



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

Meeting of	Date	Agenda Item	Ward(s)
Licensing Sub-Committee	30 April 2013	CI	Caledonian

Delete as appropriate	Exempt	Non-exempt

**Subject: SEX ESTABLISHMENT LICENCE - Application for Renewal
SOHO BOOKS, 9 /11 CALEDONIAN ROAD, LONDON N1**

1. Synopsis

1.1 This is an application to renew the sex shop licence.

2. Recommendations

2.1 To determine the renewal application.

3. Background

3.1 The premises has been a licensed sex shop since December 2003. It previously operated at both 9 and 11 Caledonian Road – the premises are linked through the basement – but now business is solely located on the ground floor of 11. The entire premises is licensed but when operating as 9/11, licensable goods had been located in the basement, with the ground floor operating as a book shop.

3.2 The change in occupation led to an alteration of the frontage of the premises. This had previously been glass fronted with the name of 'Soho Original Bookshop' being the predominate signage. As licensable goods are now located on the ground floor, the licensee has altered the frontage so that they are not visible from the street. A photograph of the frontage is included as appendix 5.

3.3 Representations to the renewal primarily relate to the frontage and the negative image that it gives, as opposed to the previous frontage. The licence includes a special condition that the Council should agree any window display. . The current frontage has not been given approval and negotiations have been on-going with the licensee to return to the original frontage. His

belief is that this can't be achieved without compromising the requirement to restrict the visibility of the interior.

3.4 The applicant is now pursuing a planning application to operate a different usage on the site. This renewal application has been deferred on several occasions to allow this to proceed as the applicant has indicated that he intends to surrender the licence if it is successful. As the licensed shop is remaining on site for the foreseeable future and the planning decision is not imminent, the renewal is presented to Licensing Committee for decision.

3.5 Papers are attached as follows:-

- Appendix 1: Renewal Application;
- Appendix 2: Representations to the Renewal Application;
- Appendix 3: Standard Conditions Applicable to Licences for Sex Shops;
- Appendix 4: current Sex Establishment Licence;
- Appendix 5: photograph of current shop front.

4. Planning Implications

4.1 The Planning Team have confirmed the renewal does not require planning approval.

5. Conclusion and reasons for recommendations

5.1 The Council is required to consider this request in the light of all relevant information.

Background papers:

Final Report Clearance

Signed by


Service Director – Public Protection

Date 23/4/13

Received by

Head of Scrutiny and Democratic Services

Date

Report author: Licensing

Tel: 020 7527 3031

E-mail: licensing@islington.gov.uk

WFR / 121354652

Appendix: 7
RENEWAL FROM
1.5.12.



LOCAL GOVERNMENT (MISCELLANEOUS PROVISIONS) ACT 1982

APPLICATION FOR LICENCE SEX ESTABLISHMENT LICENCE

Please read the Council's Sex Establishment Licensing Policy before you complete this application form.

Type of Licence applied for

- Sex Shop
- Sex Cinema
- Sexual Entertainment venue

ISLINGTON COUNCIL LICENSING	
Date	14/9
Fee Paid	£2392.5
County/Cheque (tick box/underline circle)	715505
Receipt Number	0651718
Signature	<i>JMO</i>

Applicant's details

1. THIS PART TO BE COMPLETED IF APPLICATION IS MADE BY AN INDIVIDUAL OR PARTNERS

	Full Name	Permanent Private Address	Date of Birth	UK resident in the last 12 month?
a)	JAMES ALAN POULTON	5 BRANER ST LONDON W1	25. 8. 38	YES
b)				
c)				
d)				
e)				

2. THIS PART TO BE COMPLETED IF APPLICATION IS MADE BY A LIMITED COMPANY OR OTHER INCORPORATED OR UNINCORPORATED BODY

a)	Name of company or body	COMMERCIAL
b)	Address of Registered office (or principal office in case of unincorporated body)	1259-22 COMMERCIAL LICENSING PUBLIC HOUSE
	Name of Director(s) with responsibility for management of premises Position held	1259-22

	Date of Birth	
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3. THIS PART TO BE COMPLETED IF APPLICATION IS MADE BY A COMPANY

a)	Is the applicant a wholly or partly owned subsidiary of another company?	
b)	If yes, give name of the parent company and of any ultimate holding company	
c)	In which country is the company incorporated?	
d)	What is the date of incorporation of the company?	

4. THE FOLLOWING QUESTIONS TO BE ANSWERED BY ALL APPLICANTS

a)	Has a licence been revoked for any sex establishment with which any party to this application has been connected?	NO
b)	Has a licence been refused for any sex establishment with which any party to this application has been connected?	NO
c)	Has any person employed or to be employed by you has held a sex establishment licence which has been refused?	NO
d)	Has the applicant or any director or other person directly or indirectly responsible for the management of the applicant body or any person named in response to question No. 10 been convicted of a criminal offence?	NO.
e)	Give the following details of every person who is to be responsible for the management of the premises in the absence of the licence holder	
	Full Name	Position Held
	Permanent Private Address	Date of Birth
	TIM COLLINS	MANAGER
	66 KILBY COURT SOUTHERN WAY SE10	15.4.74.

5. PREMISES DETAILS

Trading name SOHO ORIGINAL BOOKSHOP

Address 9 CALEDONIAN RD
NI. 9DX.

Do you have planning permission for intended use and hours of operation?

Yes

No

Contact details of person to be connected in connection with this application

Name MICHELE POULTON

Address 5 BREWER ST
LONDON W1F 0RE.

Tel Number 07977-497209

Email Address MICHELEPOULTON@aol.com

I/~~We~~ declare that the above particulars are, to be best of my/~~our~~ knowledge, true in every respect.

Date: 14.9.12

Signature: 

Name of Signatory: M. A. POULTON

Designation of Signatory: _____

Please note that any person, who in connection with any application for a licence, makes a false statement which he knows to be false in any material respect or which he does not believe to be true, shall be guilty of any offence rendering him liable on conviction to a fine not exceeding £10,000.

Checklist

Application fee paid

Two passport sized photographs of applicant completing section 1 or manager of premises if applicant is a limited company.

(NB photographs are not required if no change since last application)

A plan showing the internal arrangement of the premises. (Scale 1:100)

A plan showing the location of the premises. (Scale 1:1250)

(NB Plans are only required for new application or where there has been a change in layout since last licence granted).

Newspaper advert prepared and sent to newspaper for publishing within 7 days of submitting application

Display notice of application on premises for 21 days following submission of application

Objection 1

I am writing to object to the subject license application UNLESS the original Conditions associated with the premise is again attached to the license. These Conditions were as follows:

Special Condition 25

"The Shop front, including entrance doors and window displays be retained in their present Glazed open aspect and used for display purposes of non-adult merchandise, the "general goods" area to be located on the ground floor of the shop; and the "general goods" and "adult" areas to be clearly defined."

Special Condition 26

"That no neon or similar lighting be installed on the premises."

As you should be able to see, I am objecting to these premises being seen as a sex shop, which I feel with denigrate both surrounding stores and the area in general. Use of these (and any further Conditions that the Council may wish to add) will minimize this from happening.

This shop existed before as a sex shop and no one passing by realized it. This worked for both residents and the owners. I hope the Council can see the benefit to all concerned.

Objection 2

I am writing to object to the renewal of the licence for the sex shop at 9 Caledonian Road unless certain conditions are attached to that renewal. These conditions would reflect the original conditions which were attached to a previous licence renewal but which have not been carried out nor enforced in the last year or so.

These conditions would be that the frontage of the shop would revert back so that it looked more like a normal book shop. While I have no problem with the name of the shop: Soho Original Bookshop, as per the applicant's licence renewal application, I would like to see the windows unfrosted, and no adult material or advertisement of adult material displayed in the windows. This adult material could be sold in the shop but would be unseen and unadvertised from pavement of the Caledonian Road. Also I would like to see no advertising furniture on the pavement. There currently is a stand on the pavement when the shop is open. However, the shop's current trading hours are fine. The plastic strips on the door also scream "sex shop" and should be substituted for something less suggestive of a porn shop. In short, what can be seen from the street, needs to be toned down a lot.

The reasons behind these conditions are that, while I respect retailers have to make a living, Kings Cross needs to lose its reputation as a place to go for buying sex and sexual material, to make it a safer more inclusive place to live, shop and go out. Just as the strip bar, the Flying Scotsman (almost opposite 9 Caledonian Road), does not look like a strip bar, nor advertise itself as such through signage and street frontage, so 9 Caledonian Road could operate as a sex shop, without a shop front of a sexual nature. It has done so in the past under a previous licence.

Signage and advertising of adult material gives an area a reputation and can "brand" it a red light zone. There are now many visitors staying in the areas in its many hotels who may not be aware of Kings Cross' past. However, if they see a street with a sexual shopfront, they come

away with an impression of a red light zone. When they talk to their friends about their visit to London, they will say they stayed in the red light zone.

All I am asking is that previous conditions be attached to the licence, which are then obeyed by the licensee and enforced by the council so that this end of the Caledonian Road retains its vibrancy and retail, but without a sleazy ambience. There is a huge gulf between sleaze/porn and vibrancy in the human mind but only small, clever display changes are needed to create one out of the other.

Objection 3

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Objection 4

We also endorse all of XXXX's concerns listed below;

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Objection 5

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Objection 6

I object to this license application and make the following representation.

In its current configuration, the shop trading at 9 Caledonian Road now is unacceptable. I regret that just over a year ago, revisions were made to the previous license to effectively remove special conditions which had been previously imposed on this shop. Those conditions meant that sex items were not displayed within sight of the public highway and the frontage of the shop gave no indication that sex items were for sale. Whilst I do not approve of any sex retailing at this location, I accept that the previous special conditions, providing they were adhered to, resulted in little harm being caused.

I very much regret that, in 2011, officers took a decision under delegated authority to vary the special conditions and, in doing so, failed to recognise the sensitivity of this case and ignored the detailed history, in particular, the circumstances of the original license granted in 2003 and periodic negotiations in subsequent years. Like most residents in the area I was infuriated by the decision to revise the special conditions (see below). This permitted the shop operator to bring sex items from the rear to the front of the shop and has provided a legal loophole to make changes to the frontage allowing it to advertise as a sex shop. Furthermore, failure to consult prior to making this decision was, in my view, quite unacceptable.

Islington's Central Licensing Sub-Committee on 8/12/2003 granted a licence to Heart of Soho Ltd (then trading as "Prowler Kings Cross") after considering a number of objections from residents and business proprietors. In my judgement, the Sub-Committee granted this licence very reluctantly following a history of contested decisions relating to the suitability of this location. There followed a highly contested planning application in which A1 use was refused by the Council in October 2002 and only granted on appeal by an Inspector who nonetheless acknowledged that objections raised by elected members and others were based on the use of the premises for the sale of sex-related goods rather than a change of use to retail. The Inspector observed that the Planning Committee's reasons for refusal could be "understood particularly in view of the difficulties experienced at other shops of a similar nature in the area".

The December 2003 licensing Sub-Committee decision attached 2 special conditions to the licence which were rendered ineffective by the 2011 revision. Those conditions were attached for good reason and their adherence for most of the past decade have proved to be a satisfactory safeguard for most if not all residents. It should be emphasised that periodically and especially during 2006 and 2007 the applicant repeatedly circumvented or breached these conditions quite blatantly.

The 2003 license was granted on the clear understanding that the shop's purpose was to be "camouflaged" from public view – and the following special conditions were attached:

25. The Shop front, including entrance doors and windows displays be retained in their present glazed open aspect and used for display purposes of non-adult merchandise, the "general goods" area to be located at the front of the shop and the "general goods" and "adult" areas be clearly defined.

26. That no neon or similar lighting be installed on the premises.

In 2011 condition 25 was substituted with the following words:

"The interior of the premises shall not at any time be visible from outside and the window shall only bear a suitable display approved by the Council"

No such display scheme has been approved by the Council because the shop operator has opted to make no window display and instead has installed frosted glass with the following words displayed: "Licensed adult store of the year; Adult DVDs exchanged, toys, herbal viagra, poppers". The entrance door is not fully frosted and is sometimes left open to reveal, amongst other things, a garish neon-style sign and evidence of sex related products. Even on a cursory glance, this visual treatment immediately signals itself to be a sex shop.

The reasons given by the 2003 Sub-Committee were to "safeguard the concerns of the local residents and to retain the present standard of displays." These concerns were very valid and 15 letters of objection were received and considered by the Sub-Committee. The main grounds of objection were that it would:

- * be detrimental to the economic regeneration of the area, in particular the development of the Regent Quarter
- * have an adverse effect on community safety
- * reduce the amenity of the new residential accommodation in the vicinity

- * be in close proximity to bus stops used by school children to commute
- * cause offence due to the appearance of the exterior window and signage of the premises.

I believe that the currently configured shop demonstrates that these fears were well founded and the shop should now either be refused a license renewal or the previous special conditions be reinstated.

Paul Convery
Labour Councillor for Caledonian Ward, LB Islington Executive Member for Community Safety (Policing, crime, licensing and public protection) Town Hall, Upper Street, London N1 2UD
020-7527-3051 (PA)

Objection 7

I object to this license application and make the following representation.

In its current configuration, the shop trading at 9 Caledonian Road now is unacceptable. I regret that just over a year ago, licensing officers “noddled-through” revisions to the previous license to remove special conditions which had been previously imposed on this shop. Those conditions meant that sex items were not displayed within sight of the public highway and the frontage of the shop gave no indication that sex items were for sale. Whilst I do not approve of any sex retailing at this location, I accept that the previous special conditions, providing they were adhered to, resulted in little harm being caused.

I very much regret that the licensing officer concerned failed to recognise the sensitivity of this case and ignored the detailed history in particular the circumstances of the original license granted in 2003 and periodic negotiations in subsequent years. Like most residents in the area I was infuriated by the licensing officer’s decision to drop the previous special conditions and revert merely to standard conditions thereby permitting the shop operators to bring sex items from the rear to the front of the shop and to allow changes to the frontage allowing it to advertise as a sex shop. Furthermore, failure to consult prior to making this decision was, in my view, quite unacceptable.

Islington’s Central Licensing Sub-Committee on 8/12/2003 granted a licence to Heart of Soho Ltd (then trading as “Prowler Kings Cross”) after considering a number of objections from residents and business proprietors. In my judgement, the Sub-Committee granted this licence very reluctantly following a history of contested decisions relating to the suitability of this location. There followed a highly contested planning application in which A1 use was refused by the Council in October 2002 and only granted on appeal by an Inspector who nonetheless acknowledged that objections raised by elected members and others were based on the use of the premises for the sale of sex-related goods rather than a change of use to retail. The Inspector observed that the Planning Committee’s reasons for refusal could be “understood particularly in view of the difficulties experienced at other shops of a similar nature in the area”.

The December 2003 licensing Sub-Committee decision attached 2 special conditions to the licence which licensing officer removed in 2011 and which I believe should now be re-instated. Those conditions were attached for good reason and their adherence for most of the past decade have proved to be a satisfactory safeguard for many residents. It should be emphasised

that periodically and especially during 2006 and 2007 the applicant repeatedly circumvented or breached these conditions quite blatantly.

The 2003 license was granted on the clear understanding that the shop's purpose was to be "camouflaged" from public view – and the following special conditions were attached:

25. The Shopfront, including entrance doors and windows displays be retained in their present glazed open aspect and used for display purposes of non-adult merchandise, the "general goods" area to be located at the front of the shop and the "general goods" and "adult" areas be clearly defined.

26. That no neon or similar lighting be installed on the premises. The reasons given by the Sub-Committee were to "safeguard the concerns of the local residents and to retain the present standard of displays." These concerns were very valid and 15 letters of objection were received and considered by the Sub-Committee. The main grounds of objection were that it would:

- * be detrimental to the economic regeneration of the area, in particular the development of the Regent Quarter
- * have an adverse effect on community safety
- * reduce the amenity of the new residential accommodation in the vicinity
- * be in close proximity to bus stops used by school children to commute
- * cause offence due to the appearance of the exterior window and signage of the premises.

I believe that the currently configured shop demonstrates that these fears were well founded and the shop should either be refused a license renewal or the previous special conditions be reinstated.

Objection 8

Further to the renewal application for the sex shop licence for the business at 9 Caledonian Road, I would like to state that I am only prepared to support this renewal application if the original conditions as detailed below are re-enforced. It was an oversight of the council's own officers that allowed these conditions to fall away at the last renewal - without any consultation with local residents. This caused much upset amongst locals, so it is time the council resolve this issue at this renewal.

Please confirm to me that this has been done on this occasion. The original frontage was FAR more attractive than the new seedy appearance which screams "Sex Shop" by its very look.

Conditions Attached to the Original License (As provided to me)

1. Advertising

Further to the Standard Conditions the licence has two special conditions relating to advertising. They are:

Special Condition 25 "The Shop front, including entrance doors and window displays be retained in their present Glazed open aspect and used for display purposes of non-adult merchandise, the "general goods" area to be located on the ground floor of the shop; and the "general goods" and "adult" areas to be clearly defined."

Special Condition 26 "That no neon or similar lighting be installed on the premises."

There is no specific ban on advertising the premises as a sex shop beyond not using neon signs. I can confirm that from the outside of both 9 and 11 Caledonian Road there is nothing visible to advertise the sex shop in the basement of 9 Caledonian Road. There is a sign that says DVDs are in the basement but it does not state what type of DVDs are available. Outside the premises are two signs for "Soho Books".

Standard Condition 10 requires that the premises have a sign at the entrance warning prospective customers that the premises they are about to enter is a sex shop. I can confirm that this notice is displayed at the top of the stairs leading to the basement of 9 Caledonian Road where the sex shop is located.

Special Condition 25 specifically states that non-adult merchandise can be displayed in the windows. I interpret non-adult merchandise to mean "sex articles" as defined in Standard Condition 1. I can confirm that only general goods are displayed in the shop window of 11 Caledonian Road.

2. Layout of Premises

The licensed sex shop is located in the basement of 9 Caledonian Road. The entrance to the sex shop is now through the ground floor of 11 Caledonian Road. I understand that the sex shop was previously located on an elevated floor at the back of 9 Caledonian Road with the entrance to it from the ground floor of the same address. I have been told that with the old layout part of the sex shop was visible from the pavement. With the current placement of the sex shop in the basement of 9 Caledonian Road and the entrance to it from the ground floor of 11 Caledonian Road no part of the shop is visible from the pavement. The

Council is satisfied with this arrangement.

STANDARD CONDITIONS APPLICABLE TO LICENCES FOR SEX SHOPS

1. REGULATIONS made by the Islington Council in pursuance of the powers contained in paragraph 13 of Schedule 3 of the Local Government (Miscellaneous Provisions) Act 1982, prescribing standard conditions applicable to licences for sex shop, "sex establishment" and "sex article" shall have the meanings ascribed to them in Schedule 3 of the Local Government (Miscellaneous Provisions) Act 1982 and "the Council" means the Council of the London Borough of Islington.
2. In the event of a conflict between these conditions and any special conditions contained in a licence relating to a sex shop, the special conditions shall prevail.
3. The business shall be carried on only in the name, style or title specified in the licence and at the premises mentioned therein.
4. The licensee, whether a partner, company or other corporate or unincorporated body, shall notify the Council in writing, in the form prescribed by the Council, of any change in directors, trustees, partners or other persons concerned in the management of such company, partnership or corporate or unincorporated body, within fourteen days of such change.
5. The licensed premises shall not be opened for the purposes for which the licence is granted earlier than 9.30am and shall be closed not later than 8.00pm.
6. The premises shall not be opened on Sundays, Christmas Day or Good Friday.
7. The Council may also specify any other date on which the premises shall be closed provided that fourteen days notice in writing of such date must be given to the licensee.
8. No advertisement other than advertisements relating to other licensed sex establishments or relating to goods available from the premises shall be displayed inside the premises.
9. The interior of the premises shall not at any time be visible from outside and the window shall only bear a suitable display approved by the Council.
10. The following notice shall be displayed at the entrance to the premises such that no-one could reasonably obtain access to the premises without being aware of its contents:

Licensed Sex Shop
WARNING
 Persons passing beyond
 this notice will find
 material on display which
 they may consider indecent.
 No admittance to persons under 18 years of age

11. No part of the premises shall be used by prostitutes for the purposes of solicitation or otherwise exercising their calling.
12. Neither the licensee nor any employee shall seek to obtain custom for the sex shop by means of personal solicitation outside or in the vicinity of the sex shop.
13. No goods likely to forfeiture under Section 3 of the Obscene Publications Act 1959 or Section 5 of the Protection of Children Act 1978 or likely to be condemned under Schedule 3 to the Customs and Excise Management Act 1979 by virtue of Section 42 of the Customs Consolidation Act 1896 shall be kept on the premises.
14. All sex articles and other things displayed within the premises shall be clearly marked to show to persons who are inside the premises the respective prices being charged.
15. The licensee shall not distribute any unsolicited goods or publicity.

16. The licensed premises shall be used only for the purposes specified in the licence.
17. No alcohol shall be consumed on the premises.
18. 18R classified videos/DVDs must not be sold by mail order or via the Internet.
19. A record shall be kept of mail order/Internet transactions in such form as agreed by the Council and all such transactions must comply with the Consumer Protection (Distance Selling) Regulations 2000.
20. The exterior and interior of the premises shall not be altered without the prior consent of the Council.
21. The licence is not transferable by the licensee.
22. The licensee must give written notice to the Council if s/he wishes to surrender the licence.
23. The licensee shall maintain good order and decent behaviour in the licensed premises and shall inform the Police immediately s/he becomes aware of any indecent conduct taking place or which is said to have taken place, in the premises.
24. The Council reserves the right to amend or alter these conditions without prior consultation with the licensee but will notify the licensee of any alterations.

**ISLINGTON****SEX ESTABLISHMENT LICENCE**

Licence Number: LN/12144-010511

The Council of the London Borough of Islington, by virtue of the provisions of Part II and Schedule 3 of the Local Government (Miscellaneous Provisions) Act 1982, hereby grant to

Full name of licensee: **Mr James Alan Poulton**Address of licensee: **9 Caledonian Road, London, N1 9DX**A licence to use the premises at: **9 Caledonian Road, London, N1 9DX**As a sex shop for a period from: **1 May 2011** until the **30 April 2012**.

The premises shall be used only in conjunction with the following trade name, style or title: **SOHO ORIGINAL BOOKSHOP**


A copy of this licence and the Council's standard conditions must be kept exhibited in the following place: **9 CALEDONIAN RD LONDON N1 9DX**

This licence is granted subject to the Council's standard conditions and to any special conditions indicated below:

1. The interior of the premises shall not at any time be visible from outside and the window shall only bear a suitable display approved by the Council.
2. That no neon or similar lighting to be installed on the premises.

Opening hours: See standard conditions enclosed

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

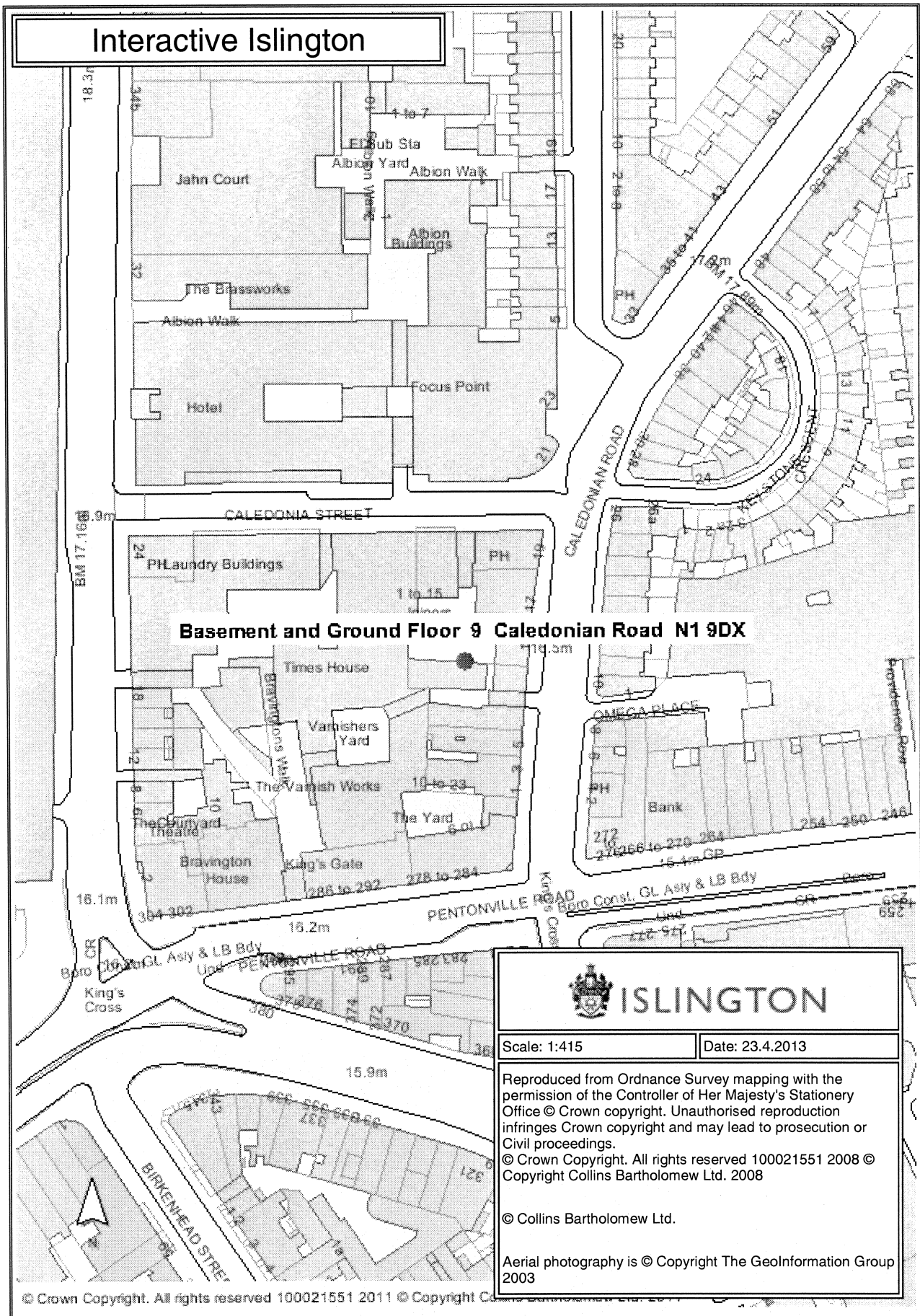

Service Manager (Commercial)


21/5/11
Date of Issue

SOHO BOOKS



6N



 **ISLINGTON**

Scale: 1:415	Date: 23.4.2013
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