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

9. The responsible person shall ensure that:
- a) where any of the following alcoholic drinks is sold or supplied for consumption on the premises (other than alcoholic drinks sold or supplied having been made up in advance ready for sale or supply in a securely closed container) it is available to customers in the following measures:
 - i) beer or cider: ½ pint;
 - ii) gin, rum, vodka or whisky: 25 ml or 35 ml; and
 - iii) still wine in a glass: 125 ml; and
 - b) customers are made aware of the availability of these measures.

Annex 2 - Conditions consistent with the Operating Schedule

1. Unless otherwise specified on this licence no regulated entertainment shall take place at the premises with the exception of pre-booked private events limited to the provision of music and dancing for pre-invited guests.
2. This licence is subject to such further conditions as are consistent with any restrictions imposed on the use of the premises for the existing licensable activities under the licence by virtue of the enactments hereinafter set out:
 - Children and Young Persons Act 1933
 - Cinematograph (Safety) Regulations 1955
 - Sporting Events (Control of Alcohol Etc) Act 1985
3. The times that the licence authorises the supply of alcohol does not prohibit:
 - a) during the first twenty minutes after the above hours the consumption of the alcohol on the premises;
 - b) 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;
 - c) 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;
 - d) the supply to, or consumption by, any person of alcohol in any premises where they are residing.
4. Suitable beverages other than alcohol, including drinking water, shall be equally available for consumption with or otherwise as an ancillary to meals served in the licensed premises.
5. The premises must be bona fide used for the purpose of habitually providing the customary main meal at midday or in the evening, or both for the accommodation of persons frequenting the premises.
6. Alcohol shall not be sold or supplied on the premises otherwise than to persons taking table meals there and for consumption by such a person as an ancillary to his meal.

7. There shall be a member of staff at the door employed to show people to their seats, monitor noise, ensure noise is kept to a minimum, deal with any noise complaints and who shall report any incidents of crime to the police.
8. The licensee shall put arrangements in place to ensure that when staff are dealing with young people they ask for valid proof of age e.g. Portman Proof of Age card, National Passport or Photo Drivers Licence before selling alcohol to them.
9. There shall be no promotions that encourage illegal, irresponsible or immoderate consumption of alcohol.
10. The maximum number of persons accommodated at any one time outside the premises shall not exceed 18.
11. The outside seating arrangement shall allow legally required access on the pathway. The tables and chairs outside shall not extend beyond the cartilage areas of No.16 and No.18 Theberton Street.
12. No new customers shall be accepted in the premises after 23:00.
13. The premises shall make a dedicated licensed taxi/mini cab service available for customers.
14. No children under the age of 18 shall be allowed in the premises without adults after 18:00.
15. The maximum number of persons accommodated at any one time shall not exceed the following:
 - Ground Floor - 30
16. Members of the public shall not use the outside seating area after 23:00 and notices shall be displayed on the premises to that effect.
17. Tables and chairs outside shall be cleared by 22:30 and shall be made unusable after 23:00.
18. The licensee shall meet with local residents on a regular basis to discuss issues of mutual concern.
19. The licensee shall ensure the premises is fitted with a fire alarm system that meets

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

Annex 4 – Plans

Reference Number: 4061.02.100 – RevA – June 2009 & 4061.02.105 – RevB – June 2009



Premises Licence Summary

Licensing Act 2003

Premises licence number	LN/11615-270213		
Postal address of premises, or if none, ordnance survey map reference or description			
LA VITA E BELLA 16 THEBERTON STREET			
Post town	London	Post code	N1 0QX
Telephone number	020 7704 9089		

Where the licence is time limited the dates
Not Applicable

Licensable activities authorised by the licence [
Ground floor
<ul style="list-style-type: none"> The sale by retail of alcohol

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

Name, (registered) address, telephone number and e-mail (where relevant) of holder of premises licence
Mr Mehmet Kocakerim Flat 16 125 Aldermans Hill London N13 4QB

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

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

Mr Mehmet Kocakerim

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

It is an offence to allow persons under the age of 16 years to be on the premises whilst it is open exclusively or primarily for the supply of alcohol for consumption on the premises unless they are accompanied by a person aged 18 or over. No unaccompanied person under the age of 16 years shall be permitted on the premises between 12 midnight and 5am if alcohol is supplied for consumption on the premises.

Islington Council
Public Protection Division
222 Upper Street
London N1 1XR
Tel: 020 7527 3031
Email: licensing@islington.gov.uk

**Licensing Act 2003- Representation from the Licensing Authority
Application: 16 Theberton Street London N1**

I am submitting a representation on behalf of the Licensing Authority with respect to the review application submitted by the Theberton Street Resident Association

The grounds for the representation are:

- Public nuisance
- Crime and disorder
- Public Safety

Licensing Policy Considerations

<i>Licensing Policy 9</i>	<i>Operating Schedule</i>
<i>Licensing Policy 10</i>	<i>Operating Schedule</i>
<i>Licensing Policy 20</i>	<i>Smoking, drinking and eating outside</i>
<i>Licensing Policy 30</i>	<i>Review of Licences</i>

Recommendation and Reasons

The Licensing Authority supports this review and can confirm that it has:

- received complaints from residents
- observed tables and chairs being provided for customers on the pavement outside, over and above that which is authorised as a result of them having a private curtilage area outside the premises
- little control over the management of the area outside the premises owing to the lack of conditions attached to the premises licence

The Licensing Authority recommends:

1. That a revised layout plan of the premises be produced to include the external area of the premises showing the authorised curtilage of the premises (plan to be agreed by the Licensing Service).
2. That the following additional conditions be attached to the licence:
 - a. Tables & chairs serviced under the premises licence must not extend beyond the authorised curtilage of the premises, as shown on the layout plan at Annex 4 of this licence
 - b. Alcohol supplied under the premises licence must not be consumed outside of the area, including the outside curtilage, shown on the layout plan at Annex 4 of this licence
 - c. The maximum number of persons to be seated outside the premises, at any time, shall not exceed the following:#
 - i. If A-Boards are used - 1 tables and 2 chairs with one A-Board; or
 - ii. When no A-Board is used - 2 tables and 4 chairs.
 - d. Staff shall regularly monitor the outside seating area whilst the premises is open and:
 - i. advise any customer seated outside of the authorised curtilage to move back within it; and
 - ii. advise any customer whose items or possessions are found to be outside of the curtilage that they must be moved back within it.

3. Remove the following conditions from the licence is 1 & 2 above are agreed
 - a. Annex 2, Condition 10 - The maximum number of persons accommodated at any one time outside the premises shall not exceed 18; and
 - b. Annex 2, Condition 11 - The outside seating arrangement shall allow legally required access on the pathway. The tables and chairs outside shall not extend beyond the cartilage areas of No.16 and No.18 Theberton Street.

Janice Gibbons
Service Manager
Islington Council
Public Protection Division
222 Upper St
London N1 1XR

13 June 2013

Whitton, Daniel

From: Lane, Terrie
Sent: 26 June 2013 11:48
To: Whitton, Daniel
Subject: FW: outside dining

-----Original Message-----

From: Mehmet Kocakerim [mailto:mehmetkocakerim@gmail.com]
Sent: 21 June 2013 16:15
To: Lane, Terrie; 'Christine Lovett'
Subject: FW: outside dining

From: [REDACTED]
[mailto:[REDACTED]]
Sent: 18 June 2013 15:57
To: Mehmet Kocakerim
Subject: RE: outside dining

To Whom it May Concern,

We are customers of 'Mem & Laz Brassiere' 'Killis Kitchen' 'La Vita E Bella'.

Spells of warm weather, our short and sweet in British Summers and dining Al Fresco is both enjoyable and desirable and would influence were I chose to dine on a summer's day. We would like the option to be able to dine outside in any of the above three restaurants and thoroughly support exterior tables and chairs.

Name: [REDACTED]

Address: [REDACTED]

Email: [REDACTED]

Signature: [REDACTED]

Please forward your e mails to me mehmetkocakerim@gmail.com
<<mailto:mehmetkocakerim@gmail.com>> & christine@angelaim.org
<<mailto:christine@angelaim.org>>

[REDACTED]

3

Whitton, Daniel

From: Williams, John on behalf of Licensing
Sent: 28 June 2013 10:58
To: Whitton, Daniel
Subject: FW: Mem & Laz

-----Original Message-----

From: [REDACTED]
Sent: 27 June 2013 18:18
To: Licensing
Subject: Mem & Laz

We are residents of Gibson Square.

I understand the licencing for Mem & Laz's use of the footpath for tables is under review. We would like to express our opinion that we think the tables are not a concern, and in fact are a benefit to the area by making it more lively. We would hope that Mem & Laz's ability to use the footpath in this way is not removed.

Kind regards,

[REDACTED]

[REDACTED]

This email is confidential and may also be privileged. If you are not the intended recipient please delete it and notify us immediately by telephoning or e-mailing the sender. You should not copy it or use it for any purpose nor disclose its contents to any other person.

[REDACTED]

Licensing Team
Islington Council
3rd Floor, 222 Upper Street
London N1 1XR

Dear Sir/Madam,

Licence review 8-10 and 16 Theberton Street

We strongly support this review for the reasons set out below.

Problem of tables, chairs and 'A' boards blocking pavement

Between 8 and 16 Theberton Street there are ten and sometimes eleven tables on the pavement in front of the restaurants. At the start of the day, 2-seater tables and chairs are placed close to the restaurant frontages. However, the size of the tables and the seating arrangements frequently change as the day progresses. If demand for outdoor eating is high, additional tables are brought out. These are joined to the 2-seater tables to form larger tables that extend half-way across the pavement to create space for three or four customers. This happens mainly in the evening, when the weather is fine, but also regularly occurs at weekends and on bank holidays, when there is increased demand for outdoor tables. It also occurs when parties of three or four include smokers. Because they cannot smoke in the restaurants, they often choose to eat outside and outdoor tables are enlarged to accommodate them.

At busy times, it is difficult to walk along the pavement in front of these restaurants and there is no possibility of wheelchair users or anyone with a push chair or buggy passing when the tables are fully occupied. Most pedestrians use the pavement opposite or walk along the road itself rather than attempt to walk between the extended tables and the cars parked at the kerbside.

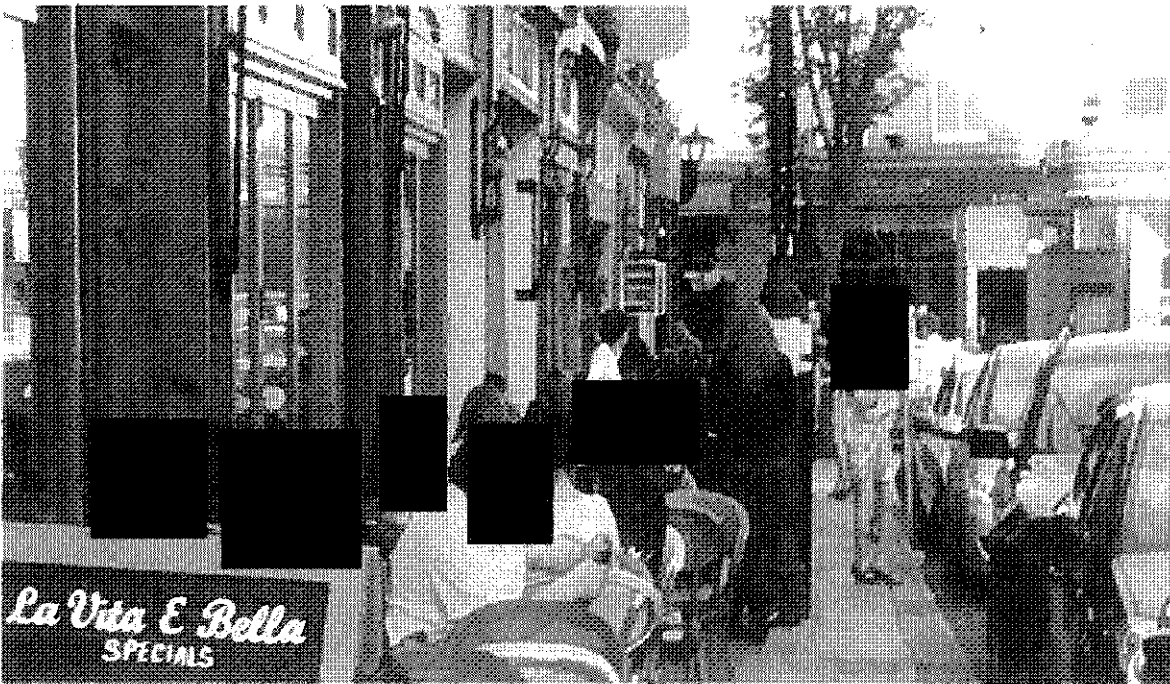
Apart from the tables and chairs, pavement space is taken up by 'A' boards. At the start of the day, these are usually placed directly in front of the restaurants. When, however, the tables are enlarged to provide seating for three or four customers, the boards are often moved further out towards the kerb to make room for the additional tables and chairs. As a consequence, pedestrians have to negotiate their way between the tables and 'A' boards and walk along the remaining narrow strip of pavement between these obstructions and the parked cars. If any of the outside diners has a buggy or wheelie bag, the pavement space available to pedestrians is reduced even further.

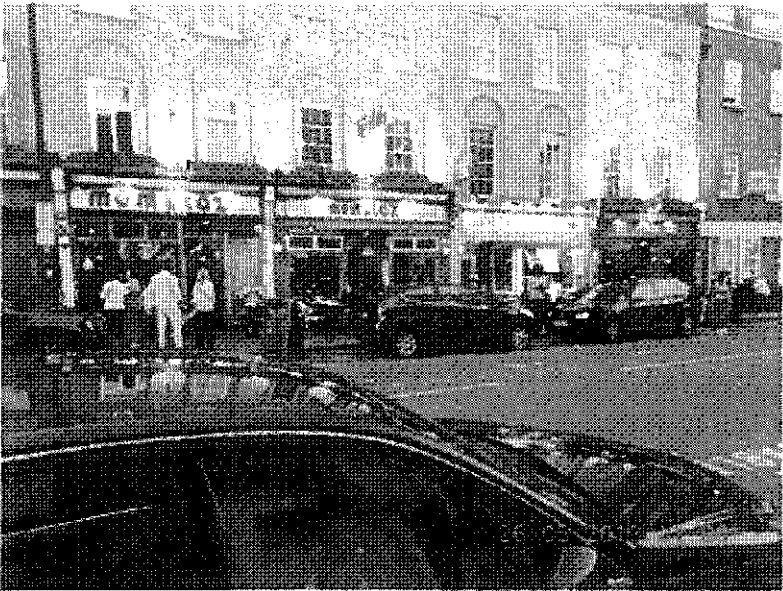
To add to the congestion problem, there are always restaurant staff bustling around, either serving food and drink or encouraging passers-by to eat at the restaurants. At busy times, the problem is further exacerbated by people queuing up outside the restaurants as they wait for a table and by smokers who stand outside the restaurants chatting.

Conversion of 10-16 Theberton Street into a single unit without planning permission

When considering this review, it should be noted that 10-16 Theberton Street are now a single planning unit, which does not benefit from planning permission.

In view of the management's policy of maximising table space on the pavement, with total disregard for pedestrians, and the conversion of the premises into a single planning unit, which has no planning permission, we strongly support the Theberton Street Review Proposals.





Whitton, Daniel

From: Williams, John on behalf of Licensing
Sent: 28 June 2013 10:51
To: Whitton, Daniel
Subject: FW: Theberton Street obstruction of footpath by restaurants

-----Original Message-----

From: [REDACTED]
Sent: 28 June 2013 09:48
To: Licensing
Subject: Theberton Street obstruction of footpath by restaurants

Dear Sir/Madam

I am advised that you are considering permitting Mem & Laz to extend their internal restaurant provision outside onto Theberton Street. I am writing to express my concern that this will significantly obstruct the footpath with chairs, tables and advertising boards on what is quite a narrow pathway.

We have noticed over the past months that it is now impossible on the footpath in this part of Theberton street with the run of restaurants for two people walking abreast, or a single person wheeling a pushchair, or a person in a wheelchair, to safely walk through the encroaching array of obstructions and remain on the footpath. This is because the restaurants have expanded their operations with two tables abreast and a range of advertising boards such that walking there is impossible. I have no problem with outside operations where the pavement is wide, and people can safely walk without having to move onto the street and around the parked cars. I fear an accident along this stretch because the road is busy.

I would be grateful if you would please take this concern into consideration as you deliberate on this application.

[REDACTED]

[REDACTED]

Whitton, Daniel

From: [REDACTED]
Sent: 21 June 2013 12:22
To: Whitton, Daniel
Subject: tables and chairs in Theberton street

Dear Dan

You will see from Emails below that I have had concerns with tables and chairs on Theberton street going back several years so I would like to add my name to the list of people supporting a review . My reasoning is all included in the emails below but if you require me to restate my objections please let me know and I will send a further email.

regards

[REDACTED]

- > Subject: RE: tables and chairs in Theberton street
- > Date: Thu, 14 Aug 2008 16:16:58 +0100
- > From: Julia.Olinski@islington.gov.uk
- > To: raynerdom@hotmail.com
- > CC: James.Kempton@islington.gov.uk; Terrie.Lane@islington.gov.uk; Georgina.Fitch@islington.gov.uk; AlisonS.Smith@islington.gov.uk; Martin.Holland@islington.gov.uk; joe.culleton@islington.gov.uk; John.Mooteealoo@islington.gov.uk
- >
- > Dear [REDACTED]
- >
- > Thank you for your concerns regarding Theberton Street.I am fully aware
- > that there has been some misuse to the original agreement with the
- > tables and chairs on their private frontage. I am currently arranging
- > for our enforcement officers to visit the street and deal with the
- > tables and chairs and any obstructions. As you may remember that we
- > cannot licence the tables chairs as the width of the public footway is
- > not wide enough. I will also be liaising with the premises licence team
- > reading this matter. I am on leave until the 27th August and will follow
- > this matter on my return.
- >
- >
- > Regards
- > Julia Olinski
- > Street Management Division
- > Senior Technical Officer
- > Network Management Team
- > Tel: 020 7527 2591
- > Fax: 020 7527 2194
- > Email: julia.olinski@islington.gov.uk
- >
- > www.islington.gov.uk
- >
- > Location Map: <<http://www.islington.gov.uk/images/environment/222us.jpg>>
- >

>
>
> -----Original Message-----
> From: streetworks
> Sent: 07 August 2008 13:12
> To: Olinski, Julia
> Subject: FW: tables and chairs in Theberton street

>
>
>
> Regards
> Julia Olinski
> Street Management Division
> Senior Technical Officer
> Network Management Team
> Tel: 020 7527 2591
> Fax: 020 7527 2194
> Email: julia.olinski@islington.gov.uk

>
> www.islington.gov.uk

>
> Location Map: <<http://www.islington.gov.uk/images/environment/222us.jpg>>

>
>
>
> -----Original Message-----

> From: [REDACTED]
> Sent: 01 August 2008 09:20
> To: Olinski, Julia
> Cc: Evans, Charlotte; O'Bryan, Luke; Holland, Martin; Davies, Owen;
> Young, Geoff; Connolly, Tina
> Subject: RE: tables and chairs in Theberton street

>
>
>
> Dear Julia

>
>
>
> It is some time since I have written to you on this subject so I hope
> you are still responsible for this area of council business.

>
>
>
> The situation with tables and chairs in Theberton street is now
> completely out of control. Have the rules changed or are the
> restaurants now openly abusing the permission they have to use the small
> private forecourt outside their restaurants? With the upcoming license
> applications for more restaurants and longer opening hours this
> situation is only going to get worse unless something is done to make
> the restaurants stay within the rules. The specifics of my complaints
> are detailed in the emails below.

>
> regards

[REDACTED]

>
>
>
>> Subject: RE: tables and chairs in Theberton street
>> Date: Fri, 22 Jul 2005 13:18:48 +0100
>> From: Julia.Olinski@islington.gov.uk
>> To: [REDACTED]
>> CC: Charlotte.Evans@islington.gov.uk; Luke.OBryan@islington.gov.uk;
>> Martin.Holland@islington.gov.uk; Owen.Davies@islington.gov.uk;
>> Geoff.Young@islington.gov.uk; Tina.Connolly@islington.gov.uk
>>
>> Dear Dominic
>>
>> Thank you for your concerns regarding Theberton Street, I apologise
> for not responding sooner. I have had several site visit's in relation
> to your concerns and several other complaints to assess the situation. I
> am aware this problem has been around for some time and would like to
> reassure you and others that I am attempting to resolve the problem and
> appreciate your patience. One of the main problems we have in Theberton
> Street is that of the private forecourt directly outside the
> restaurants. Private forecourts do not require a license for tables and
> chairs. There is not sufficient space when they overlap onto the public
> highway to justify granting a licence, although on several site visits I
> witnessed tables and chairs using areas of the public highway which are
> not permitted and obstruct the footpath. Discussions in the past with
> the restaurants do not seem to have had any impact and I am therefore
> looking to arrange a official meeting to discuss this matter further and
> try to resolve this problem .
>> I will be writing to all the parties involved to arrange a suitable
> date and will keep you informed of developments.
>> Can I please highlight that in the meantime feel free to express any
> further concerns as it all contributes to building a case study to base
> non compliance on.
>> If you have any issues regarding noise levels or street trading issues
> please do not hesitate to contact our environmental department Anne
> Brothers 159 Upper Street, London N1 1RE. I work closely with this
> department relating all activities of concern that may cause potential
> problems regarding tables and chairs on the highways.
>> I hope to have the meeting during August when issues can be addressed
> and will update you accordingly.
>>
>>
>> Regards
>> Julia Olinski
>> Street Management Division
>> Senior Technical Officer
>> Streetworks Section
>> Tel: 020 7527 2591
>> Fax: 020 7527 2194
>> Email: julia.olinski@islington.gov.uk
>>
>> www.islington.gov.uk
>>

>> Location Map:
>>
>> Regards
>> Julia Olinski
>> Street Management Division
>> Senior Technical Officer
>> Streetworks Section
>> Tel: 020 7527 2591
>> Fax: 020 7527 2194
>> Email: julia.olinski@islington.gov.uk
>>
>> www.islington.gov.uk
>>

>> Location Map:
>>
>>
>>

>> -----Original Message-----

>> From: [REDACTED]
>> Sent: 22 July 2003 09:58
>> To: Evans, Charlotte; Olinski, Julia
>> Subject: tables and chairs in Theberton street
>>
>>

>> Please will one of you reply to this email or i will have to make an
>> official complaint.
>>
>>

>> Dear Charlotte
>>

>> I have sent the following email to Julia Olinski but as yet have had
>> no response. I hope you will be able to get back to me on this
> important issue:
>>
>>
>>

>> I believe you are the person responsible for the regulation of tables
>> and chairs outside pubs and restaurants in Islington?
>>

>> We have a long standing problem with restaurants at the east end of
>> Theberton street filling the pavement with tables and chairs
>> throughout the summer. As far as I can make out none of them actually
>> have a license to do this. All bars and restaurants in Upper Street
> which offer "al fresco"
>> dining seem to have official council permits in their windows, but
>> none of the restaurants in Theberton Street display a permit.
>>

>> If indeed these restaurants are allowed to fill the pavements with
>> tables and chairs without permits then I still believe they are going
>> beyond the bounds of what is reasonable. The pavement that they occupy
>

>> also has lamp-posts, pay and display machines, street signs and
> concrete bollards.

>> As well as having to negotiate this obstacle course (sometimes with a

7

Whitton, Daniel

Subject: FW: Renewal of licenses for 8/10 and 16 Theberton Street

-----Original Message-----

From: [REDACTED]
Sent: 22 June 2013 14:44
To: Whitton, Daniel
Subject: Renewal of licenses for 8/10 and 16 Theberton Street

We support the limiting of tables and chairs and all the other paraphernalia on the pavements of the restaurants above.

We feel the limits should also apply to 12 and 14 Theberton Street.

When the restaurants restrict the tables and chairs, it is a pleasure to walk down the pavement with our grandchildren and buggy and scooters, without having to negotiate around tables, chairs, A-boards, waiters, and some indignant customers.

[REDACTED]

8

Whitton, Daniel

From: [REDACTED]
Sent: 01 July 2013 08:08
To: Whitton, Daniel
Subject: 8-16 Theberton Street : application for review of premises licences

Dan

Kathrin & I live at [REDACTED] We support the need for a review of the premises licences for the above properties on the grounds made by correspondence from [REDACTED] on behalf of The Theberton Street Association .

Rwgards

[REDACTED]

9

Whitton, Daniel

From: [REDACTED]
Sent: 24 June 2013 12:55
To: Whitton, Daniel
Subject: Licensing review application re nos.8-10 and 16 Theberton Street

Dear Dan

Please accept this as confirmation that we fully support the above application made on behalf of the Theberton Street Association.

Best regards

[REDACTED]

[REDACTED]

JOELSON WILSON LLP
Solicitors
30 Portland Place
London W1B 1LZ

22 August 2013

Our Ref: AHM.APB.K00119/0004

T: (+44) (0)20 7580 5721
F: (+44) (0)20 7580 2251
E: info@joelsonwilson.com
W: www.joelsonwilson.com

Daniel Whitton
Public Protection Division
222 Upper Street
London
N1 1XR

COMMERCIAL LICENSING

27 AUG 2013

Dear Dan,

RE: 8-10 AND 16 THEBERTON STREET, LONDON N1 0QX - REVIEW OF PREMISES LICENCES UNDER THE LICENSING ACT 2003 ("LA 2003")

As you know, we act for Mehmet Kocakerim, the proprietor of the above premises the subject of these review proceedings.

As discussed, we are writing to set out the extent to which our client is prepared to agree to the proposed additional licence conditions put forward by the licensing authority in the context of these matters. We take each of the premises in turn.

Mem and Laz Restaurant 8 - 10 Theberton Street, London, N1 0QX

- 1 - Agreed (on the basis of curtilage as marked prior to street works) unless our client obtains a pavement licence.
- 2a - Agreed unless our client obtains a pavement licence.
- 2b - Not agreed – unnecessary with 2a in place.
- 2c - Only agreed in the event our client does not obtain a pavement licence and with revised figures, to allow two tables and four chairs to be permitted outside each of numbers 8, 10, 12 and 14 Theberton Street. We question the figures put forward by the licensing team, as the numbers in 2c (i) and 2c (ii) appear to be identical, whether or not A –Boards are used.
- 2d - Agreed in the event that our client does not obtain a pavement licence.
- 2e - It is agreed that tables and chairs outside the premises shall be cleared by 22:55 p.m. and made unusable after 23:00 p.m.
- 3a - The removal of this condition is not agreed as this is irrelevant to the issues raised by these proceedings and would completely prevent alcohol being sold by way of off sales, even in sealed containers.

3b - The removal of this condition is not agreed as its removal would serve to remove existing rights. Our client wishes to retain this condition to cover the situation pertaining to the outside area, should all table and chairs be removed, for example.

3c - We request clarification of this proposal. What is the objective sought? Which part of number 12 Theberton Street is meant? Is what is being proposed that a table may be placed outside number 14 Theberton Street (see 2c) but that alcohol may not be sold to patrons using that table? Why is 10a sought to be kept clear? Our client is the freeholder of the upstairs flat at 10 Theberton Street, which is not in use.

3d - The removal of this condition is agreed, subject to agreement being reached on 2e above

16 Theberton Street

1 - As above

2a - As above

2b - As above

2c - It is agreed that two tables and four chairs should be permitted.

2d - As above

3a - The removal of this condition is not agreed, for the reason stated above

3b - Agreed, subject to agreement being reached on the extent of the authorised curtilage.

We should be grateful if you would supply the clarification request above in relation to 8-10 Theberton Street to the writer, Anna Mathias. For your information, Anna is on holiday from 24 August to 15 September 2013 inclusive but will be picking her emails sporadically. Do please feel free to contact Anna after her return from holiday to discuss the matter generally, should you so wish. Upon her return, Anna will liaise with you in relation to preparation for the hearing including, as previously discussed, the submission of any supporting documentation on the license holder's behalf. In Anna's absence, we should be grateful if you would contact Niall McCann of these offices in the event of any query, either on the above number or at nmm@joelsonwilson.com.

Yours faithfully



JOELSON WILSON LLP

Appendix 4 ii)

JOELSON WILSON

JOELSON WILSON LLP
Solicitors
30 Portland Place
London W1B 1LZ

22 August 2013

Our Ref: AHM.APB.K00119/0004

T: (+44) (0)20 7580 5721
F: (+44) (0)20 7580 2251
E: info@joelsonwilson.com
W: www.joelsonwilson.com

Dear Sir/Madam

RE: 8-10 AND 16 THEBERTON STREET, LONDON N1 0QX - REVIEW OF PREMISES LICENCES UNDER THE LICENSING ACT 2003 ("LA 2003")

We act for Mehmet Kocakerim, the proprietor of the above premises which are currently the subject of review proceedings under LA 2003 in respect of which you are either the applicant or have made a representation.

Our client is extremely keen to be a good neighbour and, in the spirit of fostering co-operation and dialogue, something which is encouraged by the relevant legislation, he has taken various steps to ensure that the use of tables and chairs at his premises is controlled in such a manner so as not to cause a nuisance or obstruction to others living and working in, and visiting, the vicinity.

Our client would value the opportunity to discuss matters surrounding tables and chairs on the pavement, and the use of the pavement in the locality generally. To this end, he would be delighted to meet with you, if you are able to attend, at a meeting at 7 pm. on Wednesday 18 September 2013. This meeting is to be held at Mem and Laz Brasserie, 8 Therberton Street.

We should be most grateful if you would contact Anna Mathias of these offices on the above number or at ahm@joelsonwilson.com to confirm whether or not you will attend this meeting, or, indeed, to discuss the matter generally, should you so wish.

We look forward to hearing from you.

Yours faithfully



JOELSON WILSON LLP

THE UK MEMBER OF EUROPEAN LAWYERS NETWORK (EEIG)
Affiliated Firms: California, Pittsburgh, Monterrey

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Authorised and Regulated by the Solicitors Regulation Authority, Solicitor Regulation Authority number 509949

A list of Members is available for inspection at the office address

Appendix 4(iii)

JOELSON WILSON

JOELSON WILSON LLP
Solicitors
30 Portland Place
London W1B 1LZ

13 September 2013

Our Ref: AHM.APB.K00119/0004

T: (+44) (0)20 7580 5721
F: (+44) (0)20 7580 2251
E: info@joelsonwilson.com
W: www.joelsonwilson.com

Dear Sir/Madam

RE: 8-10 AND 16 THEBERTON STREET, LONDON N1 0QX - REVIEW OF PREMISES LICENCES UNDER THE LICENSING ACT 2003 ("LA 2003")

We act for Mehmet Kocakerim, the proprietor of the above premises which are currently the subject of review proceedings under LA 2003 in respect of which you are either the applicant or have made a representation.

Further to our letter dated 22 August 2013 (attached for ease of reference); we are rearranging the meeting for Monday 23 September 2013 at 8.00pm, due to a number of residents being unable to attend on 18 September. This meeting is to be held at Mem and Laz Brasserie, 8 Therberton Street.

We should be most grateful if you would contact Anna Mathias of these offices on the above number or at ahm@joelsonwilson.com to confirm whether or not you will attend this meeting, or, indeed, to discuss the matter generally, should you so wish.

We look forward to hearing from you.

Yours faithfully

JW WP

JOELSON WILSON LLP

Enc.

THE UK MEMBER OF EUROPEAN LAWYERS NETWORK (EEIG)
Affiliated Firms: California, Pittsburgh, Monterrey

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A list of Members is available for inspection at the office address

Licensing & Noise officer inspection notes – 8-16 Theberton Street

13th July 2013 – Terrie Lane & Simon Gallagher

- Midnight - 00.10, Theberton Street. Tables and chairs all along the pavement plus A boards and several bags of rubbish were piled up along the street between cars. The majority of tables were for four people and they were being served drinks, coffees and paying their bills out on the pavement. All Mem and Laz premises (Inc La Vita E Bella) in use except the deli. New premises at 101 Upper St on the corner of Theberton Street was open with tables and chairs outside. 4 A Boards outside Mem and Laz. A wheelchair or large buggy would have had trouble getting through. Noticed the licensee of 8-10 & 16 Theberton Street at entrance to no.10 talking to customers.

None of these premises should have tables and chairs outside on the highway after 23:00.

Subsequent to this visit, warning letters were sent to the licensees of all relevant premises reminding of their licence conditions.

19th July 2013 – Dan Whitton & Katie Tomashevski

- Midnight – 00:20 – Theberton Street

Tables and chairs were positioned outside all restaurant premises situated between 4 and 18 Theberton Street as well as 101 Upper Street on the corner of Theberton Street. Some seats were being used by customers, others were simply available for use. I spoke to the licensees and reminded them of their responsibilities in relation to licence conditions and that all tables and chairs must be cleared and/or rendered unusable after 23:00.

It was noted that although tables and chairs were available outside after permitted hours they were within the permitted areas.

28th July 2013 – Anne Brothers (Noise Patrol)

- Call received via Controller timed at: 00:00. Ref No: 874466.

Re: "Party in basement between 10-16. Caller says they have no licence to serve alcohol or have parties in the basement. Neither do they have planning permission for the restaurant. Caller says this restaurant is due to have their licence challenged and they are due to attend a council hearing on 13/8 because of their constant breach of the licence."

Music levels had been reduced when I called the resident back at 00:05 as he had spoken to the licensee about the noise.

Called him again at 00:20, still no noise but he said he still wanted us to visit however as he said the premises was in use contrary to planning permission and he wanted us to witness the premises in use.

Visited at the above time and noticed customer noise from premises in the middle of the terrace – the frontage was all open, no customers were visible but the noise was very noticeable immediately outside.

Entered premises and staff present got the licensee to speak to me.

In his company we had a look and over a balcony at the rear I could see a large dining area in the basement with a long table occupied with people who had dined there that night. The licensee told me it was a private party for his family and friends – I asked him why wasn't he there with them then? No answer.

Asked him how many were present and he said 37 people. I counted at least 45 people in my range of vision from the balcony overhead. He then said a group of people at one end of the long table were paying customers that he had sat there due to lack of space in his restaurant.

He said that Rebecca in Planning was due to grant permission for the use of the premises as an officer decision.

I told him I thought Licensing had visited recently and had made him close the premises along Theberton Street. He denied this and said the matter was due to be resolved very soon by means of planning officer decision and that it was a private party.

I asked him to get everyone to leave and that I believed that part of the premises should not be in use. He told me the party was now over and that customers would be leaving very soon.

No music and no continuing noise so left it at that.

Resident also mentioned lots of bags of refuse in the street and I mentioned this to the licensee. He said refuse had not been collected the previous night for some reason.

Saw bags all up the street – large pile by the junction of Studd Street – but the licensee maintained it wasn't all theirs.

Mr Mehmet Kocakerim
Flat 16
125 Alderman Hill
Palmers Green
London
N13 4QB

 COPY

Licensing Team
Public Protection Division
222 Upper Street
London
N1 1XR

T 020 7527 3841
F 020 7527 3430
E licensing@islington.gov.uk
W www.islington.gov.uk

This matter is being dealt with by:
Dan Whitton

Our ref: LN/11615-270213
Your ref:

Date: 17 July 2013

Dear Mr Mehmet Kocakerim

LICENSING ACT 2003

RE: LA VITA E BELLA, 16 THEBERTON STREET, LONDON, N1 0QX

I write to you as the licensee and designated premises supervisor in respect of the business situated at 16 Theberton Street, London, N1 0QX.

It has been reported by Council officers that on the 13th July 2013, between 00:00 and 00:10, outside tables and chairs, on the pavement area of Theberton Street, were available and being used by customers of this business.

I remind you that this premises licence only authorises licensable activities until 23:30 and that it includes the following conditions:

Annex 2:

Condition 16, Members of the public shall not use the outside seating area after 23:00 and notices shall be displayed on the premises to that effect; and

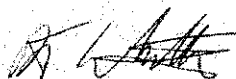
Condition 17, Tables and chairs outside shall be cleared by 22:30 and shall be made unusable after 23:00.

You are advised to ensure that all the premises licence conditions are complied with at all times that licensable activities are provided at your premises. It is an offence to allow the provision of licensable activities other than in accordance with a premises licence.

I must inform you that this investigation is on-going and upon witnessing further contraventions evidence gained on this visit may be used in any subsequent enforcement action taken against you.

Should you have any queries on any of the above licensing matters then please do not hesitate to contact me.

Yours sincerely



Dan Whitton
Licensing Officer

If you would like this document in large print or Braille, audiotape or in another language, please telephone 020 7527 2000.

Case history Theberton Street

Tables and chairs along Theberton Street are on their own private forecourts and do not require a license for tables and chairs. There is not sufficient space where they overlap onto the public highway to justify granting a licence

The complaints varied from obstruction of the footway, doubling up on tables and chairs and general rudeness to residents when approached

In 2007 we had our first complaint received regarding Mem and Laz encroaching onto the Public Highway from the licensing team. Officers visited the premises and instructed them to move them onto their own private forecourt.

2008 Mem and Laz Obstructing the Public Highway. Officers visited premises and asked them to move tables and chairs onto their private forecourt

2009 complaint received from our waste management team regarding Mem and Laz placing rubbish in the wrong sacks. Waste dealt with this issue.

September 2012 complaints received from the police regarding Mem and Laz placing tables and chairs onto the Public Highway. Officers visited premises asked to move tables and chairs onto their private forecourt

Monday 22nd April 2013

Georgina and Wing visited Mem and Laz as we had received a complaint regarding tables and chairs encroaching onto the public highway. Officers visited premises and asked to move them in onto their private forecourt.

Tuesday 23rd April 2013

Warning letters were given to Kilis, Parveen, Le Sacre Coeur, Mem & Laz, La Vite e Bella, Biskuvi and Daphne Room regarding furniture causing obstructions on highway. Officers visited premises and asked to move them in onto their private forecourt.

Wednesday 24th April 2013

Removal requests send to SES @ 8.48am to remove furniture encroaching onto public highway. SES confirmed @ 17.04 that no furniture encroaching onto public highway.

Friday 3rd May @ 3pm

Georgina and Wing visited Theberton Street and spoke to Mr Kocakerim regarding tables and chairs placed on the public highway needs to be removed as they are obstructing pedestrians. They rearrange the furniture so they are not encroaching onto public highway.

8th to the 31st May on going complaints from residents regarding premises along Theberton Street with photos attached. Officers visited premises and instructed manager to move them in onto their own forecourt.

1st to the 19th June on going complaints from residents regarding premises along Theberton Street with photos attached. Officers visited premises and asked to move them in onto their private forecourt.

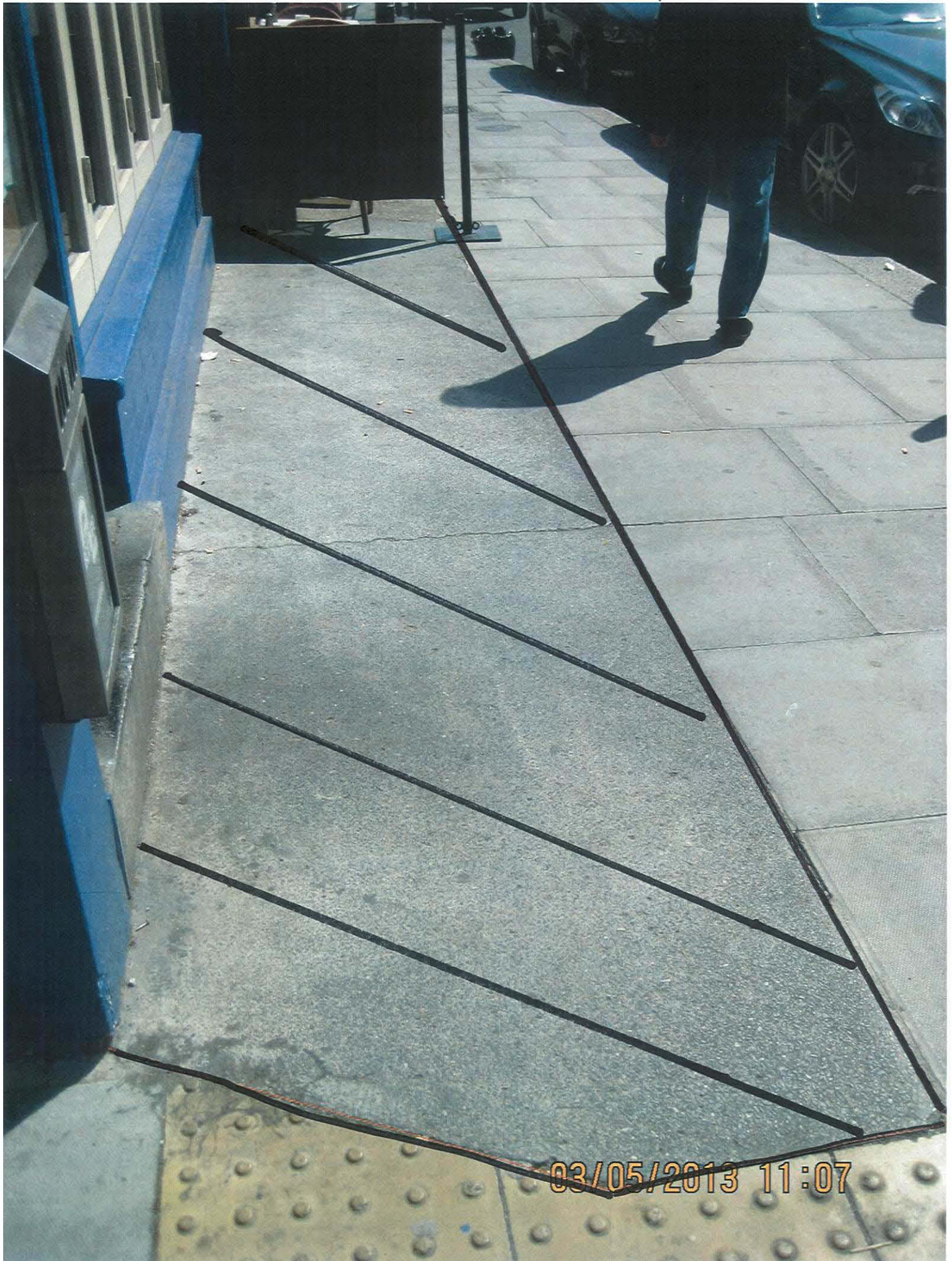
Friday 19th July 2013 @ 12.30pm

PC Buffy, Georgina and Wing visited La Farol regarding unlicensed tables and chairs placed on Upper Street – manager not on site but spoke to Chef and staff who were in charge at the time. Furniture was removed.

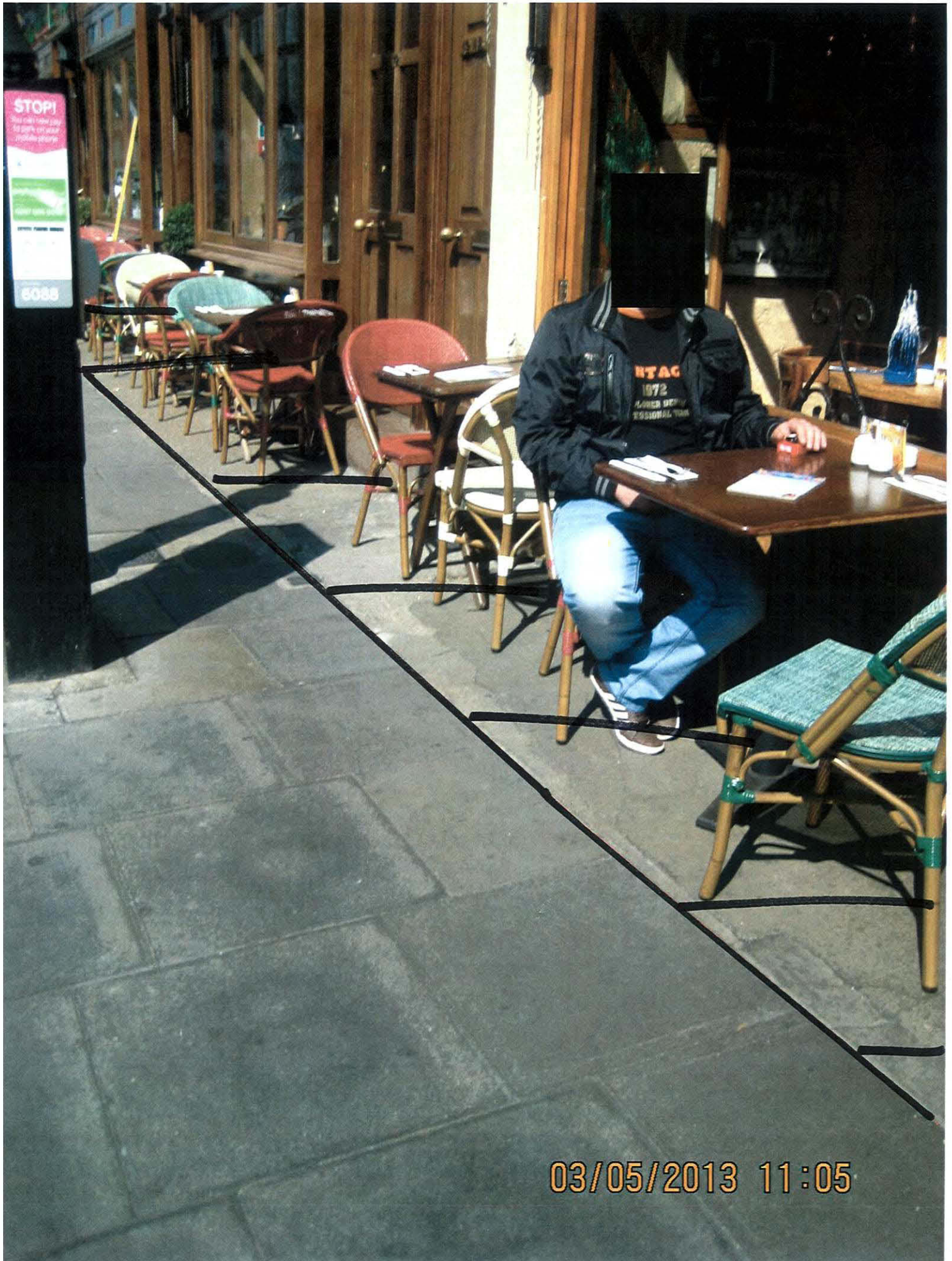
Spoke to manager at Mem and Laz he confirmed the owner at Mem would not be in until 5pm. We explained to him unlicensed furniture encroaching onto public highway and instructed him not to do it again. PC Buffy confirmed she will be working tonight and tomorrow and monitor the situation. Same again as Sedir with additional tables and chairs.

Friday 19th July and 20th July email received from PC Buffy to inform us all furniture is being kept within the private forecourt.

Spoke to duty manager @ the bull and told them to remove unlicensed furniture from public highway as their agent have not contact us about applying for licence.











Whitton, Daniel

From: Neil, Rebecca
Sent: 07 June 2013 15:06
To: Licensing
Cc: Whitton, Daniel; Cheqrouni - Kettani, Salah; Teear, Matthew
Subject: L001-90 - Theberton Street
Attachments: Licensing reps 10-16 Theberton Street.pdf

Dear Licensing,

The Planning & Development Section have received a consultation in relation to a review of the premises licence at La Vita e Bella and Mem & Laz. It is my understanding that local residents have requested a review following noise and disturbance resulting from chairs and tables being placed outside the premises, encroaching onto the highway.

Planning permission is not required to place chairs and tables on the forecourt or highway providing the premises is operating lawfully as a restaurant. However, as your officers will be aware, Nos. 10-16 Theberton Street are NOT operating lawfully. Currently, all activities taking place at these premises are in breach of planning control. Furthermore, planning application P2013/1041/FUL (to amalgamate Nos. 10-16 Theberton Street to form a 'super restaurant') was refused on 5 June 2013 due to the unacceptable increase in the level of noise and disturbance experienced by neighbours.

I have attached a copy of my representations to a previous licence application in February 2013. The enforcement investigation into this site is ongoing.

Kind regards

Rebecca Neil
Planning Officer (Enforcement)

Planning Service
Planning & Development
Environment & Regeneration
Islington Council
Municipal Offices, 222 Upper Street, London, N1 1YA
Tel: 020 7527 2241
Fax: 020 7527 2731
www.islington.gov.uk <<http://www.islington.gov.uk/>>

Any advice is subject, without prejudice, to the formal decision-making process of the Local Planning Authority.

**ISLINGTON COUNCIL PLANNING & DEVELOPMENT
RESPONSE TO LICENSING APPLICATION L001/19
SITE: 10-16 THEBERTON STREET**

The Planning & Development section have the following comments to make regarding the above licensing application.

1. Planning Use Issues

The lawful use of each property, in planning terms, is as follows:

- **10 Theberton Street**
Planning permission exists (Ref: P090273) for the change of use of the basement and ground floor to A3 (restaurant). There is a condition restricting opening hours to between 10.00-23.00 Mon-Sat, and 10.00-22.30 on Sundays and Bank Holidays.
- **12-14 Theberton Street**
The lawful use of these properties are A2 (financial and professional services) or A1 (retail). They were previously in operation as a solicitor's office.
- **16 Theberton Street**
Planning permission was granted on appeal (Ref: P081361) for change of use to A3 (restaurant). However, none of the conditions imposed by the Planning Inspectorate have been discharged, and the use is therefore unauthorised.

A site visit was made on 12 February 2013 by representatives from the Planning Enforcement and Conservation & Design Teams. On this visit, the situation was as follows:

- **10 Theberton Street**
The basement was fully furnished and contained a restaurant seating area. The ground floor was in use as a restaurant serving Turkish food.
- **12 Theberton Street**
The basement was not in use, and appeared to still be in the process of being refurbished. The ground floor was not in use, but contained a large table laid with wine glasses and cutlery.
- **14 Theberton Street**
The basement was full of stacked chairs. The ground floor had a small counter and a couple of tables, and the applicant stated that this, in conjunction with No. 12, was going to be a 'patisserie' falling within Class A1. The layout, when taking Nos. 12 and 14 together, was clearly not something one would associate with a retail use.
- **16 Theberton Street**
The ground floor was in use as a restaurant serving Italian food, and the basement was in use as a kitchen.

At the rear of these properties was a large basement extension. Planning permission does exist for basement extensions at the rear of Nos. 10, 12, 14 and 16. However, these were submitted as three separate planning applications: one for 10, one for 12-14, and one for 16. It is clear from the submitted drawings that these extensions were to be used in connection with the property for which the application was submitted - the lawful use of those basements would have been the same as their 'host' site.

The plans for these applications show the following:

- In respect of No. 10, toilets in the basement and a wall on the boundary with No. 12 (the approved plans show double doors within the wall allowing access into No.12 at basement level);
- In respect of No. 12-14, walls on both the boundary with No. 16 and No. 10;

- In respect of No. 16, a wall on the boundary with No. 14.

This is not the situation on site. The basement extension is now one single space, which stretches across the rear of Nos. 10-16 and contains a very large banqueting table in addition to other seating. There are no partition walls at all at basement level to the rear. The original basements beneath the actual buildings (except No.16, which is a kitchen) now all have very wide (four double-door width size openings) between them. All parts of the premises are now connected via the basement, the balcony, staircases and a series of doors. The applicant advised us that people seated in the basement can order food from either the 'Italian' kitchen at No. 16, or the 'Turkish' one at No.8 (the food is passed through an opening in the wall). All things considered, it is clear that these are now a single undertaking.

It is established planning law that where two or more uses on adjacent sites are amalgamated into one, and the resultant combined activity is materially different to that which formerly took place on the land, a change of use requiring planning permission is likely to have occurred. This might not be the case if the uses to be combined are very similar, but in this instance we are not talking about the amalgamation of four lawful, identical uses (as 12 and 14 were never restaurants).

In any event, even if they did all have a lawful A3 use, the cumulative impact of such a large seating space is likely to be far greater than four basements used in connection with individual properties. The basement 'atrium' appears to have a rather substantial carrying capacity. It is not much of a stretch to imagine this space holding a very large number of people late into the evening, with consequent impacts for residential amenity.

To conclude, it appears that the applicant does not have planning permission to operate the premises in the manner indicated on the plans submitted with the licensing application (drawing nos. 309 (1) K.001 and 309 (1) K.002).

2. Listed Building Issues

In addition to the change of use of the site, there are also several physical alterations which have been made without the necessary Listed Building Consent. These include (but are not limited to) cladding to the walls, floors and ceilings, the insertion of large openings in the original basement walls, the new balcony at the rear, wrought iron work on the stall risers and other accretions on the shop fronts.

In addition, Condition 8 of listed building consent P090274 and several conditions attached to P090257 and P090258 (relating to the basement extensions at Nos. 10, 12 and 14) have not been discharged.

3. Conclusion

The properties 10, 12, 14 and 16 Theberton Street are now a single planning unit, as shown on drawing nos. 309 (1) K.001 and 309 (1) K.002. The use of this property, which probably falls within the A3 use class or constitutes a mixed use as a restaurant/bar, does not benefit from planning permission. The lack of a valid planning permission means that we have not been able to attach planning conditions to mitigate public nuisance (for example, conditions requiring the installation of sound insulation or controlling the hours of operation).

In addition, several alterations have been made to the listed building without the benefit of listed building consent.

The Planning Enforcement team has spoken with the owner's agent about this, and will prepare a formal letter outlining what needs to be done to make the premises compliant with listed building and planning legislation.

Suggested conditions of approval recommended by the Licensing Authority:

1. That a revised layout plan of the premises be produced to include the external area of the premises showing the authorised curtilage of the premises (plan to be agreed by the Licensing Service).
2. That the following additional conditions be attached to the licence:
 - i. Tables & chairs serviced under the premises licence must not extend beyond the authorised curtilage of the premises, as shown on the layout plan at Annex 4 of this licence
 - ii. Alcohol supplied under the premises licence must not be consumed outside of the area, including the outside curtilage, shown on the layout plan at Annex 4 of this licence
 - iii. The maximum number of persons to be seated outside the premises, at any time, shall not exceed the following:
 - a. If A-Boards are used - 1 tables and 2 chairs with one A-Board; or
 - b. When no A-Board is used - 2 tables and 4 chairs.
 - iv. Staff shall regularly monitor the outside seating area whilst the premises is open and:
 - a. advise any customer seated outside of the authorised curtilage to move back within it; and
 - b. advise any customer whose items or possessions are found to be outside of the curtilage that they must be moved back within it.
3. Remove the following conditions from the licence if 1 & 2 above are agreed
 - a. Annex 2, Condition 10 - The maximum number of persons accommodated at any one time outside the premises shall not exceed 18; and
 - b. Annex 2, Condition 11 - The outside seating arrangement shall allow legally required access on the pathway. The tables and chairs outside shall not extend beyond the cartilage areas of No.16 and No.18 Theberton Street.