

Rep 1

Dear Mr Forde,

We would like to make the following comments;

1. We understand that 'late night refreshment' applies from 23.00 – 23.30 and that the sale of alcohol is excluded during this time. However, we would much prefer that the premises is closed from 23.00, as this should be late enough for this type of restaurant and is in line with other similar premises in Camden Passage, e.g. Elk in the Woods.
2. We do not think that 'the sale of alcohol by retail' and 'off sales of alcohol' are either necessary or appropriate for a premises that is essentially a restaurant which retails specialty foods.
3. We do not feel that a 24 hour recorded music licence is at all appropriate for this premises.
4. We would not object at all to the sale and consumption of alcohol being extended throughout the whole of the premises during licensable hours, as long as this is for consumption on site – see point 2 above.

We believe that the above points should allow for the proprietors to have a successful business while retaining the character of the Camden Passage neighbourhood and allowing residents reasonable peace.

Yours sincerely,

Rep 2

I am the secretary of the Duncan Terrace Residents Association(DTA) who have discussed this application. I am writing on behalf of the DTA and also on my own behalf.

We object to the variation of the licence as it is currently proposed. Our objection arises from the fact that without any conditions a licence attaches to the premises and thus if Kipfel were to sell the property the next user would be able to operate, say a cocktail bar or wine bar without further application to the Licensing Team. Camden Passage and its surrounds already has sufficient such premises and on Friday and Saturday night the residents in the area suffer as a result of the anti social behaviour of irresponsible drinkers.

The DTA do however support the use of the premise by Kipfel as a licensed Viennese coffee bar. A number of the DTA patronised Kipfel at the Barbican and found it well run. We would therefore ask that the variation of the license be restricted to the Business of Kipfel.

If a subsequent owner wishes to use the whole premises for the sale and consumption of alcohol they can apply to you and the residents will have an opportunity to consider that on its merits.

Alison Flood
Secretary
Duncan Terrace Residents Association
58 Duncan Terrace
N1 8AG

Rep 3

Niall, I object to this application on the grounds that the premises have a permitted A1 use, with ancillary A3 use to the rear only. Current licensing policy requires applicants to obtain planning permission before seeking licensing approval. This licensing application contravenes the approved use of the premises and consequently also contravenes current licensing policy. The proposed internal layout changes also contravene the approved use, and would require planning permission.

Regards,
Cllr Martin Klute
Chair: Health Scrutiny Committee
Vice Chair: Borough Planning Committee

For best response please ensure your email is titled with the subject of your current message.

Read my blog at:
<http://cllrmartinklute.blogspot.com/>
A hasty handheld communication

Kep 4

**KIPFERL VIENNESE COFFEE HOUSE AND KITCHEN, 20 CAMDEN
PASSAGE, LONDON, N1 8ED**

Ref: WK/201015217

This constitutes the response of the planning department to the above licensing application, which seeks permission for an amended layout of the premises and the sale and consumption of alcohol throughout the whole premises during the existing licensable hours.

Planning history

In October 2003, planning permission was granted for the change of use of the rear of No. 20 to provide a café (Class A3) to be used in conjunction with the retained shop (A1) at the front of the premises (Ref: P031603). The drawings submitted with this application showed a display shelf at the front of the premises and tables and chairs to the rear, with a counter in between.

The application was approved subject to a number of conditions, including:

CONDITION: The development hereby approved shall be completed in all respects in accordance with the plans and details submitted and approved, and no change therefrom shall take place without the prior and express permission of the Local Planning Authority.

CONDITION: The A3 use hereby approved shall only occupy the rear part of No. 20 as shown approved drawing numbered 1525/8.

CONDITION: The cafe (A3) use hereby approved shall not operate except between the hours of 08:00 and 20:00 on any day.

In 2008, planning permission was granted on a temporary basis to extend the approved opening hours of the premises from 8pm to 11pm. Permanent consent was granted for these extended hours on 3rd July 2009 (Ref: P090736).

The current use of the site

The planning enforcement team was recently asked to investigate this matter and an officer visited the site on 26th April 2011. The only substantial change in the layout of the premises since 2008 (when we previously investigated the property) has been the introduction of five small tables at the front where the deli counter was previously located, and this is shown in the licensing application.

There is still very much a retail element to the operation of the site – a significant proportion of Kipferl's trade is in take-away coffee and cakes/pastries, as well as whole cakes. There is also a retail shelf displaying packaged food for sale. The owner of the café is, at present, ensuring that the front of the premises is kept 'separate' from the rear – i.e. if customers

wish to eat hot food, they must sit at the back and, if they want coffee and pastries, they can choose to eat it at the front (a small number of tables and chairs might be considered ancillary to the A1 use). Therefore, at present, it is not clear whether or not there is a breach of planning control, and further advice is being sought in this respect.

However, if this licence were to be granted, it appears likely that later in the evening when there is no takeaway trade, the tables at the front will be used to seat hot food diners. If this happens, then the ground floor might frequently be in exclusive A3 use. The manager/owner of Kipferl has indicated that he would be prepared to submit a retrospective planning application for the use of the property as A3, providing he is still permitted to retain a retail element, and, having regard to the relevant planning policy, it is considered that such an application would have a fair chance of success. It is also considered that a few alterations to the layout of the property would immediately bring the use back within that permitted by planning application P031603, and these will also be discussed with the applicant.

Conclusion

The planning department wish to make representations pending further legal advice on the licensing application for Kipferl, Camden Passage, received by the licensing team on 29th March 2011.

The Council's Licensing Policy 9 in respect of development planning states:

"The Licensing Authority expects applicants to ensure that they have planning consent for the intended use and hours of operation, or otherwise have lawful planning status, before making an application for a premises licence. The Licensing Authority will only grant licenses for premises without planning consent in exceptional circumstances".

The planning department has concerns that granting this licence will encourage a breach of planning control insofar as the A3 use would, in all likelihood, not be operating solely at the rear of the premises as permitted by planning application P031603.

Should the licence holder withdraw the provision of on sales from the front of the premises, this representation will be withdrawn.

28th April 2011

Kep5

Mr Niall Forde,
Licensing Officer,
Public Protection Division,
Islington Council,
222 Upper Street,
London N1 1XR

COMMERCIAL LICENSING

18 APR 2011

PUBLIC PROTECTION DIVISION
222 UPPER ST. LONDON N1 1XR

14 April 2011

ref:WK/201015218

Re. Application for Premises Licence Variation at Kipferl,
20 Camden Passage N1 8ED.

Dear Sir,

I refer to the summary consultation document concerning the above Application asking for comments by 27 April, which was distributed recently to addresses along Camden Passage, and to the full Application which I have seen at the Council offices.

This Application aims to amend the ground-floor plan of the premises and to obtain permission for the sale and consumption of alcohol anywhere on the ground floor of No. 20.

Fellow residents and shopkeepers in Camden Passage with whom I have discussed the Application are puzzled, as I am, by one particular aspect of these documents, namely the lack of any mention in either the summary or the full Application of the content of Planning Consent No. PO 31603 dated 16/10/2003.

We find this lack of direct reference to the content of the Planning Consent surprising because:

- (a) the ground-floor layout plan which the Applicant wishes to amend No. 1525/8 is actually a document deriving from that Planning Consent, where it is referred to in Condition 3; and
- (b) the changes to the floor plan and permission to sell and consume alcohol anywhere on the ground floor of No. 20 have the effect (and are obviously intended) to contradict and run counter to Conditions 2,3,4 and 5 of the Planning Consent. These conditions

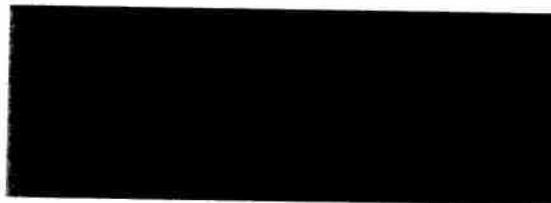
were put in place to protect the retail character of Camden Passage and to ensure that the development does not prejudice the enjoyment by neighbouring occupants of their premises.

The current Application cannot be properly considered or understood without direct reference to Planning Consent PO 31603. Without being aware of the content of this Consent, interested parties could not be expected, for example, to know that the Applicant's intention to restructure the ground floor of No. 20 according to an amended plan is in direct conflict with Condition 2 of PO 31603, stipulating that no change shall be made to the development from the approved floor plans without the prior and express permission of the Local Planning Authority.

This makes it the more surprising that the Applicant has already restructured the ground floor of No. 20 with a cafe in the front half of the premises which is reserved for retail use in the Planning Consent, and actually opened using the whole ground floor of No. 20 as a cafe on 6 April 2011. This has resulted in an unauthorised change to the retail character of Camden Passage and has arbitrarily removed the protection of the amenity of neighbouring residents afforded by the Conditions of PO 31603.

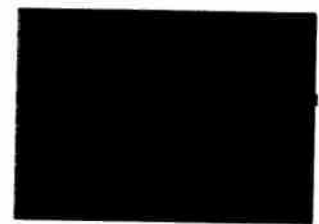
My request is therefore that you redistribute the summary consultation document with Planning Consent No. PO 31603 attached to it for purposes of comparison with the Application. In view of the impending Easter Bank Holidays, I would also like to request an extension of the consultation period by a further two weeks.

This letter is not my main response to the consultation document.
This will follow in due course.



Copy for information to: Mr Martin Klute, Councillor, St Peter's Ward.

Mr Niall Forde,
Licensing Officer,
Public Protection Division,
Islington Council,
222 Upper Street,
London N1 1XR



ge,

27 Apr; 2011

Your ref: WK/201015217

Re. Application for Premises Licence Variation at Kipferl,
20 Camden Passage N1 8ED.

Dear Sir,

I refer to the summary consultation document for the above Application, and to my letter dated 14/04/11 hand-delivered to the Council offices. In that letter I asked for the consultation document to be recirculated with a copy of Planning Consent No. PO 31603 attached to it because the proposed licence variation could not be understood without reference to the Planning Consent Conditions which the Application is designed to circumvent. I also asked for the consultation period to be extended for two weeks to allow for proper consideration of the two documents together, particularly in view of the lengthy Easter and other Bank Holidays period.

Neither the summary consultation document nor the full Application make any reference to the Planning Consent. It would clearly be unfair for interested parties to be kept in the dark and not to be made aware that the underlying aim of the Application was to nullify the Conditions of the Planning Consent

I have received no reply to the requests in my letter of 14/04/11. Please would you let me have your response. I know that a number of interested parties will wish to comment on the Application when they have been able to consider the matter properly.

Also it was understood that this Application was being put on hold following representations received by the Licensing Officer that it should not be considered by the Licensing Committee. This is a further reason for extending the period for consultation.

Pending such clarification, I have the following comments for the consideration of the Licensing Committee if the Application proceeds.

1. No. 20 Camden Passage already has a standard, full on-and-off licence, so the present Application is completely unnecessary.

The Applicant already has the full premises licence which is in the power of the Licencing Committee to give. In June 2008 I was informed by the Licensing Department that the licence of No. 20 was a standard, full on-and-off licence, and I referred to this fact in my letter to the Licensing Officer Mr Forde dated 09/06/08 (received in the Council offices on 10/06/08). In that letter I requested informatn about the licence of No. 20 and raised the issue of consultation between the Licensing and Planning Committees. This letter also received no reply.

What the Applicant lacks is not the full licence but the necessary planning permission to employ that licence as it wishes throughout the whole ground floor of No. 20. The front half of No.20 is designated for retail use and the rear half only is designated for A3, cafe use strictly relating to the A1 retail activities of the front half of the premises. Thus what is being sought by the Applicant is actually a change of use of the front half of No. 20, which cannot be decided by the Licensing Committee but only by the Planning Committee.

2. The ground floorplan of No.20 is not an integral part of the Premises Licence but a document forming part of the Planning Consent which it is not in the power of the Licencing Committee to vary.

The stated aim of the Application is 'to change the existing ground floor layouts as seen in the plan with reference No. 1525/8 of the existing premises licence,' However, the ground floorplan No. 1525/8 is not a Condition of the existing premises licence but is actually a plan forming part of Planning Consent No. P031603, where it is referred to in Condition 3 restricting A3 use to the rear part of the premises, 'as shown approved drawing number 1525/8.' After this Planning Consent with Conditions was granted, plan No.1525/8 was attached to the premises licence of No. 20 as Annex IV, where it is not described as a Condition of the Licence but simply as a Plan.

Its purpose is obviously for information, because the Plan affects the operation of the premises licence. The Plan is not a Condition of the Licence as determined by the Licensing Committee but is relevant to the effect of the Conditions of Planning Consent No. P031603 on No. 20's use of its standard, full premises licence. The Plan derives from and remains part of a Condition of the Planning Consent which can only be varied by a decision of the Planning Committee after full public consultation.

It follows that it would not be proper for the Licensing Committee to consider the Applicant's request to amend the floorplan. The Application is out of order and I believe should be withdrawn.

3. The effect of the licence variation, if granted, would be to contradict Conditions 2, 3, 4 and 5 of Planning Consent No. P031603. but these Conditions can only be changed by reference to the Planning Committee not the Licensing Committee.

Conditions 2,3,4 and 5 of the Planning Consent, in summary, state: no change to the existing plans can take place without the prior and express permission of the Local Planning Authority; the approved A3 use shall only occupy the rear part of No. 20, as shown approved drawing no. 1525/8; the approved cafe use shall only operate in conjunction with the retained A1 shop use and not as a separate unit; and the A3 cafe use shall not be used for any other A4 use.

These Conditions were put in place with the aims of:

- 1) ensuring that the Planning Authority's plans were implemented exactly as approved;
- 2) to preserve the retail character of Camden Passage;
- 3) To protect Camden Passage as a Specialist Shopping Area;
- 4) To ensure that the development does not prejudice the enjoyment by neighbouring occupants of their premises.

Because no reference is made in the Licence Variation Application to the Planning Consent, the Applicant makes no attempt to deal with the issues raised by the body of Planning Conditions as a whole,

including their aims as stated above. Instead, the Applicant has only set out the Application in relation to the four Licensing Objectives, i.e. the prevention of crime and disorder, public safety, the prevention of public nuisance and the protection of children from harm. Thus major and specific concerns of the Planning Conditions in restricting the A3 use of No. 20 are ignored - namely the protection of the retail character of Camden Passage, the protection of Camden Passage as a Specialist Shopping Area, and ensuring that the development does not prejudice the enjoyment by neighbouring occupants of their premises. Taken together, these concerns can only be properly addressed by the Planning Committee after a full public consultation.

4. The Applicant has not waited for permission but has already opened for business using the whole ground floor of No.20 as a cafe.

The Applicant has not only applied to the Licensing Committee to vary the ground floorplan to permit the front half of No. 20 to be used for A3 use as a licenced cafe. It has gone ahead and without waiting for any consideration of the Application by the Licensing Committee has altered the premises by building a servery and placing cafe tables and chairs in the front half of No.20, designated only for retail use. With these changes it opened for business on 06/04/11 as a cafe occupying the whole ground floor of No. 20. This change of use contravenes Condition 2 of P031603 stating that any such development has to be approved by the Local Planning Authority. It also constitutes an unauthorised change of use of the front half of No. 20.

It is astonishing, and quite unacceptable, for the Applicant, without authority to go ahead, change the layout, turn the whole of No. 20 into a licensed cafe and open for business. This means that for its own commercial reasons it has arbitrarily removed the protection afforded by Planning Consent P031603 to the retail character of Camden Passage and to the amenity of local residents. Such a cavalier attitude to the wider interests of the area, its businesses and residents. It is hoped that the licensing authorities will agree that this Application is improper and should be withdrawn.

5. Comments on the content of the Licence Variation Application.

a) Point 1 page 2: Proposed changes to groundplan

My objections to this proposal have been outlined above. To summarise, I believe that this is a matter for the Planning Committee and not the Licensing Committee.

b) Point 2 page 2: Proposal to allow the sale and consumption of alcohol on the whole ground floor of No. 20 as per the new layout.

As stated above. No. 20 Camden Passage already has a full on-and-off licence so there is no need for any further licence application. The Applicant would, however, need to apply to the Planning Committee for consent to change the existing Conditions before the proposed use could be made, involving a change of use to the front half of No. 20.

I am opposed to any such change of use, which I know would substantially increase the noise and disturbance which the local residents already suffer in their everyday lives from the licensed premises in and around Camden Passage. In particular there is a great deal of noise for a considerable period in the late evening when the bars and restaurants close and disgorge their customers, after which there is additional noise from the staff of such establishments clearing up, putting out bottles and eventually (often noisily) going home. Also there is the noise of early-morning deliveries & chairs and tables being put out and taken in.

I have direct experience of these problems as I live above a bar-restaurant, the Elk in the Woods, and very near the Med Kitchen and the Breakfast Club, both licensed. Also Camden Passage is a through-way late at night for people going to and from the bars and clubs. People who have been drinking are often very moisy and out of control

My flat is only about 20 feet away across Camden Passage from the front door of No. 20. If the front half of No. 20 were to be allowed to function as a licensed cafe, this would cause a substantial and very unwelcome addition to the noise I already have to put up with.

There is a growing recognition that enough is enough, and that saturation point has been reached in the number of bars and other drinking establishments in Central Islington. The Planning Committee was right to place restrictions on the use of No. 20 in 2003, and since then the disruption of the lives of local residents caused by late-night drinking establishments has increased. No. 20 Camden Passage already has the right to operate the rear half of its premises as a licensed cafe provided that use is linked to a continuing retail use in the front half. To allow the front half of No. 20 to operate as a licensed cafe would be a step too far. No good or indeed any reason has been given by the Applicant why the protection afforded to local businesses and residents by the Conditions of P031603 should be withdrawn.

c) Section P(d) page 19 of the Application.

It is hardly credible that, as stated, customers would be reminded of consideration to the public and noise levels when entering the premises as well as on leaving. The measures listed would be insufficient to prevent the additional noise nuisance to local residents; the restriction of cafe use to the rear of the premises should be retained.

I welcome the arrival of a new Austrian cafe/retail outlet provided the balance which the Planning Consent intended between cafe and retail use is maintained.

Section O of the Application.

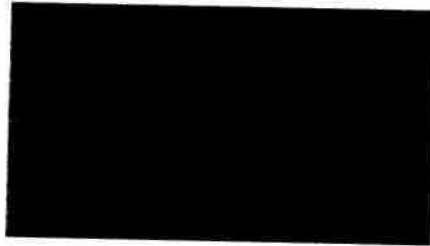
It is stated that Condition 2 of Annex 2 of the existing premises licence, about children entering the bar, would be superfluous. However, this depends on no alcohol being served without food, which seems unlikely to be the case. Whether the servery is technically a bar or not, it will function as a bar, and there are references in the Application to 'bar staff.'

Notes for Guidance.

This states: 'This application cannot be used to vary the licence or.... to vary substantially the premises to which it relates.' As the variation to the premises which is proposed is substantial, it may

be that the .Application should have been made in a different form.

Please would the Licensing Department and the Licensing Committee take the above comments into account in any consideration of this matter.



Councillor Klute

Supporting Representations

Rep 6

Heldback

**Turn On Lighting
11 Camden Passage
London N1 8EA**

Your Ref: WK/201015217

Mr Niall Forde
Licensing Support Team
222 Upper Street
Islington
N1 1XR

5th May 2011

Dear Sirs,

20 CAMDEN PASSAGE – KIPFERL

I am writing regarding the Licence Variation Application submitted on behalf of Kipferl in respect of 20 Camden Passage.

I am appalled to learn how ready the Applicant has been to flout proper planning procedures and to ignore the planning additions attached to the planning consent governing the premises.

I am referring to the fact that Kipferl has opened for business with a revised floor plan involving a café in the front half of No.20 intended for only retail use. I object to the proposal to amend the original floor plan although this unauthorised change, involving a change of use, has already been made.

My objections to this change are not just for the planning reasons but also because having No.20 devoted entirely to a licensed café would increase the noise, inconvenience, anti-social behaviour and rubbish which would be caused, particularly at night, by having another fully licensed café/bar in this narrow residential, pedestrianised street.

For the above reasons, I would like the Application to be rejected.

Yours faithfully,



Rep 7

08/05/2011 19:40

20 Camden Passage-Kipfel

Flood

Subject: 20 Camden Passage-Kipfel
From: "Alison Flood" <alison.Flood@btinternet.com>
Date: Mon, 2 May 2011 11:59:28 +0100
To: <martin.klute@islington.gov.uk>

Dear Martin,

The chairman of the Camden Passage Residents Association put a package through my door which included a copy of the 2003 Planning permission. He asked that if I wished to limit the sale of alcohol and the night time economy in Camden Passage I should write to you.

At the moment I am writing on my own behalf but I do now object to the extension of the licence and consider it should be refused. The planning consent of 2003 is very clear and Kipfel, and Macondo before them, are in clear breach of that permission. This Licensing team should not grant a licence for a use which is illegal.

There is a real danger that Camden Passage will turn into a succession of licenced cafés, bars and restaurants which will only increase noise in the area not only through antisocial behaviour but through increased motor traffic, people slamming car doors and yelling goodbye to each other as they leave. None of us can have double glazing because our houses are listed and so we are more susceptible to noise pollution than those living in new houses.

The DTA will discuss this whole issue at their committee meeting tomorrow (the 3rd) but I can tell you that there were a number of the committee i.e. mostly those who live near Camden Passage who did not want the licence to be extended to 11pm at the front and suggested 8pm. We were also concerned about the use of outside tables at night-something Macondo did. At that stage we did not know the planning situation which changes everything.

Incidentally on the subject of cafes and night time economy "Frae" the yogurt shop on the corner of Camden Passage and Charlton Place also operates a café with outside tables and is open everyday between 11am and 10pm. Does this have the necessary consents?

Thanks for your help generally.

Best Wishes

Alison Flood

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Rep 8

08/05/2011 19:26

FW: Kipfer

Dunia T...

Subject: FW: Kipferl
From: [REDACTED]
Date: Wed, 4 May 2011 11:05:13 +0100
To: <martin.klute@islington.gov.uk>

[REDACTED]

Dear Martin

Kipferl at 20 Camden Passage

As you know from Alison's e-mail our committee discussed this issue at our meeting yesterday evening and I am writing to confirm that we support your Council's Policy to uphold mainly A1 (retail) uses in Camden Passage ..

For this reason we endorse the enforcement action that you are taking. It follows that we are also opposing the licensing application recently submitted for these premises ..

In addition to wishing to preserve the character of the Passage , there is also great concern from adjoining residents at the anti social behaviour and disturbance caused by some of the patrons of the restaurants and bars in the area .

Thank you for your help

Best Wishes

[REDACTED]

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Rep 9

08/05/2011 19:29

Licensing Objection Kipferl, 20 Camden Passage

Pathane

Subject: Licensing Objection Kipferl, 20 Camden Passage
From: [REDACTED]
Date: Thu, 5 May 2011 18:41:55 +0100
To: <martin.klute@islington.gov.uk>

Dear Martin,

I understand from [REDACTED] that you have kindly agreed to forward objections to the above, as so little notice was given.

I agree entirely with all the points made in his representation, in particular with the loss of retail premises in the area.

I believe that:

This is a stealthy way of avoiding the Planning Process

Camden Passage is very adequately provided with eating and drinking establishments

If this goes ahead it opens the way for similar applications in the area

Retail has been steadily eroded in the area – the recent situation with The Blow Bar, previously an antiques shop, now able to offer alcohol on the premises to paying customers a case in point

The license is awarded to the premises not the business so once this happens any other business can move in and take advantage of this.. We have to remember how many times in recent years the business in this location has failed and closed down.

There is clearly an issue with regard to drinking and eating on the street, with obstruction to the passage, particularly on a Saturday when this area is used by families with young children, in pushchairs and walking.

Please forward any of the objections that you feel are relevant in this case, although I feel that Clive Jordan has covered the subject very comprehensively.

Kind regards,

[REDACTED]

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Rep 10

08/05/2011 19:39

Variation of Licence, 20 Camden Passage

Fishal

Subject: Variation of Licence, 20 Camden Passage
From: [REDACTED]
Date: Thu, 05 May 2011 16:48:46 -0400
To: <martin.klute@islington.gov.uk>

Dear Councillor Klute,

Application for a Variation of a Premises Licence re: Kipferl, Viennese Coffeehouse and Kitchen, 20 Camden Passage

We are concerned that yet another retail premises looks to be lost, contrary to what we understand to be Council policy for Camden Passage. At number 20, earlier a retail delicatessen, there has been a creeping erosion of the retail function and that now, by attempting to extend the licensed area, the applicant seeks to go over to a whole-premises cafe-bar, of which there are several others in the immediate vicinity. This will inevitably add to the late-evening disturbance caused by departing clients. These seem to us further threats to the traditional character of the Passage.

[REDACTED]

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Rep #1

To: Councillor Martin Klute, St Peter's Ward

7 members.

From: The Committee of the Camden Passage Association.

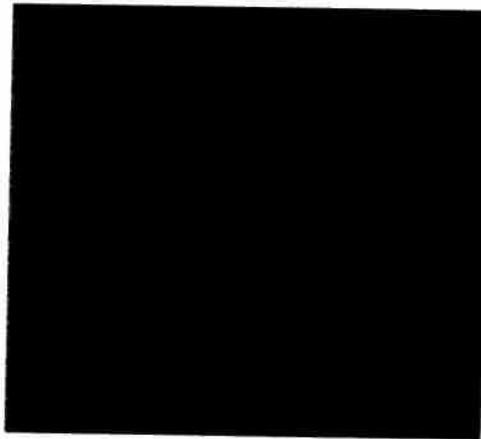
Re. Licence Variation Application from Kipferl, 20 Camden Passage N1.

Please find attached a detailed letter setting out the comments and objections of the CPA Committee concerning the above Application, for forwarding as appropriate to the Licensing Department of Islington Council. The 7-page main letter is preceded by a brief Executive Summary for ease of reference. A second copy of these documents is enclosed for your own information.

Also enclosed is a letter of objection from Mr Barry Wordsworth of 20 Charlton Place. One or two further objections from individuals are expected early next week.

Thank you for saying that it would be possible for such objections to be considered by the Licensing Committee as attachments to your own letter of objection.

With best wishes.



APPLICATION TO VARY PREMISES LICENCE FROM KIPFERL, 20 CAMDEN PASSAGE N1.

COMMENTS & OBJECTIONS FROM THE COMMITTEE OF THE CAMDEN PASSAGE ASSOCIATION (CPA)

EXECUTIVE SUMMARY

A. NEW FLOORPLAN PROPOSED.

1. NEW PLAN SHOWS LOSS OF RETAIL FLOORSPACE IN FRONT HALF OF NO.20, CONTRARY TO PLANNING CONSENT PO 31603 OF 16/10/2003.
2. CHANGE FROM RETAIL TO CAFE USE A MATTER FOR PLANNING NOT LICENSING COMMITTEE.
3. THIS IS PARTICULARLY BECAUSE FLOORPLAN 1525/8, ANNEX IV OF PREMISES LICENCE, IS PART OF PLANNING CONSENT PO 31603.
4. FULL CAFE USE WOULD DIMINISH CAMDEN PASSAGE'S RETAIL CHARACTER AS A SPECIALIST SHOPPING AREA.
5. KIPFERL HAS ALREADY OPENED WITH CHANGED, FULL CAFE FLOORPLAN, FLOUTING PLANNING CONDITIONS.
6. LICENSING CANNOT CHANGE PLANNING'S FLOORPLAN WHICH IS NOT INTEGRAL TO LICENCE.

B. REQUEST FOR SALE & CONSUMPTION OF ALCOHOL THROUGHOUT WHOLE GROUND FLOOR OF NO.20

7. A CHANGE, IF MADE, NEEDS PLANNING COMMITTEE'S CONSENT TO BE IMPLEMENTED.
(Section 7 (b) of main letter)
8. APPLICATION MEANINGLESS AS NO. 20 ALREADY HAS FULL ON-AND-OFF LICENCE.
(Section 7 (c) main letter)
9. CONSULTATION DOCUMENT GAVE WRONG INFORMATION ABOUT CURRENT PREMISES LICENCE.
(Section 7(c) page 4 of main letter)
10. IT IS NOT LICENCE BUT PLANNING CONDITIONS WHICH STOP ALCOHOL CONSUMPTION IN FRONT HALF OF NO. 20. (Section 7(c) main letter)

C. CHANGE OF NAME FROM MACONDO TO KIPFERL

11. THE CPA COMMITTEE WELCOMES KIPFERL IF IT OBSERVES PLANNING CONDITIONS.
(Section 8 main letter)

D. THE FOUR LICENSING OBJECTIVES

12. FULL LICENCED CAFE USE WOULD INCREASE NOISE & DISTURBANCE TO RESIDENTS.
(Section 9 main letter) RE. 'PUBLIC NUISANCE' OBJECTIVE.
13. PROTECTION OF CHILDREN: KIPFERL'S EXEMPTION NOT CERTAIN FROM LICENCE CONDITION 2 OF ANNEX 2. (Section 9 main letter)

/continued

E. GENERAL

14. NO CONTEXT GIVEN IN APPLICATION OR CONSULTATION DOCUMENT: NO REFERENCE TO PO 30613 & BACKGROUND OF NO. 20. (Section 10 main letter)
 15. FULL CAFE USE OF NO. 20 WOULD INCREASE 'CLUSTERING' & 'SATURATION' OF A3/A4 USES IN CAMDEN PASSAGE AREA. (Section 11 main letter)
 16. THE CPA COMMITTEE URGES WITHDRAWAL OR REJECTION OF THE APPLICATION. (Section 12 main letter)
-

3 May 2011

TO: MR NIALL FORDE , LICENSING OFFICER, ISLINGTON COUNCIL

FROM: THE COMMITTEE OF THE CAMDEN PASSAGE ASSOCIATION

Your ref: WK/201015217: APPLICATION FOR VARIATION OF PREMISES LICENCE AT KIPFERL, VIENNESE COFFEEHOUSE & KITCHEN, 20 CAMDEN PASSAGE, LONDON N1 8ED.

The Applicant makes 3 proposals to vary the existing premises licence, on which we have the following comments.

PROPOSAL 1: TO VARY THE EXISTING GROUND FLOOR LAYOUT AS SEEN IN PLAN NO. 1525/8 OF THE EXISTING PREMISES LICENCE TO THE NEW GROUND FLOOR LAYOUT AS SEEN IN NEW PLANS SUBMITTED BY KIPFERL

The Committee of the Camden Passage Association strongly object to the proposal to change the floorplan as seen in Plan No. 1525/8 for the following reasons;

- 1) The adoption of the new floorplan, designed to accommodate cafe chairs and tables in the front half of No. 20 Camden Passage, would involve the loss of retail floorspace in this area designated solely for retail use in Planning Consent PO 31603 dated 16/10/2003
- 2) The adoption of the new plan showing cafe tables and chairs and a servery/bar in the front half of No, 20 would constitute a change of use in the front half of No. 20 from A1 retail to A3/A4 cafe, bar or restaurant use. Changes of use are a matter for decision by the Planning Committee not the Licensing Committee.
- 3) The Committee of the Camden Passage Association considers that the Application to change the floorplan should be considered not by the Licensing Committee but by the Planning Committee, particularly as the floorplan No. 1525/8, attached as Annex IV to the existing premises licence , which the Applicant wishes to change, is a document embodying a decision of the Planning Committee stipulating mixed A1/A3 use for No. 20, originating from Condition 3 of Planning Decision PO 31603 which stated:

'The A3 use hereby approved shall only occupy the rear part of No. 20, as shown approved drawing numbered 1525/8. Reason: For the avoidance of doubt and in order to protect the retail character of Camden Passage.'

4) The Committee of the Camden Passage Association has consistently sought to preserve the diverse retail character of Camden Passage in keeping with its role as a Specialist Shopping Area, and has therefore argued against the encroachment of A3 and A4 bars and licenced cafes into retail premises in Camden Passage, believing that this diminishes and dilutes its retail character. At a time when Camden Passage is changing in response to modern trends & so is surviving as a vibrant and eclectic retail desination, the proposed change to the ground-floor layout of No. 20 would represent an unwelcome encroachment of an A3 cafe or bar use into Camden Passage which threatens its evolving retail character

5) The Committee of the Camden Passage Association particularly deplores the fact that the Applicant has reconstructed and refurbished the ground floor of No. 20 according to changed floorpla which it has submitted for approval to the Licensing Committee, and opened for business on 6 April 2011 without waiting for the outcome of local consultation and consideration of the Application by the Licensing Committee. Cafe chairs and tables and a new servery/ bar now occupy the front half of No. 20 which is designated solcly for retail use. This action has been taken in blatant disregard of Condition 2 of Planning Consent PO 31603 which states:

'The development hereby approved shall be completed in all respects in accordance with the plans and details submitted and approved, and no change therefrom shall take place without the prior and express permission of the Local Planning Authority.'

We consider that this action by the Applicant shows a marked disrespect for the Conditions of the Planning Consent and the stated reasons for those Conditions, which retained retail use in the front half of No. 20 and limited cafe use to the rear half in order to protect the retail character of Camden Passage and its nature as a Specialist Shopping Area and to protect the enjoyment by neigbbouri occupants of their premises. Acting of its own volition, the

Applicant has chosen to remove these protections which are still vitally necessary for the area and its residents. We consider that Kipferl deserves censure for this action, not tacit approval of its unauthorised changes by the Licensing Committee.

6) We question the authority of the Licensing Committee to make a decision concerning a floorplan which is not an integral part of the Premises Licence but a document from another Committee which is attached to the licence as an Annex because of its relevance to the use which can be made of the licence.

PROPOSAL 2: TO ALLOW SALE BY RETAIL OF ALCOHOL AND CONSUMPTION OF THE SAME TO TAKE PLACE ON THE WHOLE OF THE GROUND FLOOR OF THE PREMISES AS PER THE NEW GROUND FLOOR LAYOUT.

7)(a) As stated above, we consider that it is not within the power of the Licensing Committee to alter the existing floorplan decided by the Planning Committee.

(b) We note that even if the Licensing Committee decided to alter the floorplan despite our and other objections, that decision could not be implemented without the change of use which it involves being considered by the Planning Committee following a full public consultation. That position was clearly established in June 2008 when Macondo, the previous occupant of No.20, applied to extend the opening hours set out in Condition 6 of Planning Consent PO 31603 to match those in the existing premises licence. The existence of longer hours in the premises licence did not enable Macondo to stay open longer until it had secured the agreement of the Planning Committee to a variation in a planning condition setting the opening hours.

(c) The Application to allow the sale by retail of alcohol and consumption of the same to take place anywhere on the whole ground floor is unnecessary and meaningless because the premises already have full on-and-off licence. It is not possible for the Applicant to obtain by varying the licence something which it already has. All three former occupants of No, 20, Borzello's, Mr Christian's and Macondo, all had a full licence in the form in which it still exists

Under 'Licensable Activities', the present licence states:

'Ground floor only.....the sale by retail of alcohol.'

It is not the lack of the correct form of premises licence which restricts the licensable activities at No. 20 but the Conditions of Planning Consent P031603. The consultation document which was circulated in early April was in error in stating:

'The current premises licence permits.....:

* on sale of alcohol only permitted in seated area in back of premises.

* off sales of alcohol only permitted from front of premises '.

This description, making a distinction between 'on' and 'off' sales, does not appear anywhere in the existing premises licence, nor in the Plan at Annex IV of the licence deriving from the Planning Committee, which is a direct photocopy of the Planning Committee version. This simply divides No. 20 into a Delicatessen in the front half and a Cafe in the rear half.

(There is in existence in the Licensing Department a copy of Plan No. 1525/8 with words written in pencil in the margin : 'Cafe On Licence Deli Off Licence.' The description in the consultation document may derive from these words, but they are a spurious addition without authority and do not form part of the licence nor are a Condition of it. They merely describe the effect on the licensable activities at No. 20 of the Conditions imposed by Planning Consent PO 31603.)

PROPOSAL 3: TO CHANGE THE NAME OF THE PREMISES FROM MACONDO TO
KIPFERL VIENNESE COFFEEHOUSE AND KITCHEN

8. We welcome the arrival of Kipferl as an addition to the cosmopolitan community of Camden Passage - but only provided that it occupies only the rear half of No. 20 as a cafe, as permitted by Planning Consent PO 31603, and conducts in the front half of the premises a retail activity to which the cafe activity is closely linked, as stipulated in the Planning Consent.

THE FOUR LICENSING OBJECTIVES

9, Regarding the objective of preventing public nuisance, we consider that if the front half of No. 20 continues in its unauthorised use as a licenced cafe, customers and staff will substantially increase the noise and congestion, particularly in the late evenings at this narrow point in Camden Passage. There is already a licenced bar/restaurant (The Elk in the Woods) almost immediately opposite which has chairs and tables out until 6 pm. The use of the front half of No. 20 as a licenced cafe would be detrimental to Camden Passage as a whole and particularly to local residents who already have a great deal of noise and disturbance to put up with, especially in the evenings and at night.

Regarding the objective of protecting children from harm the Applicant has stated that Condition 2 of Annex 2 of the existing premises licence will be superfluous as the new ground floor layout does not include a bar as defined by this provision, Condition 2 of Annex 2 is a detailed condition laying down when a person under fourteen is allowed to be in the bar of the premises. However, in the definition of a bar it is stated in effect that the premises are not a bar when alcohol is only sold or supplied to a person as ancillary to their table meal. As it seems likely that Kipferl will serve drinks without meals (and may be doing so already), it is not clear that Kipferl is in fact exempt from the provisions of Condition 2 of Annex 2.

LACK OF ANY CONTEXT IN LICENCE VARIATION APPLICATION & SUMMARY CONSULTATION DOCUMENT

10. We regret the lack, in the Licence Variation Application and the summary consultation document, of any proper context for the existing restrictions on the licensable activities at No. 20, which could have clarified that the restrictions were put in place in order to protect the retail character of Camden Passage and the amenity of local residents. Thus there is no reference in the two documents to Planning Consent PO 31603 of 16/10/2003, nor to the fact that the Conditions of that Consent were framed partly in response to considerable local opposition in 2003 from businesses

and residents to the requested change of use from A1 retail to A3 use. In 2001 the Council had rejected outright a proposal for change of use from A1 to restaurant use. In 2003 opposition to the proposed change of use was expressed mainly in a petition of over 300 signatures organised in his private capacity by the Acting Chairman of the Committee of the CPA. The outcome was PO 31603 permitting mixed A1 and A3 use with Conditions attached to protect the retail character of Camden Passage and the amenity of local residents.

In June 2008, our Committee objected to the proposal to the Planning Committee by Macondo to vary its opening hours to match those in the premises licence. We expressed our concern that the extension of the opening hours (from 'shop' to 'cafe' hours) might appear to give tacit approval to the increasing unauthorised cafe/bar use which Macondo was making of the front half of No. 20, so that it was becoming a cafe/bar by stealth, to the apparent exclusion of any retail activity as designated. The extended opening hours were nevertheless permitted.

We consider that the lack of context in the Licence Variation Application and the summary consultation document, particularly the lack of any reference to Planning Consent PO 31603 which the Application aims to circumvent, has made it impossible for interested parties to comment properly on the Application.

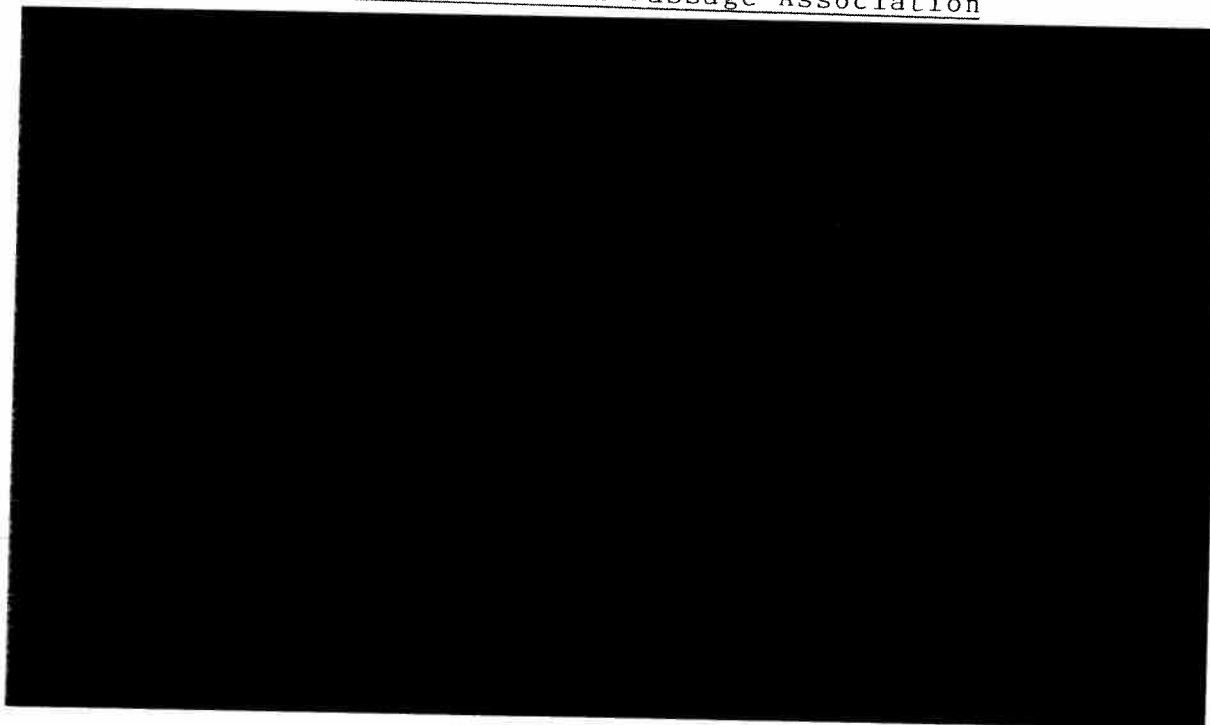
CLUSTERING & SATURATION

11 The proposed use of the front half of No. 20 as a licenced cafe is in a part of Camden Passage where there is a cluster of A3 licenced uses (as well as No. 20, there are The Elk in the Woods, the Breakfast Club, the Med Kitchen, & the Camden Head pub at one end). This clustering was recognised by the Council in 2001 in rejecting a proposed restaurant at No. 20. When permission for part A3 use of No. 20 was given in 2003, the retention of the A1 retail element was considered in the Case Officer's Report to the Planning Committee to mitigate clustering. Without the retention of the front half of No. 20 in retail use, the increased clustering of A3/A4 uses at this particular point in Camden Passage would not be appropriately mitigated, and the retail character of Camden Passage would be undesirably diluted.

We understand that it is now a policy of Islington Council to recognise the saturation of licenced premises in particular areas and not to permit any further increase in licenced premises in such areas. We suggest that , particularly given the narrow and residential nature of Camden Passage, saturation already exists in and around Camden Passage ,and the proposed variation of the premises licence to permit increased alcohol consumption at No. 20 would worsen this clustering and saturation.

12. We trust that the Licencing Committee will take fully into account our reasons for considering that the Licence Variation Application is unnecessary, invalid and deficient, and will cause it to be withdrawn. If that does not occur, please would the Committee give full consideration to our other objections to the Licence Variation Application. We urge that, on all the evidence and arguments provided, the Application be rejected.

Committee Members of the Camden Passage Association



Copy to: Councillor Martin Klute.

Rep 12

Fax to:

No of Pages

To whom it may concern,

I object strongly to the ground floor of 20 Candor Passage to be used as a licensed cafe.

The main reason being that as a resident of Charlton Place, a residential street the noise and disturbance from late night drinkers has made this street at times almost impossible to live in. Friday and Saturday nights I am regularly woken up by noise from arguments and carteration. The residents of Candor Passage and Charlton Place should be heard and this application should be refused.

Rep B

08/05/2011 19:29

Kipferl 20 Camden Passage

Wooden



To: <martin.klute@islington.gov.uk>

Objection

Ref WK/201015217

Licensing Officer

I would like to object to alcohol licence for "Kipferl", 20 Camden Passage.

As you are aware 20 Camden Passage has planning commission for a delicatessen with the rear half allowed to be a license cafe (alcohol to be sold with food). This was passed by a planning application PO 31603 dated 16th Oct 2003. If a change from a delicatessen to a pub (alcohol to be sold without food) why has a new planning application been applied for.

My concern is particularly at night, there is no CCT cameras in Camden Passage, danger of having a pub in a quiet street could be very bad, also Kipferl could sell on 20 Camden Passage with their new license for a pub. As you are aware this would be the fourth tenant since 2003, Kipferl is the first one not a delicatessen.

I do worry that some private arrangement of owner of 20 Camden Passage has been put in place so that Kipferl could turn into a pub and avoiding a planning application in the normal way.



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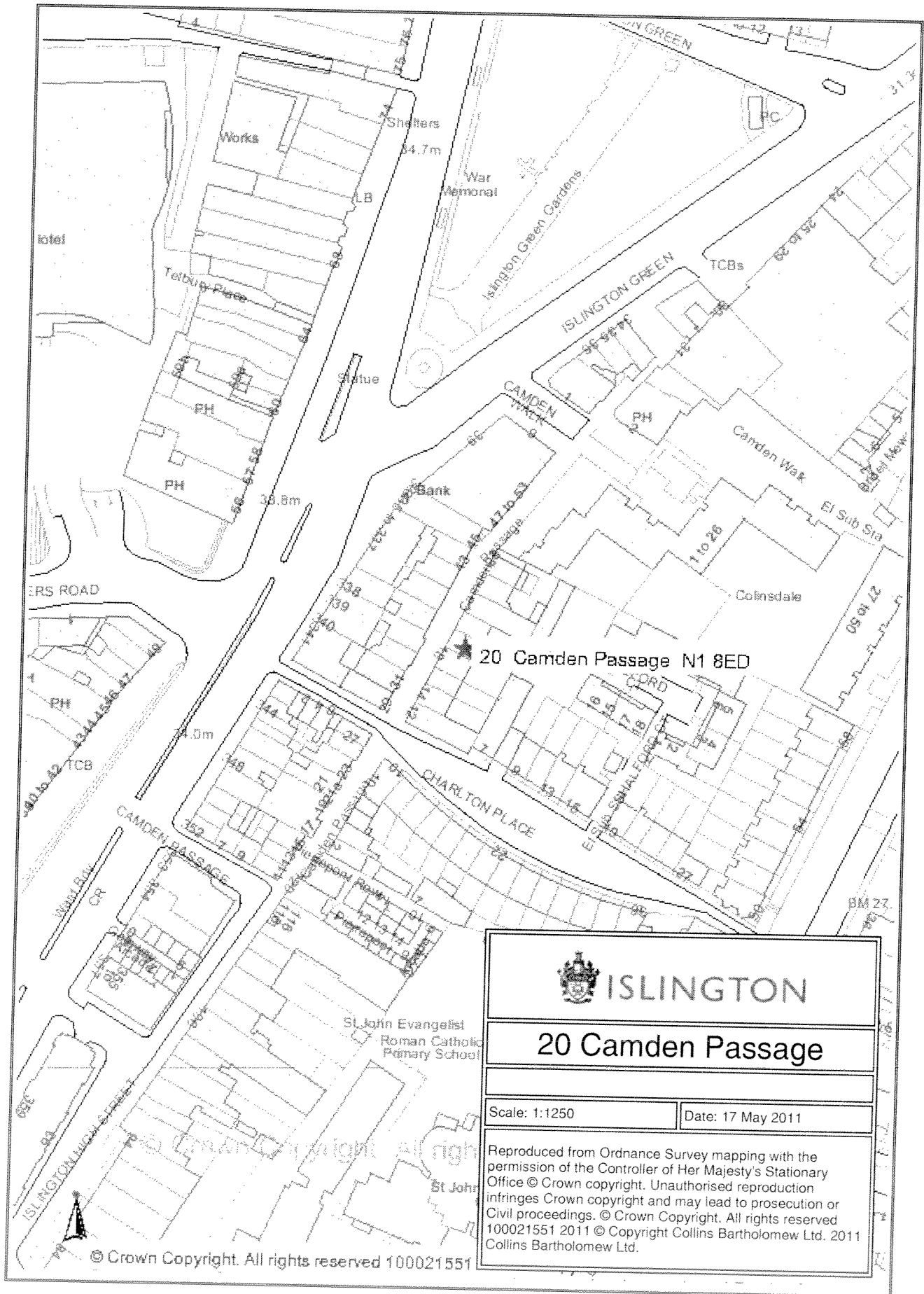
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Suggested conditions of approval consistent with the operating schedule

1. As per current licence.
2. The licence holder shall ensure that anyone who appears to be drunk or aggressive shall not be admitted into the premises.
3. All alcohol shall be stored behind the counter, or on shelves immediately in front of the counter, to ensure that it is in full view of staff.
4. Notices shall be placed prominently in the premises stating that alcohol will not be served to anyone under the age of 18, and any who does not have valid photographic identification.
5. CCTV system shall be installed and maintained inside and outside the premises, including a CCTV unit, which monitors the front of the premises. All cameras shall continually record whilst the premises are open to the public and the video recordings shall be kept available for a minimum of 30 days with time and date stamping. Tape recordings shall be made available to an authorised officer or a police officer with 24 hours of any request.
6. Staff shall be fully trained in the requirements of the Licensing Act 2003, including specific training in relation to prevention of under age sales.
7. All customers shall be reminded by way of notice to leave the premises quietly.
8. Customers shall not be permitted to loiter outside the premises on exit.
- 9.



 ISLINGTON	
20 Camden Passage	
Scale: 1:1250	
Date: 17 May 2011	
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DEVELOPMENT PLANNING

Licensing Policy 9

The Licensing Authority expects applicants to ensure that they have planning consent for the intended use and hours of operation, or otherwise have lawful planning status, before making an application for a premises licence. The Licensing Authority will only grant licences for premises without planning consent in exceptional circumstances.

61. The Planning Consent for a premise determines its use and the hours of operation. If this is not in place at the time the licensing application is heard, there may be a conflict between the two and the applicant will be required to comply with any planning consent granted. It is expected that the necessary planning consent will be in place to ensure that this conflict does not arise and applicants receive a decision from the licensing process which they can immediately implement.
62. Where the terminal hour has been set as a condition of planning permission and these hours are different to the licensing hours, applicant must observe the earlier closing time. The granting of a licence by the licensing committee does not mean the applicant will not need to apply for planning permission. Premises operating without the necessary planning permission will be liable to prosecution under planning law.
63. Planning permission is usually granted for the permitted opening hours of the premises and will include the time it takes customers to leave the premises. This time will normally be later than the time when licensing activities cease so that there is sufficient time for customers to leave the premises gradually to minimise impact on nearby residents.
64. The process of applying for a licence or varying an existing licence should not be a re-run of the planning process. Where premises have obtained planning permission prior to the submission of a licence application, the determination of the licence will focus on controls necessary to achieve the licensing objectives. Objectors within the planning process who are dissatisfied with the planning outcome may still object through the licensing process but their objections will only be relevant where they relate to one or more of the four licensing objectives.
65. Where appropriate (e.g. as part of planning policy), the licensing committee will report to the Planning Committee; relevant area committee or other devolved arrangements on the situation regarding licensed premises in their area, including the general impact of alcohol related crime and disorder. The council's planning policies are set out in the Unitary Development Plan, the emerging Core Strategy, the Development Planning documents, the Supplementary Planning Documents and local planning guidance, together with national and strategic policies and guidance. Together with other council policies, they set out the overall strategy for shaping the future of the borough.