
Documents in support of the application for a Premises Licence for:
The Mall, 359 Upper Street, Islington.

1. Witness Submissions on behalf of the Applicant
2. Updated set of amalgamated conditions offered in respect of the premises.
3. Statement of David Walters.
4. Expert Witness Report prepared by Andrew Bamber.
5. Copy extract Agreement for Lease for The Mall, 359 Upper Street, Islington.
6. Video showing how to use an Amazon Fresh store.(See link and video sent separately)
7. Still photographs inside and outside Amazon Fresh at Wembley.
8. Video of the interior of Amazon Fresh Store at Wembley. (see video sent separately)
9. Press coverage of opening of Ealing, Wembley and White City Amazon Fresh stores.
10. Extracts of comments on social media regarding Amazon Fresh store.
11. Copy Planning Permissions obtained for the premises.
12. Case of Forster v Secretary of State for Communities and Local Government.

In the matter of a Licensing Application for a Premises Licence for premises at:

The Mall, 359 Upper Street, Islington.

Enclosure 1

BEFORE THE LONDON BOROUGH OF ISLINGTON'S

LICENSING SUB-COMMITTEE

“AMAZON FRESH”

The Mall, 359 Upper Street, Islington, N1 0PD

SUMMARY OF APPLICANT'S SUBMISSIONS

For Remote Hearing: 27 April 2021

The application and use of premises

1. This is a new premises licence application to permit a new “Amazon Fresh” grocery convenience store to open in a vacant premises on Upper Street, Islington. The store will offer food and beverage goods for home, food to go, coffee and freshly baked items. The store will, uniquely to Amazon Fresh, employ “Just Walk Out” technology. This obviates the need for busy customers to have to queue up to pay for their items. After scanning their Amazon account details on their mobile device into a scanner at the entrance to the store, a gate opens to permit entry. Any items customers pick up and leave the store with are then automatically charged to their account. Instead of queuing, customers can use their increasingly valuable time to pursue interests beyond grocery shopping.
2. A supporting bundle of evidence on behalf of the Applicant will be supplied to the Council prior to the hearing (“Applicant's Bundle”). Documents referred to within these submissions refer to that bundle or Agenda Papers as indicated.
3. The vacant site was previously used as a furniture store and, more recently, was occupied by squatters. The grant of this application will help to prevent such a nuisance in the future.

4. Should this application be granted, this store will be one of the first Amazon Fresh to open in the United Kingdom. It will create a number of new jobs within Islington at a difficult time for the UK economy.¹
5. Three other Amazon Fresh stores all opened earlier this year (2021) in Ealing, Wembley and White City. Two of those stores were granted licences within cumulative impact areas. None have adversely impacted the licensing objectives. All have been met with a positive response from customers, most of whom are local residents and people who work in their localities (the Applicant's Bundle contains online customer comments and news reports relating to their openings and operation). Amazon have wider and longer experience of operating this concept of store in the United States since 2018, with more than 20 similar stores operating there. (For a number of years Amazon have also held a number of premises licences for their warehouses in the UK from where deliveries, including alcohol, are despatched).
6. A detailed statement from David Walters, the Regional Manager of Amazon Fresh, is within the Applicant's Bundle. His statement explains: how the premises will operate, security measures, supervision of the store generally, the permanent (human) supervision of the alcohol area, age verification and staff training.
7. Mr Walters will also be the Designated Premises Supervisor ("DPS") on the licence and the application can be amended to indicate that. Mr Walters is vastly experienced in running reputable grocery stores and supermarkets. He previously worked for Tesco's for 10 years and managed Tesco Metro stores through to their larger supermarkets in the

¹ Economic considerations are relevant to licensing determinations. In Hope and Glory [2011] EWCA Civ 31, Toulson LJ stated at §42: "*Licensing decisions often involve weighing a variety of competing considerations: the demand for licensed establishments, the economic benefit to the proprietor and to the locality by drawing in visitors and stimulating the demand, the effect on law and order, the impact on the lives of those who live and work in the vicinity, and so on*".

Greater London Area. Mr Walters, as DPS, will be a clear and responsible point of contact for the Council and responsible authorities if any licensing related issues were to arise after the grant of this licence.

8. This application is solely to permit alcohol off-sales from a small designated alcohol area within the proposed Amazon Fresh store (hatched in red on the licensing plan²). This area is cordoned off from the rest of the store and will be supervised by a member of staff at all times. When it is not operating the alcohol area can be barriered off completely from the rest of the store.
9. Given that: (a) customers will have to scan their details at the entrance barrier to the store, and cannot physically enter without doing so, (b) there will be no sale of cheap high-strength beers or ciders (etc), and (c) as previously indicated, the alcohol area is supervised at all times, the likelihood of people intent on causing anti-social behaviour or problematic street drinkers being attracted to the store is far lower than with other off-licences within grocery convenience stores. Any person who does gain entry to the store will be surveilled by prominent CCTV cameras as well as by staff supervision.
10. Unusually, if this application is granted, this will mean that an off-licence is given permission to open which positively deters problematic street drinkers, drunks or under-age customers, yet still provides a greater choice and new type of customer experience for people who live and work in Islington. This benefits the public interest that the licensing objectives seek to promote. Further, the premises will be prohibited by conditions from selling the high-strength beer, lager and cider that “pre-loaders” tend to seek out. Nor will the store sell half-bottles or miniatures of alcohol products. In the words of Islington’s Statement of Licensing Policy (“LP”) in relation to the cumulative impact of off-sales, this

² Page 23 of Agenda Papers

is a “*premises that can demonstrate that the risk of alcohol purchases from the premises being consumed on the street is minimal due to the nature and type of alcohol being sold*” (§73(b) of LP4).³

11. The premises will not be alcohol-led. The applicant now proposes that a new condition is added to the premises licence to this effect: “*No more than 10% of the retail area shall be used for the sale or display of alcohol*”. It therefore falls within a recognised possible exception to the Upper Street and Angel cumulative impact policy (§47(b) of LP3).
12. The licensable hours of 8am-11pm (all week) are within Islington’s Framework Hours for off-licences as set out in LP6. The store intends to open an hour earlier than alcohol sales, at 7am, to sell food and non-alcoholic beverages to early-risers and/or shift workers.
13. Given there are no conditions restricting hours on the planning permission for this site, the grant of a premises licence with the restrictive hours proposed provides the regulatory mechanism by which the Council can appropriately curtail the operating hours of this store. This positively promotes the licensing objectives more than the refusal of the application would do – since a refusal of this licence application would have the unintentional effect of permitting the premises to operate 24/7 if the tenant so wished.
14. This premises was subject to a number of planning applications in 2020 considered by this Council as the planning authority. The purpose of these applications was to enable the site to operate as an Amazon Fresh store. The Council granted all the applications and did not impose any restriction on operating hours. (The various planning permissions are within the Applicant’s Bundle). Although planning and licensing are separate regimes, each does

³ §73 of Licensing Policy

not exist in its own vacuum. The Court of Appeal has ruled that “*while a licensing committee is not bound to follow a planning decision-maker’s conclusion, nor vice versa, each will and should have regard to the other where both make decisions in the same context.*” (see *Forster v Secretary of State for Communities and Local Government* [2016] EWCA 2367 at §24). This licensing sub-committee is invited to have regard to the recent grants of planning permission in support of this licensing application.

15. The likely customer who visits the store will be a person who already lives or works in the area. The store is unlikely to attract new people into the cumulative impact area. It will not operate very late into the night. Alcohol sales will consist of a small curated range of products. Many customers will wish to buy their groceries from the store and buy a bottle of wine or can of beer to take home with them for dinner. It is unlikely to add to the cumulative impact.

The identity of the applicant

16. The formal Applicants are the Landlords of the premises (who act as the trustees for M&G Property, a significant property investment fund)⁴. The Landlord is legally permitted to make this application as their business “*involves the use of the premises for licensable activities*” and so falls within the category of persons who may apply for a premises licence set out in s.16(1)(a) of the Licensing Act 2003. This was confirmed by the High Court in *R (Extreme Oyster and another) v Guildford Borough Council*.⁵ Contrary to statements within the representations, both the corporate entities who make up the Landlord are UK

⁴ Due to rules set down by the UK’s Financial Conduct Authority, all leases are held on trust for the property investment fund M&G Property by a depositary.

⁵ [2013] EWHC 2174 (Admin)

registered companies rather than “off-shore” companies (Companies House print outs are within the Applicant’s Bundle).

17. Amazon signed the Agreement for Lease with the Landlord on 26 June 2020.⁶ The front pages of this agreement is within the Applicant’s Bundle. In order to give confidence to the licensing sub-committee that the store will, in fact, be tenanted by Amazon Fresh, and operated as such, the applicant proposes that the following condition be added to the premises licence: “*This premises licence has no effect until the licence has been transferred to Amazon UK Services Ltd.*”

18. Amazon UK Services Ltd is also a UK registered company (Companies House printout within Applicant’s Bundle). This company also holds the premises licences for Amazon Warehouses around the country and so has wide licensing experience.

Responsible authorities and proposed conditions

19. The applicant has engaged with the responsible authorities in relation to this application. As a result, conditions have been agreed with both the police licensing officer and Council’s Environmental Health/Noise Officer. These responsible authorities now do not object to the grant of this application. This sub-committee is entitled to place considerable weight on the expertise of these authorities who, between them, are the principal professional guardians of the crime and disorder and public nuisance licensing objectives⁷.

Further representations

⁶ Due to issues of commercial sensitivity and confidentiality ahead of the Amazon Fresh concept launching in the UK, Amazon were not in a position to disclose their involvement in this project at the outset.

⁷ See s.182 Guidance at §9.12

20. The remaining objections come from the Ms Terrie Lane on behalf of the Licensing Authority, a ward Councillor and seven residents (3 of which objections are identical in terms).
21. A number of the objections raise concerns about the identity of the operator and nature of the store. Those issues have now been resolved.
22. Other issues identified include those that relate to the operation of the premises, street drinkers and the potential impact on the licensing objectives.
23. In addition to the operational concerns dealt with in the witness statement of the proposed DPS, it is submitted that the outstanding issues are appropriately addressed by:
- a. The imposition of the revised suite of conditions;
 - b. The contents of the expert report of Mr Andrew Bamber.
24. These are both considered below.

Proposed conditions

25. The robust suite of conditions agreed with the police and environmental health/noise teams are in the Agenda Papers at Appendix 4 (p.37-39). Of particular note are conditions that ensure (in summary):
- a. Full CCTV provision (condition 3);
 - b. Age-verification and staff training (conditions 3-9);
 - c. Adequate levels of staff and security (condition 10);

- d. No sales of beers, ales, lagers or ciders of 6.5% ABV or above, save for premium products agreed with police(condition 11) ;
- e. No sale of spirit miniatures, save as agreed with police or as part of a seasonal gift pack (condition 12);
- f. Endeavours to eliminate or minimise any nuisance; in collaboration with the authorities (condition 14);
- g. Deliveries and internet orders (condition 15-17), deliveries restricted to 07:00-23:00 (condition 21), and use of motor vehicles for deliveries (condition 24);
- h. No noise to emanate from the premises so as to cause a nuisance to nearby properties (conditions 18-19);
- i. Cleaning of outside frontage (condition 22).

26. In addition to these agreed conditions, and as outlined above, the applicant also proposes these additional conditions:

- a. No more than 10% of the retail area shall be used for the sale or display of alcohol;
- b. This premises licence has no effect until the licence has been transferred to Amazon UK Services Ltd.

27. Islington's cumulative impact policy (LP3) and off-sales policy (LP4) both recognise that each application will be considered on its individual merits. In the case of off-sales, policy (LP4) indicates that a straight refusal is not the only outcome but licences may be granted

“*subject to certain limitation*”. It is submitted that the limitations set out in the proposed conditions are the appropriate and proportionate response to this application in order to promote the licensing objectives.

Expert Report of Andrew Bamber

28. An expert report from Mr Andrew Bamber is included within the Applicant’s Bundle. Mr Bamber has significant relevant experience and expertise. He was formerly a Chief Superintendent and Borough Commander in the Metropolitan Police (with considerable experience of licensing matters) and then spent 10 years as an Assistant Director for Safer Communities in a London Borough. He is familiar with the issues set out in Islington’s Statement of Licensing Policy, including cumulative impact and off-sales.

29. Mr Bamber has made a number of unannounced visits to Amazon Fresh stores that are already open, subsequently spoke to a duty manager, considered Amazon’s operating policies and training materials, and witnessed the “Just Walk Out” technology in action.

30. In conclusion, Mr Bamber opines as follows:

“Having risk assessed the application and the operating environment proposed by Amazon Fresh I am confident that the store will not negatively impact upon the 4 licensing objectives, add to the cumulative impact area of Angel and Upper Street or the cumulative effect of off-sales on the licensing objectives”.

31. The sub-committee is invited to consider Mr Bamber’s report in full. His report provides positive reasons for concluding the grant of this application will not add to cumulative impact issues in the Upper Street and Angel area.

Conclusion

32. Ultimately, this licensing sub-committee has a discretion to grant this licence application.

Amazon Fresh offers an innovative concept that is likely to be valued by people who live and work in Islington. It is unlikely to attract more people into the cumulative impact area, but will instead provide more quality choice for customers who are already in the area and value shopping for their groceries without the need to queue.

33. This is not an alcohol led premises and, in comparison with other off-licences, there is a far greater level of control over customers accessing alcohol.

34. Amazon are responsible and experienced operators. There are robust operating and training procedures and a suite of conditions proposed. The police and noise teams do not oppose the grant of this application. If any issues do arise, they will be ironed out very quickly in partnership with the Council and responsible authorities.

35. The grant of a premises licence will bring the store into the regulatory framework of the Licensing Act 2003 and control its operating hours. The applicants are aware that the grant of a premises licence is not a permanent right, but is instead a conditional privilege. If any issues impacting on the licensing objectives were to arise then any person can launch a licence review that, ultimately, could lead to the revocation of the licence. Amazon ask for the opportunity to prove their worth and value to the people of Islington.

36. It is submitted that the licence can be granted in line with recognised exceptions to Islington's cumulative impact policies. But these exceptions are not intended to be exhaustive of the circumstances in which an application may be granted within a cumulative impact area or for off-sale premises. Each case will be determined on its own individual merits.

37. District Judge Anderson's memorable observations in an appeal judgment relating to a different cumulative impact application are apposite:⁸

"It cannot be the policy of the Cumulative Impact Policy to bring the iron curtain clanging down to allow [other venues] to continue to trade while shutting out Brewdog which attracts more discerning customers who do not engage in binge drinking, though I do accept the requirement of the Cumulative Impact Policy is to ascertain specifically whether there will be impact... I accept that the Committee and the Police did their best but their application of the Policy was too rigid. They seemed to take the view that man was made for the Policy, when the Policy should be made for man."

38. The licensing sub-committee is respectfully invited to grant the application and impose the revised conditions now proposed, all of which are designed to promote the licensing objectives in an appropriate and proportionate manner.

GARY GRANT
Barrister

Francis Taylor Building
www.ftbchambers.co.uk

20 April 2021

⁸ *Brewdog Bars Ltd v Leeds City Council*, Leeds Magistrates' Court, 6 September 2012

In the matter of a Licensing Application for a Premises Licence for premises at:

The Mall, 359 Upper Street, Islington.

Enclosure 2

- 1) In the event that crime or serious disorder is, or appears to have been, committed on the premises, the management will immediately ensure that:
 - (a) The police and, where appropriate, the London Ambulance Service, are called immediately;
 - (b) As far as is safe and reasonable practicable, all measures will be taken to apprehend any identified suspects pending the arrival of the police;
 - (c) As far as is safe and reasonable practicable, all measures will be taken to preserve any identified crime scene pending the arrival of the police;
 - (d) Any and all appropriate measures are taken to fully protect the safety of all persons present on the premises at all times during operating hours.

- 2) An incident log [electronic or hard copy] shall be kept at the premises, and made available on request to the police or an authorised officer, which will record:
 - (a) Any and all allegations of crime or disorder reported at the venue
 - (b) Any and all complaints received by any party
 - (c) Any faults in the CCTV system
 - (d) Any visit by a relevant authority or emergency service
 - (e) Any and all ejections of patrons
 - (f) Any refusal of the sale of alcohol.

2a. The refusals log part of the incident book shall be checked and approved monthly by the designated premises supervisor.

- 3) CCTV shall be installed, operated, and maintained, to function all times that the premises are open for licensable activities. This CCTV shall comply with the following criteria:
 - (a) The licensee will ensure that the system is checked every two weeks to ensure that the system is working properly and that the date and time are correct;
 - (b) A record of these checks, showing the date and name of the person checking, will be kept and made available to the police or other authorised officer on request;
 - (c) The Police will be informed if the system will not be operating for longer than one day of business for any reason;
 - (d) One camera will show a close-up of the entrance to the premises, to capture a clear, full length image of anyone entering;
 - (e) The system will provide full coverage of the interior of the premises and any exterior part of the premises accessible to the public;
 - (f) The system will record in real time and recordings will be date and time stamped;
 - (g) At all times during operating hours, there will be at least 1 member of staff on the premises who can operate the system sufficiently to allow Police or authorised Council officers to view footage on request;
 - (h) Recordings will be kept for a minimum of 31 days and downloaded footage will be provided free of charge to the police or other authorised officers on request (subject to the Data Protection Act 1998) within 24 hours of any request.

- 4) Challenge 25 shall be operated as the proof of age policy and only a valid passport, photo driving licence, HM forces photographic ID card or proof of age card with the PASS logo or hologram on it may be accepted as proof of age.
- 5) A notice will be displayed at the till either electronically or physically to remind staff to ask for identification.
- 6) The licence holder shall ensure that all staff are trained on relevant matters, including the conditions of the premises licence, age restricted products and [if they are ever left in charge of the shop] the operation of the CCTV system and how to deal with visits from authorised officers. The licence holder shall keep written records of training and instructions given to each member of staff , detailing the areas covered to include the Licensing Objectives , identifying persons under 25, making a challenge, acceptable proof of age & checking it, making & recording a refusal, avoiding conflict & responsible alcohol retailing.

Staff shall sign to confirm that they have received and understood the training.
All staff who work at the till will be trained for their role on induction and be given refresher training every 12 months.
The written training records kept for each staff member will be produced to police & authorised council officers on request.

- 7) The licence holder will at all times maintain adequate levels of staff and security. Such staff and security levels will be disclosed, on request, to the Licensing Authority and the Police.
- 8) There will be no sales/supplies of beers, ales, lagers, or ciders or anything similar of 6.5% ABV or above save for premium products which have been agreed with the police [email authority will suffice].
- 9) The premises will not sell/supply miniature bottles of spirits of 50ml or less save for premium products which have been agreed with police or as part of seasonal gift packs [email authority will suffice].
- 10) Notices will be prominently displayed by the entry/exit.
 - (a) That CCTV is in use & a Challenge 25 proof of age policy is in operation;
 - (b) Advising customers of the provisions of the Licensing Act regarding underage & proxy sales;
 - (c) Of the permitted hours for licensable activities & the opening times of the premises;
 - (d) Not to drink in the street;
 - (e) To respect residents, to leave quietly, and not to loiter outside the premises or in the vicinity and to dispose of litter legally.

- 10) The premises licence holder shall endeavour to eliminate or minimise any nuisance arising out of its licensable activities. In doing so the premises licence holder will work with enforcement authorities where any issues are identified. A complaints procedure will be maintained in order that local residents have a means of contact if necessary. A telephone number for the duty manager at the premises shall be publically available at the times the premises is open .The telephone number is to be made available to residents and businesses in the vicinity.

- 12) Regarding any off sales for delivery or, made by way of internet orders, the following will be adhered to:
 - (a) No alcohol delivery unless ancillary to a food or other grocery order.
 - (b) Any order despatched containing alcohol will be suitably marked and any courier service used will be aware that identification will need to be shown prior to delivery and cannot be left with a third party.

- 13) The licensee shall ensure that company staff, and any outside delivery service employed to facilitate the delivery of alcohol, will be trained on relevant aspects of the Licensing Act 2003 including underage sales, sales to a person who is drunk, obtaining alcohol for a child or a person who is drunk and delivering alcohol to someone under the age of 18.

- 14) Any website from which customers can order food and drink to be delivered to a home address will contain a message to the effect that alcoholic products can only be purchased by persons who are over the age of 18 years, and that identification will be requested when the alcohol is delivered.

- 15) The premises licence has no effect until the licence has been transferred to Amazon UK Services Limited.

- 16) The alcohol display area in the store will be no more than 10% of the total retail floor space.

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Enclosure 3

Statement of David Walters

on behalf of Applicant Landlord and Amazon

Introduction

1. I make this statement in support of the premises licence application for the proposed Amazon Fresh store at The Mall, Upper Street Islington. I am employed by Amazon as Regional Manager for the South East and within my remit is the opening and operation of Amazon Fresh grocery convenience stores in this area.
2. I have been employed in this position since March 2020 and have been involved in the preparation for, and the successful recent openings of, Amazon Fresh stores at Ealing, Wembley and White City. I confirm that I would be involved in the opening of the proposed store at The Mall, Upper Street Islington.
3. As a personal licence holder, I will be the nominated and initial Designated Premises Supervisor ("DPS"). Once an experienced and appropriate store manager is employed it is likely that he or she will then take over as the DPS to ensure the nominated person has a day to day presence at the store.
4. The purpose of this premises licence application is to permit the off-sale of alcohol from the store, in a similar way to the convenience stores operated by Tesco's and Sainsbury's for example. However, the Amazon Fresh stores offer a unique and

forward-thinking operating model, as described below, which we believe will be welcomed by the residents of, and visitors to, Islington.

5. The store is a grocery convenience store and will not be alcohol-led. The front of house (i.e. retail area) floor space allocated to alcohol selection will be less than 10% of the entire store and contained within a designated area sectioned off from the rest of the store and supervised by staff at all times. The store will mainly sell food and non-alcoholic beverages with a limited range of complementary alcohol items. Our anticipated customer will include, for example, a local resident or worker who whilst buying their lunch will also buy their ingredients for dinner and this may include a bottle of wine or beer.

Identity of applicant and operators

6. The premises licence application was made in the name of the Landlords of the premises, British Overseas Bank Nominees Ltd and W G T C Nominees Limited as trustees for M& G Property. Amazon were not in a position to disclose their involvement in this project at an earlier date due to issues of commercial sensitivity and confidentiality prior to the launch of the Amazon Fresh concept in the UK. I am authorised to make this statement on behalf of the applicant Landlords as well as Amazon. The applicants are both UK based companies.
7. I can confirm that Amazon will be the tenant and operator of the site should the licensing sub-committee be prepared to grant this licence application. An agreement for lease has been signed, subject to this licence being granted.

8. The applicant would agree to a licence condition being added to the premises licence that states: "*This premises licence has no effect until the licence has been transferred to Amazon UK Services Ltd.*" This will give assurance to this sub-committee, and the persons who made representations in response to the application, that the site will operate as an Amazon Fresh store.

9. Amazon UK Services Ltd is a UK registered company whose registered office is at 1 Principal Place, Worship Street, London, EC2A 2FA. I attach Companies House printouts for both the applicant companies and the proposed transferee company.

My background and experience

10. I previously worked for Tesco. I worked for them for 10 years, starting on its graduate training scheme and then progressed through that training to operations and then store management. I have managed stores in the Greater London area from Tesco Metro neighbourhood stores through to the larger supermarkets and then the largest, Tesco Extra, stores.

11. I have held the position of DPS at stores I have managed and have had responsibility for ensuring, amongst other things, the staff working in these stores were trained in and understood the responsibilities they had in the display and sale of alcohol. I am aware of my duties under the Licensing Act 2003 in relation to the responsible retailing of alcohol.

12. I have also appraised myself of issues relating to alcohol off-sales in this part of Islington that may impact on the licensing objectives (prevention of crime and disorder and public nuisance, public safety and prevention of harm to children) and referred to in Islington's Statement of Licensing Policy 2018-2022.

13. In addition we have commissioned an independent expert report from Mr Andrew Bamber (a former Borough Commander in the Metropolitan Police and Assistant Director of Safer Communities for a London Borough) to inspect and scrutinise our operations and opine on the likely impact of our store on the Angel and Upper Street cumulative impact area and issues relating to off-sales of alcohol in the locality.

Amazon Fresh Store & "Just Walk Out" technology

14. Amazon Fresh is a new grocery convenience store business that was launched by Amazon in the UK in 2021. The UK stores have been operating well to date. They have quickly proven themselves to be a welcome addition to the choices available to local residents, busy workers and visitors alike. A selection of customer reviews and local news articles will be included in the supporting evidence bundle presented to the sub-committee.

15. To date, no significant issues impacting on the licensing objectives have arisen at any of the Amazon Fresh stores. We have longer experience of successfully operating similar stores in the US since 2018, where we now have 22 Amazon Go and Amazon Go Grocery stores, similar to our UK Amazon Fresh stores.

16. The full range of products that will be available to purchase would be those you would expect in a grocery convenience store including meat, poultry, fish, dairy products, vegetables, breakfast goods and prepared meals. Our focus is on high-quality popular products. (We do not sell tobacco products).

17. Should this licence be granted, the Islington store would be among the first handful of locations in the UK to use Amazon's "Just Walk Out" technology. This technology is designed to give customers a convenient and frictionless shopping experience. It also means that customers will never have to queue to pay at a checkout or even use self-service checkouts. This, in turn, means our customers have more time to do other, more valuable, things in their busy lives than simply shopping.

18. It is not necessary to pay a fee to shop at an Amazon Fresh store but in order to shop at the store the customer requires a smart phone, an Amazon account and a valid payment card associated with that account in order to pay for the goods that customer selects. To gain access to the store customers scan a QR code associated with their Amazon account to enter the gates at the store entrance. There is no access to our store to customers who are not either Amazon account holders or their guests.

19. Although the store will offer a frictionless shopping experience, this does not mean the store has a lack of human supervision. The premises will be staffed by a team of associates to ensure that customers are supported throughout their shopping

journey. Associates will also ensure that the store is appropriately stocked and presented, and prepare food.

20. Importantly, associates will also control entry to the sectioned off alcohol area (on which see below). There will always be a member of management or a lead operator on duty to provide support to associates and to assist customers and, if required, the authorities.

21. When a customer takes something off the shelf, it is added to their virtual cart. When the customer puts the item back on the shelf it comes out of their virtual cart. After they leave the store, the payment card associated with the customer's Amazon account is charged.

22. This means that, uniquely for supermarkets and convenience stores, all of our customers are existing account holders. Guests of customers are individually scanned in by the accompanying account holder. Additionally, prominently placed CCTV cameras discourage shoplifting or anti-social or drunken behaviour. Because of our operating model, and based on our global experience of running such stores in other countries, the likelihood of these issues arising is, we believe, considerably less in our stores than in those operated by other major companies.

The alcohol area

23. The application has been made because Amazon seeks to offer a curated range of alcohol from the area in the store defined in the application (by way of red hatching). The alcohol would be restricted to that area which would have the

capacity to be closed off by a barrier if the store was open for a longer period than it was licensed to sell alcohol. The alcohol area is positioned away from the store entrance. The supporting bundle includes photographs of a similar alcohol area in another UK Amazon Fresh store.

24. As with all of our other UK stores, the floor space for alcohol sales will be less than 10% of total retail floor space.

25. Amazon will apply "Challenge 25" age-verification procedures in relation to alcohol. It will have in place a trained member of staff (known as an "associate") who would monitor the entrance to the alcohol display area and will request photographic identification of any customers seeking to enter the alcohol area who appear to be under the age of 25 in order to seek proof that they are over the age of 18 and therefore legally entitled to purchase alcohol.

26. Significantly, there will always be an associate supervising the alcohol area during the period alcohol is available for sale.

27. The associates are linked by a communication device and so if any of them require assistance, from management on duty or from colleagues, they can speak with colleagues to request that assistance without leaving the alcohol display area.

28. Customers who appear to be under the age of 25 but cannot prove they are 18 or over will be refused entry to the alcohol display area. Such refusals will be recorded and retained. The associate staffing the alcohol display area will also monitor customers for signs of intoxication to ensure those who were intoxicated do not

attempt to purchase alcohol. This is an additional safeguard on top of the need for all our customers to associate themselves with an Amazon account before gaining entry to the main store in the first place.

29. The store will also have a separate CCTV system that monitors and complies with the conditions agreed with the Metropolitan Police. Notices advising of this system would be displayed at the store.

Staffing and Training

30. Staffing levels would be planned in advance based on how busy the store is and how much support is required in store. At all times there will be a senior staff member on duty.

31. Staff are trained before they can commence their duties. They will undertake on-line instruction and will also be given practical training by a member of management to help them understand their role. This will include their responsibilities under the terms of any Premises Licence granted.

32. It would be my role to ensure that these steps are taken in this store as well as to liaise with management and frequently visiting the store to monitor compliance.

33. I intend to appear at the hearing of this application in order to assist the licensing sub-committee Members with any question they may have.

Statement of Truth

34. I confirm that I have read the contents of this statement and am happy they are true to the best of my knowledge and belief.

Dated...20.04.2021.....

Signed...Electronically signed for D Walters.....

In the matter of a Licensing Application for a Premises Licence for premises at:
The Mall, 359 Upper Street, Islington.

Documents referred to in the statement of David Walters

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BRITISH OVERSEAS BANK NOMINEES LIMITED

Company number **00220905**

Registered office address
250 Bishopsgate, London, England, EC2M 4AA

Company status
Active

Company type
Private limited Company

Incorporated on
2 April 1927

Accounts

Next accounts made up to **31 December 2020**
due by **30 September 2021**

Last accounts made up to **31 December 2019**

Confirmation statement

Next statement date **6 July 2021**
due by **20 July 2021**

Last statement dated **6 July 2020**

Nature of business (SIC)

- 74990 - Non-trading company

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W G T C NOMINEES LIMITED

Company number **01255218**

Registered office address

250 Bishopsgate, London, England, EC2M 4AA

Company status

Active

Company type

Private limited Company

Incorporated on

20 April 1976

Accounts

Next accounts made up to **31 December 2020**
due by **30 September 2021**

Last accounts made up to **31 December 2019**

Confirmation statement

Next statement date **10 September 2021**
due by **24 September 2021**

Last statement dated **10 September 2020**

Nature of business (SIC)

- 74990 - Non-trading company

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AMAZON UK SERVICES LTD.

Company number **03223028**

Registered office address

1 Principal Place, Worship Street, London, EC2A 2FA

Company status

Active

Company type

Private limited Company

Incorporated on

10 July 1996

Accounts

Next accounts made up to **31 December 2020**
due by **30 September 2021**

Last accounts made up to **31 December 2019**

Confirmation statement

Next statement date **10 July 2021**
due by **24 July 2021**

Last statement dated **10 July 2020**

Nature of business (SIC)

- 82990 - Other business support service activities not elsewhere classified

Previous company names

Name	Period
AMAZON.CO.UK LTD.	01 Oct 1998 - 03 Aug 2015
BOOKPAGES LIMITED	10 Jul 1996 - 01 Oct 1998

In the matter of a Licensing Application for a Premises Licence for premises at:
The Mall, 359 Upper Street, Islington.

Enclosure 4

In the matter of a Licensing Application for a Premises Licence for premises at:
The Mall, 359 Upper Street, Islington.

Expert Witness Report prepared by Andrew Bamber

Executive Summary

I have risk assessed the application for a premises licence by Amazon Fresh who wish to open a local grocery store in Upper Street, Islington. The assessment considers any potential adverse impact on the licensing objectives and cumulative impact should the application be granted.

I conducted unannounced visits to 2 Amazon Fresh stores that are already operating in cumulative impact areas. On a separate visit I interviewed one of the store managers responsible for one of the stores that I visited and interviewed a store assistant who supervises the alcohol section.

I found the management structure and leadership at the store to be of a very high standard.

The training given to staff, as it relates to the sale of alcohol and Challenge 25, was comprehensive and staff have to pass a training module to be able to supervise the alcohol section of the store.

The alcohol area is permanently supervised even when it is not open, and it has a gate to close the area off from the rest of the store.

The member of staff that I interviewed, without any prior notification, was very well informed and competently answered a range of questions and scenario's that I posed for her.

The use of technology to create a frictionless shopping experience for customers has an added benefit of being a crime reduction/nuisance reduction tool.

There is a gating system at the entrance to the store that presents a visual and physical barrier to entry. Unlike other convenience stores that sell alcohol. You cannot just walk in and wander around the store.

The entrance is supervised by a member of staff to assist customers. This member of staff and the impactful image of a hard barrier at the entrance to the store along with the requirement to have the Amazon App on a mobile device, obtain a 'QR' code on the app before entering, and have an active and viable account with the company to electronically open the gates effectively prevents most, if not all, street drinkers from even entering the store. This is unlike other high street convenience stores, petrol stations etc. where people can just walk in unchallenged.

Alongside this there will be no sales of beers, ales, lagers or ciders of 6.5% ABV or above, save for premium products agreed with police. This with the absence of tobacco products is also another positive move that will I'm sure discourage nuisance drinkers from entering the store. It will inevitably be easier to go to a store accepting cash and buy both alcohol and tobacco in one purchase.

These processes and policies will undoubtedly deter those people that live in the cash only economy and they will find it easier to avoid the store and go elsewhere.

Having risk assessed the application and the operating environment proposed by Amazon Fresh I am confident that the store will not negatively impact upon the 4 licensing objectives, add to the cumulative impact area of Angel and Upper Street or the cumulative effect of off sales on the licensing objectives.

1. Introduction

2. I have been asked by David Crank of DWF to risk assess the application for 'Off Sales' by Amazon Fresh who are proposing to open a new local grocery outlet in Upper Street, Islington. I consider, in particular, any potential adverse impact on the licensing objectives and cumulative impact should this application for a premises licence be granted.
3. My assessment is completely independent of my instructing solicitor and owner of the venue. I have no personal involvement with any business or resident in the area and I have had no prior contact with any employee of Amazon.
4. I am able to evaluate the evidence submitted for the review based upon my considerable experience and qualifications.

I have attached my personal summary at appendix (1). In brief I have been

- A licensing observation officer.
- A divisional licensing Inspector in a busy and challenging London Borough.
- The operations manager for the central London Clubs and Vice unit.
- A Detective Chief Inspector managing divisional crime investigations.
- A senior investigating Officer.
- A Detective Superintendent managing and investigating police complaints and corruption investigations.
- A Borough Commander on 2 London Boroughs responsible for developing and delivering local policing plans that include the night-time economy challenges.
- As an Assistant Director, for 10 years, on a semi-inner London Borough I was responsible for the Safer Communities portfolio that included the development and delivery of the Partnership Community Safety Strategy. I was directly responsible for the Licensing function, licensing reviews and the respective case management, and policy development relating to the night-

time economy. This included the enforcement services and enforcement policies, problem solving local crime and ASB hotspots, and the development and management of Licensing policies.

5. I acknowledge that as an expert witness my primary duty is to the Court and Licensing Sub-Committee. All facts identified in this report are true to the best of my knowledge and experience. They were either witnessed or experienced by me personally or relayed to me in good faith and appear to be credible and reliable.
6. The opinions I have expressed within in this report are honestly held and correct to the best of my judgement and belief. My fee for preparing this report is not conditional on the opinions I have stated within or the eventual outcome of the case.
7. Prior to my assessment I was provided with:
 - Premises Licence application
 - Location photographs
 - A document containing representations.
 - Various email correspondence
8. In addition to the documents supplied to me I undertook the following:
 - Read the Islington Council Statement of Licensing Policy with particular attention to
 - Cumulative impact policy areas, Licensing Policy 3 (LP3)
 - Off sales of Alcohol from shops and other premises, Licensing Policy 4 (LP4)
 - Licensing Hours, Licensing policy 5 (LP5 and 6).
 - Conducted unannounced visits to the Ealing and Wembley branches of Amazon Fresh to purchase alcohol and assess the entry system and alcohol areas.
 - At a later date met the manager of the Ealing branch to cover the entry process, staff training, and the sale of alcohol process.

9. Visits

10. On Tuesday the 14th April I conducted unannounced visits to the Ealing and Wembley branches of Amazon Fresh.
11. Both stores were almost identical in their layout. They are small convenience/grocery stores that appear to have been designed specifically for the high street environment.
12. The locations and appearance of the stores gave every appearance that the purpose was to cater for local residents. There was an area for freshly brewed coffee, ready-made meals, a delicatessen area, fresh groceries, fish, meats, canned and bagged foods, and soft drinks. At the rear of each store was a very small area set aside for alcohol.
13. The shops were exceptionally well appointed and very well illuminated. The frontage of the stores was entirely of glass. Every aspect of the store was clearly visible from the street and there was a clear view of the area set aside for the sale of alcohol. The entire frontage offered excellent surveillance of the inside of the store.
14. The environment appeared to be a key theme in each store with no plastic bags with recycling high on the agenda. I gained the impression that the quality of the environment inside and immediately outside the store is of paramount importance.
15. There was ample staff at both locations, and I gained the impression that because no checkout tills had to be staffed all of the store employees were able to monitor the entrance, the food display areas, and a dedicated member of staff in the alcohol area.
16. Unlike any other convenience store or supermarket there was an electronic barrier and gating system at the entrance managed by a member of staff. You could not just wander into the store due to these control mechanisms. This gating system

clearly signalled that you have to have an active Amazon account to enter the store. You could not just wander in as you would in a traditional convenience store.

17. I felt that the array of green and red lights at the barriers depicting entry and exit, along with the member of staff standing beside the barrier gates was very effective and gave the appearance of a crime reduction/deterrent initiative.
18. The entrance is supervised by a member of staff to assist customers. This member of staff and the impactive image of a hard barrier at the entrance to the store along with the requirement to have the Amazon App on a mobile device, obtain a 'QR' code on the app before entering, and have an active and viable account with the company to electronically open the gates effectively prevents most, if not all, street drinkers from even entering the store. This is unlike other high street convenience stores, petrol stations etc. where people can just walk in unchallenged.
19. Aside from the entrance mechanics and account requirements the alcohol controls inside the store will also significantly reduces the attempts of underage drinking.

20. Ealing visit

21. I arrived outside the Ealing store located at 59 The Broadway, Ealing at about 7.40pm. As I walked past the store, I noticed a member of staff clearing street rubbish from the footway and in the entrance to the store a member of staff stood by an electronic gating system that allowed people to enter the store if they had the required technology and account to enter.
22. The store is quite small and was exceptionally well illuminated, and the glass frontage afforded excellent surveillance into the store itself. There were 5 staff who were easily identifiable in their distinctive Amazon Fresh uniforms. From the footway I could see to the rear of the store where there was an area set aside for alcohol. At the entrance to this area a member of staff stood by a small counter.

23. I crossed the road and watched the store for some 15 minutes. Every time a customer approached the store they slowed and took out their phone. They paused for a short while before stepping forward to an electronic gating system and offering their phone to a monitor. As they did this the gate opened and they entered the store. As I watched, the member of staff at the entrance to the store and the member of staff in the alcohol area did not move from their positions.
24. At about 8pm I walked to the entrance to the store and stood by the gating system. I was watched by the door security as I took out my phone. I opened my Amazon App on the phone and requested an entry 'QR' code. I have an active and valid Amazon account. My account supplied me with the 'QR' code, and I stepped forward offering the screen of my phone to a reader beside the gate with the 'QR' code displayed. The gates opened and I entered the store. The process was similar to the entry systems used to enter train platforms and airport gating systems.
25. As I observed, I noticed 4 members of staff in the relatively small store. Two were tending to shelves, one was monitoring the aisles, and one stood permanently at the entrance to the alcohol area. One member of staff appeared to have left the shop floor area.
26. I selected some food items then moved to the alcohol area. The entrance was narrow and essentially blocked by the member of staff supervising the area. He stood by a small counter where he appeared to be documenting something. As I approached, he had to step to one side to allow me to enter the closed off area.
27. The area was not particularly large, some 5 meters by 2.5 meters with shelving on each side. Bottles and cans of alcohol were on display with the appropriate pricing clearly displayed. There was also signage that related to the sale of alcohol and Challenge 25.
28. There was just the 2 of us in the alcohol area and I said, "This is a strange first experience, just taking items and walking out". He laughed and said, "And I'm

watching you". We both laughed and I left with a bottle of beer and then walked to the barrier system at the front of the store. The barrier system opened automatically, and I left the store.

29. Throughout the time that I spent watching the store and shopping, the entrance gating system and the alcohol area were permanently supervised.

30. Wembley visit

31. I then drove to Wembley to the store located in Wembley Park Boulevard. I arrived outside the store at about 9pm. The store is located within a new large scale residential and commercial development around Wembley Stadium.

32. The area was quiet, as was the store. The design and layout of the store was almost identical to that of the Ealing branch.

33. The frontage was almost all glass and afforded an excellent view into the shop. The gated entry system was supervised by a member of staff who was dressed in the same distinctive Amazon Fresh uniform. I could also clearly see the alcohol area at the rear of the store.

34. I again opened my Amazon app, opening a 'QR' code and offered my code on the phone to the reader. All of the time I was being watched by the member of security who stood beside the gates.

35. As with Ealing I walked around the store selecting a number of items before moving toward the alcohol area.

36. I noticed that there were 5 members of staff working in the shop area. From personal experience I noticed that there were more staff supervising the product area than in traditional stores where staff tend to sit behind counters or at tills.

37. As I walked towards the alcohol area it appeared to be closed because a solid grey was gate effectively closing off the area. Beside the alcohol area was a member of staff tending to product arrangement on shelving.

38. I stood next to him and said, 'Oh you're closed, and I wanted to buy a drink'. He stepped forward and said, 'No its OK we are open. I was doing something; I closed the gate to do something'. He then stepped forward and opened the gate so that I could enter the section to select a drink. While I walked around the small drinks section the assistant stood by the entrance watching me until I had selected my drink. As I walked out he stepped aside and again closed the area as I walked away to leave the store.

39. Meeting with Ealing branch manager.

40. I met with the manager on the afternoon of the 15th April to discuss the process of entry into the store and the sale of alcohol given that there is no formal checkout procedure where in traditional stores the till operator will check the age of any person purchasing alcohol.

41. We walked around the store and stood at the entrance. The manager explained that the entrance to the alcohol section is permanently supervised by a member of staff from the opening time of the store at 7am through to 11pm, even though the alcohol section does not open until 8am.

42. The entrance gates to the store are always in the closed position and if any person wishes to enter the store they need to be in possession of a mobile phone or similar device, have the Amazon app, obtained a 'QR' code and have a valid and active account with Amazon. If the person does not have an active account, they will not have access to a 'QR' code and as a consequence will not be able to enter the store.

43. There is no other way to enter the store as a customer.

44. The frictionless shopping experience was explained and when we then moved to the alcohol section where I asked for the sales procedure to be explained to me.
45. The small alcohol area at the rear of the store was being supervised by an assistant wearing corporate clothing and easily identifiable as a member of staff. The manager introduced us and asked the assistant to explain her role and how the area was managed.
46. The assistant explained that at the moment she was the assistant covering the area. It was a fixed position and that she monitored everything in the alcohol area. I asked her a number of questions about the role and how she was supposed to react in a number of circumstances.
47. She was very clear about her role, and that the area was never to be left unsupervised. She understood challenge 25 and the licensing requirements. She highlighted the signage and easily answered a series of issues that I posed for her.
48. The manager explained that the alcohol area was permanently staffed from the minute the store opens at 7am even though the alcohol licence operates from 8am.
49. He then covered the general staffing levels at his store. He explained that there would be more staff in the morning dealing with deliveries, stacking shelves and supervising the store as well as supervising the entrance and alcohol areas. In the evening there would be slightly less staff supervising the store.
50. He explained that he had been in a similar role in the same industry managing high street convenience stores. He highlighted that because there were no tills to manage, he had more staff to supervise the store as a whole.
51. In his office he opened up his computer to explain the online staff training. The manager explained that the training includes alcohol sales. Each member of staff

has to complete the training and the manager is notified electronically when the 12-month refresher training is due and whether it has been completed.

52. Representations.

53. I note that the Metropolitan Police have not raised any concerns about the store opening in a cumulative impact area. Their view appears to be that the presence of an Amazon Fresh convenience store will not negatively impact upon the area or on any of the 4 Licensing Objectives.

54. I have grouped the list of representations into the following grid and address the concerns in the paragraphs following the grid.

Identifier	Concern	Comments
Licensing Authority	Identity of applicant	The applicant has now disclosed that the company wishing to open a grocery/convenience store in Upper Street is Amazon. A line called 'Amazon Fresh'. The concerns about management standards, alcohol induced crime, disorder, anti-social behaviour, cumulative impact, and shops selling off sales are covered in some detail in the following paragraphs.
	Location, Cumulative impact and saturation	
	Shops selling alcohol	
	Management Standards	
	Alcohol induced Crime, Disorder and Antisocial Behaviour	
Councillor	Operator not identified in the application	The applicant has now been identified as Amazon who wish to open a new line of grocery/convenience stores in a High Street environment.
Residents x 3	Public nuisance	The 3 representations appear to be identical as if copied and signed separately.
	Crime and disorder	
	Protection of children	
Resident	Noise	See following paragraphs
	Street drinking	
	Blocking of pavement	
	Closing time	

Resident	Restaurant/bar	The application is not for a bar or restaurant.
	Noise	
	Anti-social behaviour	The aspects of noise and anti-social behaviour are covered in detail in the following paragraphs.

55. Identity of the applicant

56. Both the representation from the licensing authority and the Councillor express concerns over the identity of the applicant.

57. This issue now appears to have been resolved with Amazon being identified as the company wishing to open a local grocery/convenience store in Upper Street, Islington, branded as Amazon Fresh and catering principally for local residents and people who work in the locality.

58. Management Standards

59. Amazon is a global company that has been described as the world’s most valuable brand. My only interface with a very small part of the management was during my second visit to the Ealing branch of Amazon Fresh on the afternoon of the 15th April 2021.

60. I was impressed with the style and layout of the venue. The manager was clearly a very experienced individual who allowed me to question a member of staff about their responsibilities and the sale of alcohol. The assistant knew how the store operated and their individual role in respect of the company’s alcohol policy and the consequences for not adhering to the policy.

61. The company are currently operating 3 stores in London and are working with 3 separate Licensing Authorities.

62. Training

63. I was given access to the company's alcohol policy training programme which is an online module. Each employee has to complete the training before being allowed to supervise the area set aside for the sale of alcohol. The training has to be refreshed every 12 months. The manager is informed electronically when the training is due for each individual and if it has been completed to the required standard.

64. The alcohol training policy explains:

- That staff cannot work in the alcohol area unless they have satisfactorily completed the training.
- The Challenge 25 signage.
- What Challenge 25 is.
- The consequences of failing to follow the alcohol policy for the company and the individual.
- The identification requirements for people who appear to be under 25.
- When to refuse alcohol sales, including age disqualification and also demeanour.
- The training explains the types of identification required before a sale can take place and the types of errors staff can make when checking identification.
- Photographic examples of people's appearance are also given to highlight how age and appearances can be deceptive.
- That people should be refused entry into the alcohol section if all the elements of the identification process are not met.
- The training includes people who are intoxicated and those trying to make third party purchases.
- There is an incident log to record all refused sales.
- At the end of the training module there is a quiz asking a range of training issues that must be passed.

65. Licensing Objectives

66. Having visited 2 stores that have been opened in other Licensing Authorities in semi-inner London Boroughs I can confirm that the corporate policies, management standards, and training of staff are all completely consistent with upholding all 4 licensing objectives. The same standards will apply to the store in Islington if the licence is granted.
67. It is interesting to note that both the stores that I visited are trading in cumulative impact areas and that they have passed the stringent licensing authority tests in the respective Boroughs.
68. The trading structure of the store, the physical barriers, and the policies and training of staff have, in my view, a very positive impact on preventing and deterring any negative impact upon the 4 licensing objectives and the cumulative impact in the area.
69. Many small independent grocery/convenience stores that operate as 'off licences' tend to have one person present in the store. Spirits are behind the serving counter while beers and wines are stacked on shelves without a dedicated assistant supervising the area. There tends to be little to no supervision throughout the store.
70. Petrol stations that operate as grocery/convenience store with an off licence tend to operate in a similar way.
71. Other well-known supermarket chains in the high street environment operate similarly with some having a visible member of security at the entrance.
72. In each of these cases people are free to wander into the store and they are relatively unchecked or challenged.

73. However, Amazon Fresh and the use of technology to create a frictionless shopping experience has, in my view, also created a potential and significant crime/nuisance reduction tool.
74. Instead of the open door 'walk in' environment there is a very visual and physical barrier to entry and the gating system is supervised by a member of staff to help customers. This creates and indicates that there are conditions to entering the venue. You cannot just wander into the store.
75. To enter the venue customers must physically have a mobile device with the Amazon App. In addition, the individual must have an Amazon account with an active and viable debit/credit card that then enables the activation of a 'QR' code. This frictionless process for those people with Amazon accounts also acts as a barrier to entry for those people who may be street drinkers and who live life without access to mobile devices and banking facilities.
76. In my opinion the use of tobacco and alcohol tend to be linked during episodes of street drinking and general nuisance drinking events, so it is also interesting to note that the store does not sell tobacco products.
77. In addition to the high management standards, technology innovation, and training as part of the company's building blocks for a competitive advantage, the operating schedule for the store ensures that the alcohol policy of the company does not damage its reputation and brand.
78. In addition to the above the operating schedule includes:

79. Prevention of crime and disorder

- The store proposes to operate to the core hours for off licences specified in the statement of licensing policy.
- The alcohol section is gated off from the rest of the store.
- The section is permanently staffed, even outside licensing hours.

- Challenge 25 applies to the sale of alcohol.
- All staff have been trained and understand the company alcohol policy.
- At all times that alcohol is being sold from the premises there will be either a Personal Licence Holder or a senior trained member of the management staff on duty and capable of being identified by other staff members.
- Training records are kept and updated every twelve months and shall, upon request, be made immediately available to Officers of the Police and the Council in either written or electronic form.
- CCTV systems will be installed at the premises and will cover the area of the premises that the public have access to with the ability to capture a clear facial image of every person who enters the premises. The images will be retained for a minimum of 30 days and will be made available to the authorities on request subject to compliance with data protection legislation. Signs will be displayed in the customer areas to advise that CCTV is in operation.
- The Premises Licence Holder will not sell super strength beer, lager or cider with an alcohol content above 6.5% abv.
- An incident log will be kept and made available to the authorities on request, which will record; (a) All crimes reported to the premises; (b) Any incidents of disorder (c) Any visit by a relevant authority or emergency service.
- A refusals log will be maintained in the alcohol area.
- No persons carrying visibly open alcohol vessels shall be admitted to the premises at any time that the premises are open for any licensable activity.
- Alcohol sales shall be sold or supplied in a sealed container for consumption off the premises

8o. Prevention of public nuisance

- Where the supply of alcohol includes delivery to the customer, the licence holder shall ensure that specific procedures are in place and that the activity does not cause nuisance at or near the premises and no deliveries will be before 09.00 or after 21.00.

- The Challenge 25 policy will apply to deliveries.
- Notices shall be prominently displayed at each exit from the premises asking customers to be considerate to the premises neighbours when leaving.
- The area outside the premises shall be regularly checked during the use of the licence and any litter attributable to the premises cleared.

81. Public safety

82. The store will ensure that there are current Health and Safety risk assessments and policies along with a Fire Risk Assessment.

83. Protection of children from harm

- The premises will apply Challenge 25 as the age verification policy. Where a person appears to be under the age of 25 identification in the form of a passport, photo driving licence or other recognised forms of age verification will be sought and if not provided, the purchase of alcohol will be refused.
- Signage will be displayed in prominent positions around the premises advising customers of the proof of age policy in force at the premises.
- A refusals book (electronic or hardcopy) should be kept at the premises to record details of all refusals to sell alcohol. This book shall contain the date and time of the incident, a description of the customer, the name of the staff member who refused the sale and the reason the sale was refused. This record should be made available to Police and authorised Council Officers on request.
- Designated Premises supervisor shall regularly check the refusals book to ensure it is being consistently used by all staff.

84. Cumulative impact

85. This application sits within 2 of the councils' cumulative impact policies that are of concern for the Licensing Authority. One is the geographical cumulative impact area of the Angel and Upper Street, the other is the cumulative impact in relation to shops and other premises selling alcohol for consumption off the premises.
86. Whilst the area based cumulative impact policy states that successful operations in other licensing areas is not part of the assessment criteria it is worth noting that the 2 stores that I visited were operating in cumulative impact areas without problems.
87. The application is for off sales. The store is not a bar, club or other type of vertical drinking establishment that brings with it the inherent problems of alcohol consumption.
88. Having visited 2 other stores that are very similar to the Islington proposal it is clear that significant care has been taken in the design of the outlet, the training of staff, a responsible alcohol policy, and the innovative use of technology that gives it, in my opinion, an attractive and unique appeal for the prevention of crime/disorder and public nuisance.
89. The store is designed for the high street and grocery convenience shopping for local residents and the operating schedule is built to protect local residents from crime and nuisance.
90. The uniqueness of the store is in the use of technology to create a frictionless experience for the local resident. QR code technology is in use on the rail network and in airports so that it only allows people to enter if they have a pass to travel. This use of this QR code technology will also, in my opinion, have a very positive impact upon the 4 licensing objectives and act as a deterrent or preventative measure against crime and public nuisance.
91. I have previously described the process that customers have to go through to enter the store, the physical and illuminated barriers, the technology, the requirement for

a debit/credit card, and the staffing. In addition to the entry controls the small and gated alcohol area that is permanently staffed with trained assistants to monitor people and sales will also have a crime and nuisance reduction impact.

92. Alongside this there will be no sales of beers, ales, lagers or ciders of 6.5% ABV or above, save for premium products agreed with police. This with the absence of tobacco products is also another positive move that will I'm sure discourage nuisance drinkers from entering the store. It will inevitably be easier to go to a store accepting cash and buy both alcohol and tobacco in one purchase.
93. Having risk assessed the application and the operating environment proposed by Amazon Fresh I am confident that the store will not negatively impact upon the 4 licensing objectives, add to the cumulative impact area of Angel and Upper Street or the cumulative effect of off sales on the licensing objectives.

Ramber

April 2021

Appendix 1

Personal summary

I retired from the Metropolitan Police in January 2007 having served 34 years of exemplary service. Throughout my service I have been regularly involved in the enforcement, management, and development of licensing initiatives and policies. I retired as a Borough Commander.

As a constable I worked as an undercover officer detecting offences in late night licensed premises in central and west London. As an Inspector I was the licensing Inspector for a very busy inner London policing division.

Whilst working as a Chief Inspector I was the operations manager in the central London Clubs and Vice unit from 1990-1996. As part of this role I had responsibility for late night licensing in Westminster and I supported other London boroughs as appropriate. During this period, I managed both covert and overt police operations on behalf of the police and the local authority to ensure compliance with the legislation and to prosecute breaches where necessary. The overt licensing visits were structured in a way that ensured that all premises operating with late night licences received at least 4 visits a year from a joint licensing team of police officers and local authority officers. It was during this period that I was involved in the development of the initial licensed door supervisors' scheme, commissioned by Westminster City Council, which was implemented and managed by myself within the Clubs and Vice unit. During the same period, I researched, with a local authority counterpart, the potential for the introduction of 'Lap Dancing' clubs in Westminster. The work resulted in the introduction of 'lap dancing' establishments in the borough. The initiative and the supervision of the licence was then monitored covertly and overtly by officers under my direction.

As a Borough Commander on 2 London boroughs, between 2001 and the beginning of 2007 (January), I worked with both local authorities to develop the respective licensing and enforcement policies. The work with the Local Authority formed a significant part of Community Safety and local policing plans. With the introduction of

the new Licensing Act 2003 I oversaw the transfer of responsibilities to the local authority and was instrumental in setting up a joint licensing team for a busy inner London borough.

In 2007 having retired from the police I was employed by an inner London Local Authority as an Assistant Director for Safer Communities. I held this post for 10 years.

As the Assistant Director I had responsibility for crime reduction strategies and the enforcement functions for the authority. These included the Licensing, Trading Standards, and the Environmental Health Teams (including noise). My work involved comprehensive partnership working with all agencies involved in the crime reduction partnership, problem solving local hotspots and environmental audits with the associated action plans.

During the 10 years that I spent with the authority I worked closely with the local policing teams to ensure that licensed premises were effectively supervised and managed in line with local initiatives and the borough licensing and enforcement policies.

As the principal officer for licensing in the local authority I worked closely with local community groups, ward councillors, and members of the licensing committee to develop knowledge and understanding of local enforcement policies and crime and disorder initiatives linked to drugs and alcohol. The work included the supervision of licensed premises, the management of the licensing objectives and working with legal services to take appropriate and proportionate action where necessary.

I was responsible for delivering a structured approach to licensing management, supervision, and enforcement, the council's community safety plan, the enforcement policy, and licensing policy. My role also included the consultation, development, and delivery of the boroughs' controlled drinking zone, cumulative impact zone, Sexual Entertainment Venues, late night levy, early morning restriction orders, Best Bar None, and alcohol treatment programmes. I was the Authorising Officer for all covert surveillance, under the Regulation of Investigatory Powers Act.

On my retirement from Local Government I set up my own compliance consultancy and offer independent advice, compliance audits, and risk assessments for licensed

premises. I have given evidence at licensing hearings/reviews, and appeals on behalf of the Metropolitan Police, Local Authorities and individual premises in each of my respective roles.

I have a master's degree in business administration, I am a member of the Institute of Licensing, and I have personal alcohol licence. I have also been trained in Strategic Emergency and Crisis Management (Cabinet Office EPC), Emergency Control Management (Cabinet Office EPC), Gold Support London Emergency Planning (LLAG), and I was a qualified Authorising Officer for Covert surveillance in both the police and Local Authority.

In the matter of a Licensing Application for a Premises Licence for premises at:
The Mall, 359 Upper Street, Islington.

Enclosure 5

C/M/S/

Law. Tax

13:54

Formula B (as amended)

T. Simpson/S. Woolmer

DATE: 26 June 2020

**AGREEMENT FOR LEASE RELATING TO PREMISES KNOWN AS THE MALL, 359
UPPER STREET ISLINGTON LONDON
(PROPERTY NUMBER 12715)**

Between

BRITISH OVERSEAS BANK NOMINEES LIMITED AND WGTC NOMINEES LIMITED

and

AMAZON UK SERVICES LTD.

CMS Cameron McKenna Nabarro Olswang LLP

2 College Square

Anchor Road

Bristol BS1 5UE

T +44 20 7367 3000

F +44 20 7367 2000

cms.law

THIS AGREEMENT is made on 26 June

2020

BETWEEN:

- (1) **British Overseas Bank Nominees Limited** (Companies Registration Number 00220905) and **WGTC Nominees Limited** (Companies Registration Number 01255218) both of 250 Bishopsgate, London EC2M 4AA in their capacity as nominees for and on behalf of **NatWest Trustee and Depositary Services Limited** as depositary and not otherwise of the M&G Property Portfolio (together the “**Landlord**”); and
- (2) **Amazon UK Services Ltd.** (incorporated and registered in England and Wales under company registration number 03223028), the registered office of which is at 1 Principal Place, Worship Street, London, EC2A 2FA (the “**Tenant**”).

I. DEFINITIONS

In this Agreement:

“**Acceptable Planning Permission**”: has the meaning set out in Schedule 1;

“**Affiliate**”: a body corporate in which the Tenant or any Guarantor hold shares or other interests conferring the right to exercise 50% or more of the votes which could be cast on a poll at a general meeting of such body corporate;

“**Approved Planning Permission**”: means the Acceptable Planning Permission sought to be obtained by means of the Planning Application;

“**Building**”: means the building known as The Mall, 359 Upper Street, Islington situate within the Premises;

“**Tenant’s Works**”: means the works to be carried out by the Tenant as described in the Tenant’s Works Plans;

“**Tenant’s Works Plans**”: means the plans and specifications of the Tenant’s Works to be approved by the Landlord in accordance with clause 4;

“**CIL**”: means the potential tax or charge currently known as “community infrastructure levy” enacted under section 205 of the Planning Act 2008;

“**Commercial Rent Arrears Recovery**”: means the procedure by which a landlord can recover rent arrears due under a commercial lease from a tenant pursuant to the Tribunals, Courts and Enforcement Act 2007 (as amended, varied, supplemented or re-enacted from time to time);

“**Conditions Precedent**”: has the meaning set out in clause 3.1;

“**Conditions Precedent Long Stop Date**”: means the later of the following:

- (a) 31 December 2020; and
- (b) such later date as provided for in clause 12;

“**Existing Lease**”: means the lease of The Mall, 359 Upper Street, Islington, London dated 16 October 2009 and made between (1) Market Row Limited and (2) Jack Wills Limited;

“**Existing Tenant**”: means Sofa.com Ltd (company registration number 05222498);

Expert: means the independent chartered surveyor appointed in accordance with clause 11.1 of this Agreement;

In the matter of a Licensing Application for a Premises Licence for premises at:
The Mall, 359 Upper Street, Islington.

Enclosure 6

Link to video also sent separately;

https://www.amazon.co.uk/b/ref=cg_0433953_1a1_w?node=21962024031&pf_rd_m=A3P5ROKL5A1OLE&pf_rd_s=alm-storefront-desktop-reserved-2&pf_rd_r=WRP9ESYC0ZRV2AJYG2VD&pf_rd_t=0&pf_rd_p=e8d9b156-2b03-414a-8366-18d20dd29d44&pf_rd_i=FMCDummyValue

In the matter of a Licensing Application for a Premises Licence for premises at:
The Mall, 359 Upper Street, Islington.

Enclosure 7

amazon fresh

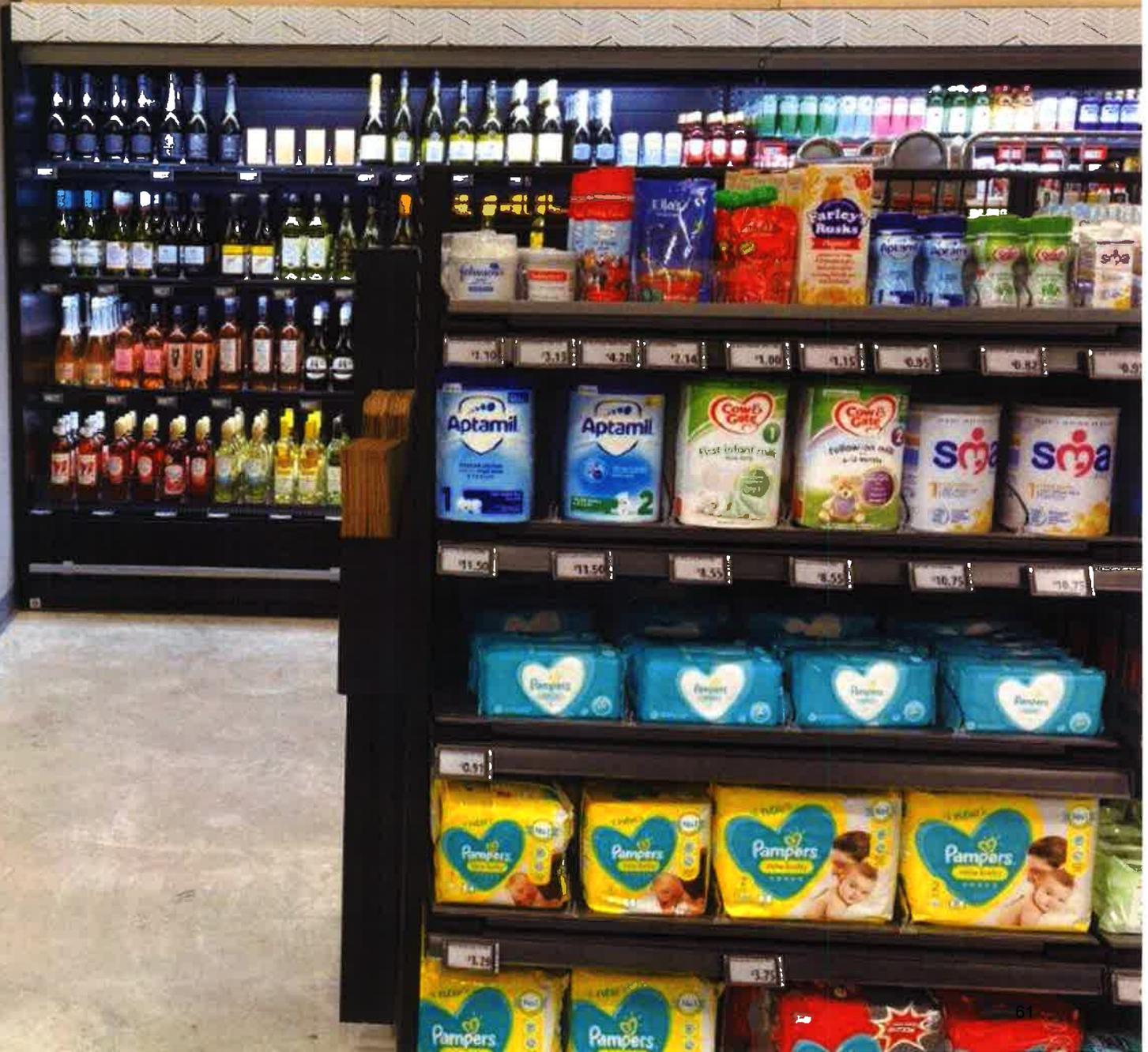
NO QUIETS, NO CHECKS,
NO WAITING
JUST WALK
OUT
SHOP

Store Hours

Mon-Fri: 7am-11pm
Saturday: 7am-11pm
Sunday: 7am-11pm

amazon fresh
Now OPEN

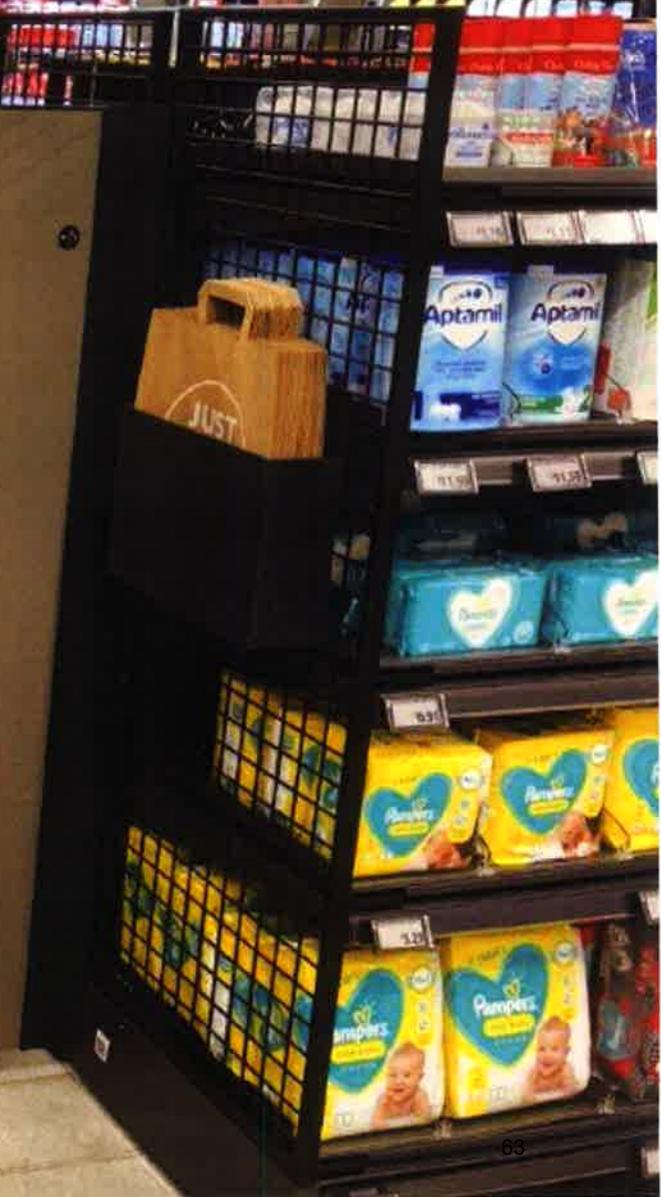
BEER, WINE & SPIRITS



BEER, WINE & SPIRITS



BEER, WINE & SPIRITS



In the matter of a Licensing Application for a Premises Licence for premises at:
The Mall, 359 Upper Street, Islington.

Enclosure 8

Video sent separately

In the matter of a Licensing Application for a Premises Licence for premises at:
The Mall, 359 Upper Street, Islington.

Enclosure 9



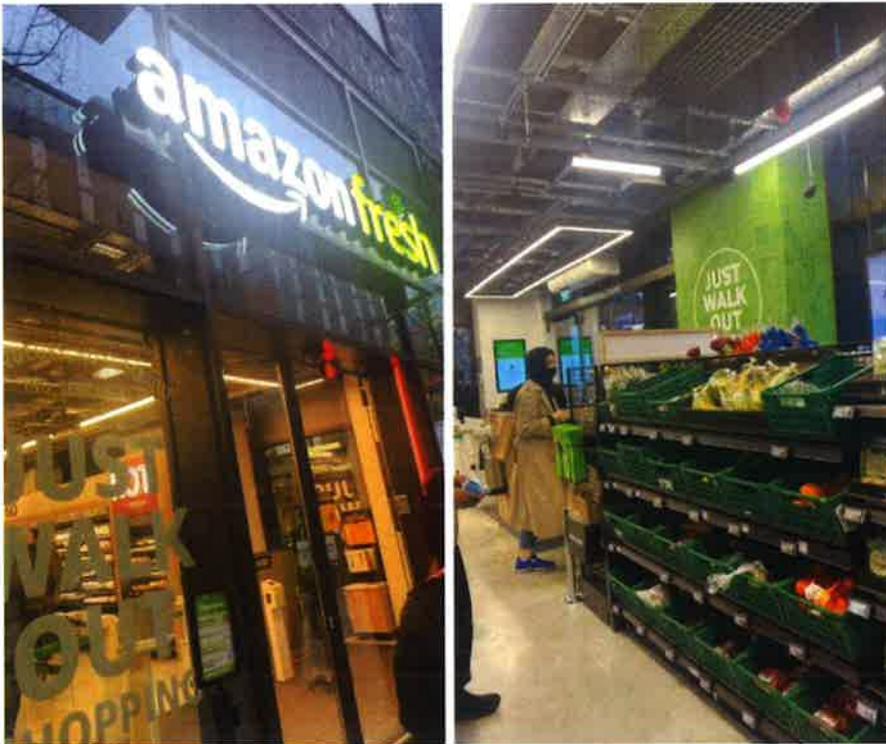
NEWS

18th March

What the shopping experience is like at Amazon Fresh in Wembley



By [Joseph Reaidi](#) | [@Reaidi_](#)
Reporter



We visited Amazon Fresh in Wembley

[f](#) [t](#) [in](#) [✉](#) [4 comments](#)

Shopping has never been more convenient, as the new Amazon Fresh store in Wembley feels like stepping into the future.



the venue to see what this can mean for shoppers in the area.

MOST READ

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Of course, the sceptic in me was curious on how streamline the process actually is in real life – but from my first visit Amazon Fresh managed to exceed expectations.

As with most places since Covid-19 struck the globe, I was met with a queue outside the new store, but fortunately it was only a matter of minutes until I was inside.



The short queue outside the store

A member of staff explained that you would need to be signed into your Amazon app, tap the basket icon and then click 'Fresh Code' to load up a QR code that grants you entry in the store.

- 1  [Harrow fish and chips shop named among the best in](#)
- 2  [Five jailed after vicious attack on off duty police officer](#)
- 3  [No, there isn't an escaped anaconda roaming Harrow, says RSPCA](#)
- 4  [Motorists facing restrictions due to roadworks](#)
- 5  [Five men arrested after fatal stabbing of 16-year-old boy](#)
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- 7  [Councillors to assess latest Kodak site development and town centre HMO](#)
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- 9  [Harrow's worst hygiene rated chicken shops – how do they compare to the rest of London?](#)
- 10  [Three players to be assessed ahead of trip to Luton](#)



The Just Walk Out technology – similar technology seen in self driving cars – is made up of cameras and sensors around the store that track what items are taken or returned to shelves, and logs the items in a virtual basket ^

Send your stories and photos now



An inside look at the store

In my attempt, I picked out some soft drinks and a few snacks – just to see what the experience was like.

And just like that, I was able to walk out with the items, without having to physically go to a till.

Part of me felt rebellious just walking out. After being conditioned for so long to line up for a till, or to make use of a self-checkout, it felt almost criminal that I skipped this stage.

I checked my phone later and saw it correctly tracked the items I brought outside, the total cost and how long I was in the store.

And a few hours later the cost was transacted from my bank.





An inside look at the store

It does leave the question on how truly accurate these sensors can be. Despite the advance in technology, it is hard to believe that sensors can truly take an accurate note of all the items I picked up. Will there ever be a case that I walk outside and I'm accused of having purchased a whole chicken when I just popped in for a can of Coke?

Amazon seems adamant that their technology will suffice and will accurately track what you've purchased. If there is a problem, a refund can be requested through the app or customer services can be contacted – and with so many cameras around the store, it'll be hard to scam the system.

As a person who thoroughly enjoys lounging at Boxpark Wembley or the odd-trip to the Wembley Outlet, I can definitely picture myself popping in the store quite often in a post-lockdown world.

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Amazon Fresh opens grocery store in Wembley Park

 Nathalie Raffray



Published: 12:29 PM March 22, 2021



A second Amazon Fresh grocery store has opened in Wembley Park - Credit: Amazon

The UK's second walk-in Amazon grocery store has opened in Wembley Park.

Online giant Amazon opened an Amazon Fresh store in Wembley Park Boulevard on March 16.



and go without checking out.

Customers simply use the Amazon app to enter and can put their phone away and shop for what they need, bagging items as they go.

Customers can then just walk out, no stopping to stand in a queue to check out.

You may also want to watch:

Amazon opens UK store without tills

Amazon has opened its first grocery store on the UK high street, with customers a...

Watch more local videos here



Amazon opens UK store without tills

Wembley Park Murals Back on Display

Coronavirus Test Centre Opens At Wembley Ikea

A new food brand, 'by Amazon' has hundreds of products, including meat, poultry and fish, dairy, fruit and veg, bakery, freshly prepared meals and everyday essentials.

'by Amazon' also offers customers hot food throughout the day and on-the-go meals for breakfast, lunch and dinner.

BREAKING ⌚ 6h

⌚ 3h

⌚ 7h

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BUSINESS > LEISURE & RETAIL

Amazon Fresh opens new till-free grocery store in London



Evening Standard



An existing Amazon Fresh store is pictured / Amazon

By [Joanna Bourke](#) | 11 hours ago



SPONSORED

What you need to know about TikTok LIVE



Amazon Fresh is expanding further in London, with its latest 'till-free' grocery store opening in White City, it has emerged.

The branch opening on April 15 means tech giant Amazon will now have three convenience stores offering 'just walk out shopping' in the UK.

Customers use the Amazon app to enter and can put their phone away and shop for what they need, bagging items as they go. Once finished, they can walk away without using a till, and are automatically billed as they leave.

ADVERTISMENT The latest shop, close to White City tube station, comprises 2,500 square feet in the front of house' part of the site.

Amazon Fresh opened its first store outside of the US in Ealing in March, and has since welcomed customers to another branch on Wembley Park Boulevard. X

READ MORE



Amazon selects Wembley Park for location of next till-free grocery store in London, and more sites are planned



Inside Amazon's first cashless no-tills grocery shop in London



As Amazon opens a grocery shop in London, will high streets welcome more tech tenants?

The company said: "We are excited to see how customers like the Amazon Fresh stores and look forward to opening more in the greater London area in the future."

Matt Birch, director of Amazon Fresh Stores UK, said in March: "We hope to open a few more in London in areas like Ealing and believe it will work in residential areas and city centres."

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WHITE CITY

AMAZON

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8 Cutest Exotic Dog Breeds



Another till-less Amazon Fresh store opens in West London

Amazon Fresh have now opened three grocery stores in London

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 1 COMMENTS

By [Neha Gohil](#)

11:05, 15 APR 2021

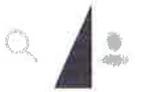
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YourArea

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Go



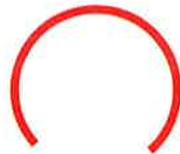


A new Amazon Fresh Store opened on Thursday (April 15) in White City.

This is the third till-less 'Just Walk Out' Amazon Fresh grocery store in London.

The store opened on Fountain Park Way, W12 7NP, at 7am today.

Amazon Fresh also opened grocery stores in Wembley Park and **Ealing** earlier this year.



Shoppers will be able to find "everyday ingredients and essentials on their shopping list" including ready-meals, hot food items, household goods, magazines and flowers.

Amazon Fresh also offers a wide range of 'grab and go' items perfect for lunch as well as food under the 'by Amazon' range.

The White City store opens at 7am and closes at 11pm Monday to Sunday.

RELATED ARTICLES

In the matter of a Licensing Application for a Premises Licence for premises at:

The Mall, 359 Upper Street, Islington.

Enclosure 10

A Poustian
1 review



 a month ago

Absolutely amazing experience. Went there today with my family and WOW it was so futuristic and amazing. Great customer service and reasonable prices. Definitely recommend it. Felt crazy to walk out the store without going to the till. Masks and gloves at the front for those who forgot them and overall just a unique and wonderful experience.

Ben S
Local Guide · 5 reviews



 a week ago

A surreal shopping experience not having to stop by a checkout cashier, simply walking out of the shop. Within 15 minutes, my Amazon account had been charged, and correctly for the few items I picked up. They have all the basics in the small footprint of the store, so don't expect to find the same choice or range as online. An Amazon account is required

Shaher Mia
6 reviews



 a month ago

Excellent store, great experience shopping here! Also the staffs were super friendly and always welcomed their customers! Just scan, shop and walk out! Definitely going to visit again! I do hope Amazon opens more branches in London mostly larger store with more products! I definitely recommend this place to others to shop here!

Liam R

Local Guide · 39 reviews

⋮

★★★★★ a week ago

Good selection of both own-brand and household names. Bigger on the inside, they fit a lot into a small space- having no till points and no queues definitely helps with product placement. Excellent selection of lunch products, with a small hot food unit with soups and toasted sandwiches, as well as sandwiches and salads to fit every taste. Large range of refreshments, as well as an automated coffee machine- coffee was as good as you can expect from one. There was also a second coffee machine that used oatly for those who cannot drink milk. Small alcohol section with limited selection, though you should be able to find a drink for every category. Quite a good selection for ready meals, I personally tried the Meatball bake which tasted excellent. The Amazon Fresh pepperoni pizza was also quite good. Overall this Amazon Fresh store is great for a short and quick shop! An immense amount of time is saved by not having to queue up for tills or having to scan everything. Probably the quickest shop I've ever done! I strongly recommend you visit if in the area, I can't wait for more stores to open. Definitely good for a lunchtime meal deal!

||

Local Guide · 402 reviews

⋮

★★★★☆ 2 weeks ago

It was great experience, entry and exit is very easy and Covid19 safe as well. You need your fresh code to enter and then you are free soul in Amazon. You can buy your essentials, as choice is limited, hopefully it will increase by time.



[Louis Leonard](#)

[1 review](#)



3 weeks ago

Amazon Fresh - The Broadway, Ealing A new shopping experience, brought into the UK. It couldn't be much easier, there was lots of staff inside and outside the shop providing help if you required. Staff were friendly and all following COVID-19 safety measures. Surgical masks and hand sanitiser is available upon entry if you do not have your own. The shop size is similar to a Little Waitrose or equivalent, and the range of products are good. On my visit I purchased noodles from world foods, an 'Our Selection' by Amazon pizza, two items from the bakery (they were amazing) and two hot croissants. Altogether, I spent just under £20, which I think is reasonable. All you have to do is, upon entry have your fresh code (found on the Amazon app under basket) ready on your phone to scan on the barriers when you enter the shop. I visited on a Saturday morning and did not have to queue. Once inside the shop, camera's automatically track what you put into your bag. There are quite a lot of camera's inside the store, which could be seen as privacy issues for some, but this is how JWO (just walk out) technology works. When you are ready to leave, you just walk through the barrier and you will be sent a receipt via email for the products you took. If there is any issues, for example, Amazon charged you for an item you didn't take, you do not need to hesitate as you can report this via the Amazon app and receive a refund. Overall, this is an amazing concept that can be developed further and I'm sure we will see other supermarkets use JWO technology in the future to keep up with Amazon Fresh. I will be visiting the Wembley branch soon to see if there is any difference. I also can't wait until Amazon Fresh opens stores in the Greater London area and the new store in Islington.

[Samr Aziz](#)

[Local Guide](#) · [32 reviews](#)



a month ago

Great shopping experience. I like the concept, it was pretty straightforward and there was a lot of employees to guide and inform you regarding the payment process. I did however feel a bit weird walking out without paying

In the matter of a Licensing Application for a Premises Licence for premises at:

The Mall, 359 Upper Street, Islington.

Enclosure 11

PLANNING DECISION NOTICE



Mr Matthew Sobic - Savills (UK) Limited
Belvedere
12 Booth Street
Manchester
M2 4AW
United Kingdom

Development Management Service
Planning and Development Division
Environment & Regeneration Department
PO Box 3333
222 Upper Street
LONDON N1 1YA
Case Officer: Daniel Jeffries
T: 020 7527 2685
E: planning@islington.gov.uk

Issue Date: 02 November 2020
Application No: P2020/2099/FUL

(Please quote in all correspondence)

Dear Sir or Madam

TOWN AND COUNTRY PLANNING ACTS

BOROUGH COUNCIL'S DECISION: Approve with conditions

Notice is hereby given of the above stated decision of Islington Borough Council, the Local Planning Authority, in pursuance of its powers under the above mentioned Acts and Rules, Orders and Regulations made thereunder, relating to the application / development referred to below, at the location indicated, subject to the condition(s) listed and in accordance with the plans submitted, save insofar as may be otherwise required by the condition(s).

Location:	The Mall, 359 Upper Street, London, N1 0PD		
Application Type:	Full Planning Application		
Date of Application:	07 August 2020	Application Received:	07 August 2020
Application Valid:	08 August 2020	Application Target:	02 October 2020

DEVELOPMENT:

Internal and external works including the replacement of existing rooflights at roof level along north elevation with louvres to facilitate and provide operational plant equipment at existing building and installation of a vinyl behind the fanlight on the east elevation.

PLAN NOS:

PL-010 - SITE LOCATION PLAN, PL-011 - BLOCK PLAN, M-110 Rev 1 - MECHANICAL HVAC ISOMETRIC VISUAL, M-120 Rev 1 - MECHANICAL HVAC MEZZANINE PLAN - PLANTROOM, PL-112 Rev 2- PROPOSED MEZZANINE & GROUND FLOOR PLAN, PL-113 Rev 2- PROPOSED BASEMENT FLOOR PLAN, PL-211 Rev 4 - PROPOSED EXTERNAL ELEVATIONS , PL-213 Rev 3 - PROPOSED INTERNAL ELEVATIONS , PL-114 Rev 2 - EXISTING & PROPOSED ROOF PLAN, PL-115 Rev 3 - EXISTING & PROPOSED ROOFLIGHT SECTIONS, Covering Letter dated 7 August 2020, Heritage Note_07AUG_Final, Mechanical Equipment Schedules (Planning Issue) Rev 4 Dated 06.08.20, Noise Impact Assessment v1.7 ref. KR06614 dated 5th August 2020.

CONDITIONS:

- 1 3 YEAR CONSENT PERIOD: The development hereby permitted shall be begun not later than the expiration of three years from the date of this permission.

REASON: To comply with the provisions of Section 91(1)(a) of the Town and Country Planning Act 1990 as amended by the Planning and Compulsory Purchase Act 2004 (Chapter 5).

- 2 DRAWING AND DOCUMENT NUMBERS: The development hereby approved shall be carried out in accordance with the following approved plans:

PL-010 - SITE LOCATION PLAN, PL-011 - BLOCK PLAN, M-110 Rev 1 - MECHANICAL HVAC ISOMETRIC VISUAL, M-120 Rev 1 - MECHANICAL HVAC MEZZANINE PLAN - PLANTROOM, PL-112 Rev 2- PROPOSED MEZZANINE & GROUND FLOOR PLAN, PL-113 Rev 2- PROPOSED BASEMENT FLOOR PLAN, PL-211 Rev 4 - PROPOSED EXTERNAL ELEVATIONS , PL-213 Rev 3 - PROPOSED INTERNAL ELEVATIONS, PL-114 Rev 2 - EXISTING & PROPOSED ROOF PLAN, PL-115 Rev 3- EXISTING & PROPOSED ROOFLIGHT SECTIONS, Covering Letter dated 7 August 2020, Heritage Note_07AUG_Final, Mechanical Equipment Schedules (Planning Issue) Rev 4 Dated 06.08.20, Noise Impact Assessment v1.7 ref. KR06614 dated 5th August 2020

REASON: To comply with Section 70(1)(a) of the Town and Country Act 1990 as amended and the Reason for Grant and also for the avoidance of doubt and in the interest of proper planning.

- 3 CONDITION: The design and installation of new items of fixed plant shall be such that when operating the cumulative noise level LAeq Tr arising from the proposed plant, measured or predicted at 1m from the facade of the nearest noise sensitive premises, shall be a rating level of at least 5dB(A) below the background noise level LAF90 Tbg. The measurement and/or prediction of the noise should be carried out in accordance with the methodology contained within BS 4142: 2014.

REASON: To protect the amenity of neighbouring properties.

Your attention is drawn to any **INFORMATIVES** that may be listed below

- 1 INFORMATIVE: To ensure compliance condition 3 please ensure the noise mitigation identified within the approved Noise Impact Assessment v1.7 ref. KR06614 dated 5th August 2020 are implemented in full.
- 2 INFORMATIVE: For the installation of the approved plant equipment please ensure the necessary consent are secured. For further information please see TfL's construction logistics guidance which is available using the following link: <http://content.tfl.gov.uk/construction-logistics-plan-guidance.pdf>

Certified that this document contains a true record of a decision of the Council

Yours faithfully

A handwritten signature in cursive script that reads "Karen Sullivan". The signature is written in black ink and is positioned above a short horizontal line.

**KAREN SULLIVAN
SERVICE DIRECTOR - PLANNING AND DEVELOPMENT
AND PROPER OFFICER**

SUBSEQUENT REQUIREMENTS FOLLOWING THE GRANT OF PERMISSION

1. The Building Acts and Building Regulations

To ensure compliance with the Building Acts and Building Regulations, you should contact the Building Control Service regarding the development and any intended works.

T 020 7527 5999 E building.control@islington.gov.uk

2. Street Naming and Numbering

If the development results in changes to any postal address or addresses on the site, you should contact the Street Naming and Numbering section. Failure to do so can result in delays to conveyancing, the connection of services or the initiation of postal deliveries.

T 020 7527 2032 or 020 7527 2245 E address.management@islington.gov.uk

W <https://www.islington.gov.uk/planning/applications/street-naming-and-numbering>

3. Environmental Health, Trading Standards and Licensing

You may need to comply with various Acts and therefore you should contact Commercial and/or Residential Environmental Health and/or Trading Standards and/or Licensing. The Licensing Team deal with premises that sell alcohol, provide entertainment, late night refreshment, gambling and special treatments such as beauty therapies, tattoos and saunas.

Commercial Environmental Health	T 020 7527 3816	E commercial.envh@islington.gov.uk
Trading Standards		E trading.standards@islington.gov.uk
Residential Environmental Health	T 020 7527 3083	E Residential.envh@islington.gov.uk
Licensing	T 020 7527 3031	E Licensing@islington.gov.uk

4. Inclusive Design and Access for Disabled People

The London Plan, Islington's Local Plan and relevant Supplementary Planning Documents and Part M of the Building Regulations require the creation/maintenance of an Inclusive Environment.

If you require any further information or advice on the application of the principles of Inclusive Design contact the Inclusive Design officers

T 020 7527 2394 E planning@islington.gov.uk

Other applicable standards and design guidance are set out in:

Inclusive Design in Islington SPD www.islington.gov.uk/inclusivedesign

Streetbook SPD www.islington.gov.uk/streetbook

Islington's Inclusive Landscape Design SPD [www.islington.gov.uk/DownloadableDocuments/Environment/Pdf/Idf_pack/Inclusive LandscapeDesign SPD January 2010.pdf](http://www.islington.gov.uk/DownloadableDocuments/Environment/Pdf/Idf_pack/Inclusive_LandscapeDesign_SPD_January_2010.pdf)

BS8300:2009 – Design of buildings and their approaches to meet the needs of disabled people

Inclusive Mobility www.dft.gov.uk/publications/inclusive-mobility

Approved Document M – Access to and use of buildings (Volume 1 Dwellings and Volume 2 buildings other than dwelling) <https://www.gov.uk/government/publications/access-to-and-use-of-buildings-approved-document-m>

Regardless of any Planning or Building Regulations approval your client and or future occupant may have duties under the Equalities Act 2010 (which supersedes the Disability Discrimination Act). Those duties include taking all reasonable steps to ensure a disabled person experiences no less favourable treatment, which will have implications for the design and management of premises

see: https://www.equalityhumanrights.com/sites/default/files/what_equality_law_means_for_your_business.pdf

5. Highways

In order to comply with all provisions of the Traffic Management Act (2004), Highways Act (1980), New Roads and Streetworks Act (1991) and/or other Highways matters, you should contact:

T 020 7527 2000 E public.realm@islington.gov.uk

There are various standards, guidance and licenses:

Hoardings, scaffolding, skips, overhanging structures, temporary crossover licenses and haulage routes and the like are regulated by the Streetworks Team.

T 020 7527 2000 E streetworks@islington.gov.uk

Tables and chairs licensing are regulated by the Street Trading Team.

T 020 7527 2000 E street.trading@islington.gov.uk

Parking suspensions require a minimum of 2 weeks notice.

T 020 7527 2000 E parkingsuspensions@islington.gov.uk

Any joint conditions survey required between Islington Council Highways and interested parties before commencement of building work

T 020 7527 2000 E public.realm@islington.gov.uk

Please note any damage to the public highway, or, any asset forming part of the public highway (including lighting, drainage and street furniture), alterations to road markings or parking layouts (must be agreed by Traffic and Parking) will be paid for by the developer.

All works to the public highway, unless otherwise legally agreed, must be undertaken by London Borough of Islington Highways Service. Works to the public highway will not commence until hoarding and major works around the development has been removed/completed. Before works commence on the public highway, the planning applicant must provide Islington Council's Highways Service with six months notice. All new statutory services must be complete prior to footway and/or carriageway works commencing.

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E planning@islington.gov.uk

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Noise from demolition and construction works is subject to control under the Control of Pollution Act 1974. You must carry out any building works that can be heard at the boundary of the site only between 08.00 and 18.00 hours Monday to Friday and 08.00 to 13.00 on Saturday and not at all on Sundays and Public Holidays. You are advised to consult the Pollution Team, Islington Council, 222 Upper Street London N1 1XR, or seek prior approval under Section 61 of the Act if you anticipate any difficulty in carrying out construction other than within the hours stated above.

T 020 7527 3258 E pollution@islington.gov.uk

9. Fire Precautions

If you require continued maintenance of fire precautions in existing buildings where no building work is planned contact the London Fire Brigade.

Address: Hackney, Islington & City FRS Team, London Fire Brigade, 3rd Floor Shoreditch Fire Station, Old Street, London, EC1V 9EY.

Community Infrastructure Levy (CIL) Note Accompanying Planning Permission

1. Under the terms of the Planning Act 2008 (as amended) and Community Infrastructure Levy Regulations 2010 (as amended), a development which has been granted planning permission becomes a CIL chargeable development if it proposes one or more new dwellings, or more than 100sqm of new build floorspace.
2. Islington Council is the CIL Collecting Authority for developments in Islington and collects both the London Borough of Islington CIL and the Mayor of London's CIL, which goes towards funding Crossrail 1 and 2.
3. The Council will use the **CIL Additional Information form** submitted with the planning application, alongside other application documents, to determine whether the application is CIL chargeable and to calculate the CIL charge.
4. If your application is deemed to be CIL liable, the charges will be calculated in accordance with the Community Infrastructure Regulations 2010 (as amended) and the applicable CIL rates from the **Islington CIL Charging Schedule** and the **Mayor of London's CIL Charging Schedule**.
5. The CIL is charged in pounds per square metre and is calculated by multiplying the applicable CIL rate by the proposed gross internal area (GIA) proposed by the development. The floorspace of existing buildings to be retained or demolished as part of the development will be deducted from the CIL chargeable area if part of the existing building has been in its lawful use for at least six months in the three years prior to permission being granted.
6. After permission is granted, the Council will issue a **CIL Liability Notice** if CIL liability has been triggered, which will set out the combined Islington CIL and Mayor of London CIL charge payable on commencement of the development. The CIL charge will also be registered as a Local Land Charge against the relevant land.
7. **One (or more) of the development parties must assume liability to pay CIL for a CIL chargeable development by submitting an Assumption of Liability Notice.** In the absence of this form, liability will default to site owner(s).
8. A development may be eligible for relief or exemption from CIL if it includes affordable housing, is owned by a charity and will be used wholly or mainly for charitable purposes, or is a self-build project. Relief or exemption must be claimed prior to commencement by submitting the appropriate claim form. Further information can be found on the GOV.UK website at <https://www.gov.uk/guidance/community-infrastructure-levy>.
9. Islington Council and the Mayor of London do not have a policy for granting discretionary charitable relief or exceptional circumstances relief and will not accept claims made on this basis.
10. **You must inform the Council when the development is going to start by submitting a Commencement Notice**
11. Once the Council has been notified that development works have commenced, a **CIL Demand Notice** will be issued setting out the total amount payable, how to pay, and when payment is due.
12. Failure to submit a valid Assumption of Liability Notice and Commencement Notice prior to commencement of the development may result in surcharges being imposed, and you will not benefit from the 60 day payment window.
13. Late payment interest and surcharges will be imposed if payment is not received by the due date.
14. Continued failure to pay CIL liabilities due will result in the Council initiating enforcement action, including serving a CIL stop notice prohibiting further development on the site, and applying to a magistrates' court for a Liability Order to recover the debt through the seizure of assets.

Further information on CIL and all CIL forms are available on the Islington website at [Islington.gov.uk CIL-information](https://www.islington.gov.uk/cil-information), and the Planning Portal website at [www.https://www.planningportal.co.uk/cil](https://www.planningportal.co.uk/cil). Guidance on the Community Infrastructure Levy can be found on the GOV.UK website at www.gov.uk/guidance/community-infrastructure-levy.

For further information on CIL please contact the Developer Contributions Team at cil@islington.gov.uk.

APPLICANT'S RIGHTS FOLLOWING THE GRANT OR REFUSAL OF PERMISSION

1. Appeals to the Secretary of State

Should you (an applicant/agent) feel aggrieved by the decision of the council to either refuse permission or to grant permission subject to conditions, you can appeal to the Secretary of State for the Department of Communities and Local Government – Section 78 of the Town and Country Planning Act 1990 / Sections 20 and 21 of the Planning (Listed Building and Conservation Areas) Act 1990. Any such appeal must be made within the relevant timescale for the application types noted below, beginning from the date of the decision notice (unless an extended period has been agreed in writing with the council):

- **Six months:** Full (excluding Householder and Minor Commercial applications), listed building, Section 73 'variation/removal', Section 73 'minor-material amendment', extension of time, and prior approval applications.
- **12 weeks:** Householder planning, Householder prior approval and Minor Commercial applications.
- **8 weeks:** Advertisement consent applications.
- **No timescale:** Certificate of lawful development (existing/proposed) applications.

Where an enforcement notice has been issued the appeal period may be significantly reduced, subject to the following criteria:

- The development proposed by your application is the same or substantially the same as development that is currently the subject of an enforcement notice: **you must appeal 28 days of the date of the application decision.**
- An enforcement notice is served **after the decision on your application** relating to the same or substantially the same land and development as in your application and if you want to appeal against the council's decision you are advised to appeal against the Enforcement Notice and to do so before the Effective Date stated on the Enforcement Notice.

Appeals can be made online at: <https://www.gov.uk/planning-inspectorate>. If you are unable to access the online appeal form, please contact the Planning Inspectorate to obtain a paper copy of the appeal form on 0303 444 5000

The Secretary of State can allow a longer period for giving notice of an appeal but will not normally be prepared to use this power unless there are special circumstances which excuse the delay in giving notice of appeal.

The Secretary of State need not consider an appeal if it seems to the Secretary of State that the local planning authority could not have granted planning permission for the proposed development or could not have granted it without the conditions they imposed, having regard to the statutory requirements, to the provisions of any development order and to any directions given under a development order.

If you intend to submit an appeal that you would like examined by Inquiry then you must notify the Local Planning Authority (planning@islington.gov.uk) and Planning Inspectorate (inquiryappeals@planninginspectorate.gov.uk) **at least 10 days before submitting the appeal**. Further details are on GOV.UK.

2. Subsequent Application Fees

No planning fee would be payable should a revised application be submitted within 12 months of the decision. This 'fee waiver' is permitted only where the new application meets the following criteria:

- the applicant is the same as the applicant of the original application
- site boundary is the same as the site boundary of the original application
- the nature of development remains the same.

3. Purchase Notices

If either the local planning authority or the Secretary of State refuses permission to develop land or grants it subject to conditions, the owner may claim that the owner can neither put the land to a reasonably beneficial use in its existing state nor render the land capable of a reasonably beneficial use by the carrying out of any development which has been or would be permitted.

In these circumstances, the owner may serve a purchase notice on the Council. This notice will require the Council to purchase the owner's interest in the land in accordance with the provision of Chapter 1 of Part 6 of the Town and Country Planning Act 1990.

4. General Information

A planning permission does not constitute a listed building consent. Listed building consent is required before any works of development or alteration (internal or external) are undertaken to a building included on the Statutory List of Buildings of Architectural or Historic Interest.

The grant of a permission does not relieve the applicant/developer of the necessity of complying with any local Acts, Regulations, Building By-laws, private legislation, and general statutory provisions in force in the area or modify or affect any personal or restrictive covenants, easements etc., applying to or affecting either the land to which the permission relates or any other land or the rights or any person(s) or authority(s) entitled to benefit thereof or holding an interest in the property.

A development for which permission is granted may require new rights over other people's land such as: rights to receive light and air, rights of way, access, freeholder consent, party wall award. In such situations it is appropriate to seek professional advice. Please be aware that as such matters relate are private law matters, the council cannot advise you. If planning permission is given in respect of land adjoining land belonging to the council or another public authority, you are advised to consult that authority in its capacity as landowner about your proposals. Examples of land belonging to the council include: Public Parks, Gardens, Housing Estates, Estate Roads and Public Buildings such as Council Offices, Libraries and Swimming Pools.

5. If you require further advice please visit our website at www.islington.gov.uk or email planning@islington.gov.uk

PLANNING DECISION NOTICE



Savills (UK) Limited
Belvedere
12 Booth Street
Manchester
M2 4AW
United Kingdom

Development Management Service
Planning and Development Division
Environment & Regeneration Department

Case Officer: Daniel Jeffries

T: 020 7527 2685

E: planning@islington.gov.uk

Issue Date: 10 July 2020

Application No: P2020/1125/FUL

(Please quote in all correspondence)

Dear Sir or Madam

TOWN AND COUNTRY PLANNING ACTS

BOROUGH COUNCIL'S DECISION: Approve with conditions

Notice is hereby given of the above stated decision of Islington Borough Council, the Local Planning Authority, in pursuance of its powers under the above mentioned Acts and Rules, Orders and Regulations made thereunder, relating to the application / development referred to below, at the location indicated, subject to the condition(s) listed and in accordance with the plans submitted, save insofar as may be otherwise required by the condition(s).

Location:	The Mall, 359 Upper Street, Islington, London, N1 0PD
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Application Type:	Full Planning Application		
Date of Application:	24 April 2020	Application Received:	24 April 2020
Application Valid:		Application Target:	02 July 2020

DEVELOPMENT: External alterations to north elevation including new shopfront. Internal alterations including reconfiguration throughout including extension of existing mezzanine floor and lowering of ground floor slab to provide level access to northern entrance.

PLAN NOS: PL-000 - SITE LOCATION PLAN, PL-001 - BLOCK PLAN, PL-100/Rev.4 - EXISTING MEZZANINE - GROUND FLOOR PLAN, PL-101/Rev.3 - EXISTING BASEMENT PLAN, PL-105/Rev.2 - EXISTING DETAIL PLAN, PL-200/Rev.3 - EXISTING EXTERIOR ELEVATIONS, PL-204/Rev.3 - EXISTING INTERNAL SECTIONS, PL-102/Rev.3 - DEMOLITION PLANS GROUND & BASEMENT, PL-103/Rev.5 - PROPOSED MEZZANINE & GROUND FLOOR PLAN, PL-104/Rev.3 - PROPOSED BASEMENT PLAN, PL-106/Rev.2 - PROPOSED DETAIL PLAN, PL-201/Rev.4 - PROPOSED EXTERIOR ELEVATIONS, PL-107/Rev.1 - PROPOSED GOODS RAMP SECTIONS, PL-205/Rev.4 - PROPOSED INTERNAL SECTIONS, PL-161/Rev.3 - EXISTING & PROPOSED GROUND FINISHES & PL-162/Rev.3 - EXISTING & PROPOSED BASEMENT FINISHES.

CONDITIONS:

CONDITION 01 DRAWING AND DOCUMENT NUMBERS: The development hereby approved shall be carried out in accordance with the following approved plans:

P-DEC-AP1

PL-000 - SITE LOCATION PLAN, PL-001 - BLOCK PLAN, PL-100/Rev.4 - EXISTING MEZZANINE - GROUND FLOOR PLAN, PL-101/Rev.3 - EXISTING BASEMENT PLAN, PL-105/Rev.2 - EXISTING DETAIL PLAN, PL-200/Rev.3 - EXISTING EXTERIOR ELEVATIONS, PL-204/Rev.3 - EXISTING INTERNAL SECTIONS, PL-102/Rev.3 - DEMOLITION PLANS GROUND & BASEMENT, PL-103/Rev.5 - PROPOSED MEZZANINE & GROUND FLOOR PLAN, PL-104/Rev.3 - PROPOSED BASEMENT PLAN, PL-106/Rev.2 - PROPOSED DETAIL PLAN, PL-201/Rev.4 - PROPOSED EXTERIOR ELEVATIONS, PL-107/Rev.1 - PROPOSED GOODS RAMP SECTIONS, PL-205/Rev.4 - PROPOSED INTERNAL SECTIONS, PL-161/Rev.3 - EXISTING & PROPOSED GROUND FINISHES & PL-162/Rev.3 - EXISTING & PROPOSED BASEMENT FINISHES.

REASON: To comply with Section 70(1)(a) of the Town and Country Act 1990 as amended and the Reason for Grant and also for the avoidance of doubt and in the interest of proper planning.

CONDITION 02 3 YEAR CONSENT PERIOD: The development hereby permitted shall be begun not later than the expiration of three years from the date of this permission.

REASON: To comply with the provisions of Section 91(1)(a) of the Town and Country Planning Act 1990 as amended by the Planning and Compulsory Purchase Act 2004 (Chapter 5).

CONDITION 03 MATERIALS (COMPLIANCE): The development shall be constructed in accordance with the schedule of materials noted on the approved plans. The development shall be carried out strictly in accordance with the details so approved and shall be maintained as such thereafter into perpetuity.

REASON: In the interest of securing sustainable development and to ensure that the resulting appearance and construction of the development is of a high standard.

Certified that this document contains a true record of a decision of the Council

Yours faithfully



**KAREN SULLIVAN
SERVICE DIRECTOR - PLANNING AND DEVELOPMENT
AND PROPER OFFICER**

SUBSEQUENT REQUIREMENTS FOLLOWING THE GRANT OF PERMISSION

1. The Building Acts and Building Regulations

To ensure compliance with the Building Acts and Building Regulations, you should contact the Building Control Service regarding the development and any intended works.

T 020 7527 5999 E building.control@islington.gov.uk

2. Street Naming and Numbering

If the development results in changes to any postal address or addresses on the site, you should contact the Street Naming and Numbering section. Failure to do so can result in delays to conveyancing, the connection of services or the initiation of postal deliveries.

T 020 7527 2032 or 020 7527 2245 E address.management@islington.gov.uk

W <https://www.islington.gov.uk/planning/applications/street-naming-and-numbering>

3. Environmental Health, Trading Standards and Licensing

You may need to comply with various Acts and therefore you should contact Commercial and/or Residential Environmental Health and/or Trading Standards and/or Licensing.

The Licensing Team deal with premises that sell alcohol, provide entertainment, late night refreshment, gambling and special treatments such as beauty therapies, tattoos and saunas.

Commercial Environmental Health T 020 7527 3816 E commercial.envh@islington.gov.uk
Trading Standards E trading.standards@islington.gov.uk

Residential Environmental Health T 020 7527 3083 E Residential.envh@islington.gov.uk
Licensing T 020 7527 3031 E Licensing@islington.gov.uk

4. Inclusive Design and Access for Disabled People

The London Plan, Islington's Local Plan and relevant Supplementary Planning Documents and Part M of the Building Regulations require the creation/maintenance of an Inclusive Environment.

If you require any further information or advice on the application of the principles of Inclusive Design contact the Inclusive Design officers

T 020 7527 2394 E planning@islington.gov.uk

Other applicable standards and design guidance are set out in:

Inclusive Design in Islington SPD www.islington.gov.uk/inclusivedesign

Streetbook SPD www.islington.gov.uk/streetbook

Islington's Inclusive Landscape Design SPD www.islington.gov.uk/DownloadableDocuments/Environment/Pdf/ldf_pack/Inclusive_LandscapeDesign_SPD_January_2010.pdf

BS8300:2009 – Design of buildings and their approaches to meet the needs of disabled people

Inclusive Mobility www.dft.gov.uk/publications/inclusive-mobility

Approved Document M – Access to and use of buildings (Volume 1 Dwellings and Volume 2 buildings other than dwelling) <https://www.gov.uk/government/publications/access-to-and-use-of-buildings-approved-document-m>

Regardless of any Planning or Building Regulations approval your client and or future occupant may have duties under the Equalities Act 2010 (which supersedes the Disability Discrimination Act). Those duties include taking all reasonable steps to ensure a disabled person experiences no less favourable treatment, which will have implications for the design and management of premises

see: https://www.equalityhumanrights.com/sites/default/files/what_equality_law_means_for_your_business.pdf

5. Highways

In order to comply with all provisions of the Traffic Management Act (2004), Highways Act (1980), New Roads and Streetworks Act (1991) and/or other Highways matters, you should contact:

T 020 7527 2000 E public.realm@islington.gov.uk

There are various standards, guidance and licenses:

Hoardings, scaffolding, skips, overhanging structures, temporary crossover licenses and haulage routes and the like are regulated by the Streetworks Team.

T 020 7527 2000 E streetworks@islington.gov.uk

Tables and chairs licensing are regulated by the Street Trading Team.

T 020 7527 2000 E street.trading@islington.gov.uk

Parking suspensions require a minimum of 2 weeks notice.

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Any joint conditions survey required between Islington Council Highways and interested parties before commencement of building work

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- 5. If you require further advice please visits our website at www.islington.gov.uk or email planning@islington.gov.uk**

In the matter of a Licensing Application for a Premises Licence for premises at:

The Mall, 359 Upper Street, Islington.

Enclosure 12

Case No: C1/2015/3287

Neutral Citation Number: [2016] EWCA Civ 609
IN THE COURT OF APPEAL (CIVIL DIVISION)
ON APPEAL FROM THE HIGH COURT OF JUSTICE
QUEEN'S BENCH DIVISION
ADMINISTRATIVE COURT
PLANNING COURT
MR JUSTICE LINDBLOM
[2015] EWHC 2367 (ADMIN)

Royal Courts of Justice
Strand, London, WC2A 2LL

Date: 29/06/2016

Before:

LORD JUSTICE LAWS
LORD JUSTICE McFARLANE
LORD JUSTICE CHRISTOPHER CLARKE

Between :

Forster	<u>Appellant</u>
- and -	
The Secretary of State for Communities and Local Government and Ors	<u>Respondents</u>

Annabel Graham Paul (instructed by **Harrison Grant Solicitors**) for the **Appellant**
Ned Westaway (instructed by **the Government Legal Department**) for the **Secretary of State**
Richard Ground QC (instructed by **Dentons UKMEA LLP**) for the **Third Respondent**

Hearing date: 8 June 2016

Judgment

LORD JUSTICE LAWS:

INTRODUCTION

1. This is an appeal, with permission granted by myself after a hearing on 18 February 2016, against the decision of Lindblom J as he then was given in the Administrative Court on 6 August 2015 ([2015] EWHC 2367 (Admin)). The judge dismissed the appellant's claim brought under s.288 of the Town and Country Planning Act 1990 seeking an order to quash a planning permission granted in October 2014 by the Secretary of State's Inspector (on appeal from a refusal by the London Borough of Tower Hamlets). The permission was for the demolition of a single storey building in Stepney and the erection in its place of a three storey building with commercial uses on the ground floor and six flats on the floors above. Permission to appeal to this court was originally refused by Lewison LJ on consideration of the papers on 11 January 2016.
2. The premises in respect of which the planning permission was granted used to be Stepney's Nightclub. The appellant is the freehold owner of the George Tavern, which is also her home. The George is adjacent to Stepney's Nightclub. In her submission (composed by herself) to the local planning authority opposing the planning application the appellant described the activities at the George as follows:

“Live music venue – on Friday and Saturday nights we remain open until 3 am and have live music, performances and events and it is these nights that bring in the most revenues (see attachment of income and outgoings...which show that live music nights account for 82% of the George's revenue despite only representing 33% of the days that we are open). It is essential for the business that we keep our late licence on these nights. The George Tavern is a quiet local during the week and we barely cover our costs on week nights. If our trading hours were reduced and our live music licence lost due to noise complaints from a nearby residential development, the George Tavern would no longer be financially viable, which would result in closure. The local community would lose yet another local pub, live music and performance venue.

Location business – another crucial aspect of the business is renting out the rooms above the George as locations for photography and film shoots. The George is popular for locations and one of the reasons we get bookings is because of the historical features such as the staircase and the original interior. The fact that the George has 360 degrees natural light is also crucial to securing bookings. The original staircase is a beautiful feature of the George, which runs from the first to the third floors. It is used in almost every location shoot. The staircase gets its light solely from the east elevation, which would be blocked if the proposed development goes ahead. This would seriously jeopardise my locations business. With the bar sometimes making a loss, the money that I earn from locations bookings not only pays the mortgage on the building,

but also supports the bar when it does not bring in enough revenue.”

I shall have to refer further to the appellant’s representations when I come to deal with counsel’s arguments.

3. The Secretary of State’s Inspector in October 2014 allowed the developers’ appeal not only in relation to the planning permission, but also in relation to Conservation Area Consent (Stepney’s Nightclub was in the Commercial Road Conservation Area) and Listed Building Consent (the George and another adjacent building were listed, and the developers’ proposal included alterations to their external walls).
4. Six issues were raised before Lindblom J, of which the fifth prefigures the first question in this appeal. It was expressed thus:

“whether [the Inspector] failed to take into account as a material consideration the harm a development would do to the viability of the George Tavern”.

More specifically, the question is as to possible future complaints from residents of the new flats about noise from the George, notwithstanding the Inspector’s conclusion (to which I will refer shortly) that the residents would not be subjected to unreasonable levels of noise. Ms Graham Paul for the appellant submits that there is a risk, unacknowledged by the Inspector, that such complaints might ultimately lead to the revocation of her late night music licence or the grant of an injunction in a private nuisance claim which would curtail the activities that keep the George going.

5. The appellant had another point about reduced sunlight and daylight, given the use of the George as a studio for artists and photographers and as a film location. In the parties’ written submissions this received less emphasis than the issue on noise, and in granting permission to appeal I said that had it stood alone “I rather doubt whether I would have given permission...”. In the event it has occupied centre stage; I will return to that.

THE NOISE ISSUE

6. I should note by way of preliminary that a large number of documents have been included in the court papers, as I understand it at the appellant’s behest, which were not before the judge below. They include press reports assembled (I assume) to demonstrate the importance of the noise issue for businesses like that carried on at the George in London and elsewhere. In fairness I should say that Ms Graham Paul made no application at the hearing to have this material admitted as fresh evidence. Had she done so for my part I would have refused the application. There is no proper basis for its introduction at this stage, and it would not have advanced the adjudication of the issue.
7. The impact of noise from the activities carried on at the George upon the residents in the proposed development yields the first reason why in July 2013 the local planning authority, Tower Hamlets, refused planning permission:

“The amenity of the new residents within the proposed three storey building and the area generally would be detrimentally affected by reason of general disturbance and significant noise emanating from clients using the outside beer garden area in Aylward Street and from the George Tavern public house building with live music licence including associated plant.”

The Inspector's Decision

8. On appeal the Inspector at paragraph 5 of his decision letter identified the “main issue” as being “whether the future residents of the proposed scheme would be subjected to unreasonable levels of noise”. He referred to the George at paragraph 8:

“The George Tavern operates as a public house and a live music venue, holding music events late into the night, until as late as 0300 hrs. The use of the public house also involves the use by patrons of the open area on Aylward Street as a beer garden. The site and the surroundings are also subjected to noise from the surrounding roads, most notably Commercial Road. Concerns are expressed by the owner of the public house as well as many others, that the presence of residential units on the appeal site will give rise to restrictions on the functioning of the public house and its ability to host music events. I shall divide the consideration of noise into various categories.”

Thereafter the decision letter contains no further reference to the George, save for paragraph 17 (to which I will come) which is relevant only to the daylight issue.

9. The Inspector had expert acoustic evidence from the developer (the third respondents). He also made a site visit. There is evidence that the site visit was comprehensive, and the appellant, who attended it, had and took the opportunity to point out areas which gave rise to her concerns. The Inspector considered the evidence relating to noise at paragraphs 9 – 15 of his decision letter. He concluded at paragraph 21 that “with suitable conditions, the living conditions of future residents can be protected from noise generated locally.” It is apparent that this conclusion was arrived at on the premise that insulation measures proposed by the experts would be in place; and impliedly, therefore, on the footing that the windows of the flats would be closed. There was some discussion at the hearing about the implications of this, and I will briefly refer to it. I should say at this stage that in my view it is of the first importance that there is no challenge in this court to the Inspector’s conclusion at paragraph 21 that the noise levels would be reasonable.
10. The Inspector’s decision letter contains no distinct reasoning concerning the consequences (if any) for the George of any complaints about noise that might be made by residents of the new flats.

The Judgment Below

11. Giving judgment on the statutory appeal, Lindblom J turned to what was the fifth issue before him (giving rise to the noise issue) at paragraphs 76 – 81. He introduced it thus:

“76. Ms Graham Paul submits that the Inspector failed to have regard to the potential harm to the operation of the George Tavern as an established business... The testing of the ‘sound insulation’ measures provided in the new development might show them to be adequate before the flats were occupied. But even if it did, this would be no guarantee that residents of those flats would not in the future complain to the council about noise coming from the George Tavern. Such complaints might lead to an abatement notice being served, or ‘the revocation of the [George Tavern’s] late night music [licence] on the ground that there was a breach of the licensing objective of prevention of public nuisance’, or an injunction being granted to prevent a private nuisance. It would be no defence to a claim in nuisance that the residents of the new flats had come to the nuisance.”

12. As for the argument about possible future complaints of noise, the judge said this:

“77. Those submissions are not well founded. The inspector did not fail to grasp the true nature of Ms Forster’s objection to the proposed development. In stating the main issue in the appeal to be ‘whether the future residents of the proposed scheme would be subjected to unreasonable levels of noise’ (paragraph 5 of the decision letter), and in acknowledging Ms Forster’s assertion ‘that the presence of residential units on the appeal site will give rise to restrictions on the functioning of the public house and its ability to host music events’ (paragraph 8), he effectively recognised the matters about which she was mainly concerned. If, as he concluded, residents of the flats in the new development were not going to be subjected to unreasonable levels of noise, it would follow that those residents would not be likely to complain about such noise and that the spectre of future proceedings against Ms Forster could therefore reasonably be discounted.

...

79... But in any event the inspector’s task was to make planning judgments on the land use planning issues before him, and not to anticipate the likelihood or outcome of future proceedings against Ms Forster as owner of the George Tavern. He cannot be criticized for not venturing into the law of nuisance. His remit was to determine Swan’s appeal on the planning merits, having regard to the public interest. That is what he did. The issues he discerned in the appeal were truly planning issues, the main one being whether planning

permission should be withheld because residents of the flats in the proposed development would suffer unreasonable levels of noise. Having considered those issues, he could see no reason for planning permission to be refused.”

The Appellant's Argument

13. Ms Graham Paul assaults this reasoning. She submits first that the impact of a prospective planning permission on the viability of a neighbouring business may in principle amount to a material planning consideration; and so in principle it may. Mr Westaway for the Secretary of State expressly accepts as much. Then she submits that the potential threat to the appellant's business posed by the possible revocation of the George's late night music licence, or an injunction in a suit for private nuisance (in either case, as I have said, following complaints of noise from the George's new neighbours) constitutes just such a planning consideration in this case; yet the Inspector failed to consider, and certainly failed to assess, such risks.
14. Ms Graham Paul disavows any suggestion that the Inspector should have entered into the details of the licensing laws or the law of nuisance. But, she submits, he was obliged to acknowledge the existence on those fronts of potential risks to the appellant's business: and she said the judge was wrong at paragraph 77 to discount the possibility of likely complaints by future neighbours merely because the inspector had found in planning terms that they would not be subjected to unreasonable levels of noise. She submits that the Inspector should at least have weighed the potential risks to her business against the benefits of the appeal's scheme.
15. Granting permission to appeal after the hearing at which both the appellant and the developers were represented, I said (paragraph 12) “the fact that the planning authorities may conclude that levels of noise will be no more than reasonable... does not I think in law or fact exclude the possibility of later claims which may be found to have weight. The extent to which the planning system should have regard to such potential indirect outcomes of a permission is a matter in my view which justifies an appeal to this court”.

Conclusions on the Noise Issue

16. As I have said, the impact of a prospective planning permission on the viability of a neighbouring business may in principle amount to a material planning consideration. But in my judgment, if such an argument is to be advanced it should be clearly raised before the Inquiry Inspector (if there is an appeal to the Secretary of State) with a sufficient degree of particularity and supporting evidence to enable the Inspector to reach an objective and reasoned conclusion on the point. If it is advanced in purely general terms, that would most likely do no more than invite the inspector to embark upon a merely speculative exercise; and such a process would be unorthodox and illegitimate. No doubt there are situations where the threat posed by a prospective planning permission to a neighbouring business will stare the Inspector in the face: the prospect of a new retail outlet across the street from an established shop selling the same range of goods is an instance. But in other cases, and this is surely one, the alleged effects of the proposed development will by no means be so clear. Where that is so, an evidence-based case needs to be made.

17. In my judgment no such case was presented by the appellant to the Inspector.
18. I accept – indeed there is no doubt – that the appellant voiced her concern about what she saw as a threat to her business. In a passage I have already cited from her submission to the local planning authority, it will be recalled that this appears:

“If our trading hours were reduced and our live music licence lost due to noise complaints from a nearby residential development, the George Tavern would no longer be financially viable...”

Later in the same document:

“However much sound insulation is provided, the noise is eventually going to be heard from accommodation so close. In the summer the proposed windows and balcony doors will be left open. What use is any sound insulation incorporated by the applicant in its development then?

The proposal for flats with balconies overlooking this space is bound to result in a limitation of use being brought against The George.

However well acoustically insulated flats may be, their windows and doors are sure to be open in the summer and complaints are sure to arise. This can be foreseen now and is itself another reason demonstrating that residential accommodation is unsuitable for this location.”

19. That document was, as I have said, submitted to the local planning authority; but it is common ground that at the appeal stage it will have been placed before the Inspector. In a later submission (undated, but sent as I understand it in June 2012) the appellant said this:

“First of all I would like to draw your attention to the fact that this proposal is in direct contravention of current and local planning policies. The developer has not demonstrated that the proposed development would be acceptable in terms of noise, and this fact alone raises the very real risk of complaints about activities in the George, which would very possibly lead to revocation of our late night music licence [*sic*].”

In an email letter dated 3 March 2014 (to which I shall have to refer further in dealing with the daylight issue), addressed directly to the Inspector, she made further observations which she said “should be considered in addition to those raised to contest the original application”. The appellant stated:

“In summary, there is a very real risk that I will be forced to close The George Tavern if permission is granted for the development as the development will have a very serious

adverse impact on my income stream from both my bar and photographic/film location businesses. It is highly likely that I will lose my live music licence [*sic*] if permission is granted for residential use for the adjacent site, which will have an enormous detrimental impact on my bar business.”

20. It is notable that in her submission of June 2012 the appellant aligned her case on noise to an assault on the noise assessments advanced by the developer (“the developer has not demonstrated...”). The submission of March 2014 is cast in general terms. So are the appellant’s observations set out in her original representations made to the local planning authority.
21. There are, certainly, references to a risk that the appellant’s live music licence might or would be lost. But the case she seeks to make is that such a risk (or the risk of an injunction) might eventuate as a result of complaints about noise *notwithstanding* a conclusion by the Inspector that the noise levels would be reasonable. In my judgment such a case would require chapter and verse – at least some material, if it could be found, to raise the possibility that the licensing or nuisance regime might reach a different conclusion, and to enable the Inspector to form some assessment of the degree of risk involved. Nothing of the kind was put before the Inspector. He was in no position to make any judgment as to the gravity of the risk which the appellant feared. The fact (to which Ms Graham Paul adverted) that the Inspector had, at least, information as to the noise levels which would affect the new development cannot provide an objective basis upon which the Inspector might measure, even roughly, the likely response of a licensing committee or common law judge to future complaints from the residents.
22. Ms Graham Paul also submitted that the Inspector might have held that *any* risk of the loss of the George’s licence would be unacceptable. But the appellant’s case was not advanced in such stark terms. If it had been, given the body of support in favour of the development (whose details I need not describe), there must at least be a question whether such a conclusion would pass the *Wednesbury* test ([1948] 1 KB 223), despite the elementary rule that planning judgment is firmly in the bailiwick of the merits decision-maker. The reality is that if a substantive case was to be made that the George would be at risk despite a favourable conclusion on noise by the Inspector, there would have to be material enabling a sensible assessment to be made of the risk’s extent.
23. However Ms Graham Paul acknowledged – indeed, asserted – that it might well have been impossible for the appellant to produce distinct evidence as to the likelihood of the loss of her licence or the grant of an injunction. I think that is right as a matter of common sense; but it only goes to show that any attempt at such a predictive exercise is bound to be speculative. The fact (if it be such) that neither the appellant, nor I suppose anyone else, was in any position to support the case on risk with evidence as to the likely outcome of future complaints in contexts other than planning cannot require the Inspector to confront the issue on no evidence. On the contrary it lends support to the judge’s conclusion at paragraph 79: “the inspector’s task was to make planning judgments on the land use planning issues before him, and not to anticipate the likelihood or outcome of future proceedings against Ms Forster as owner of the George Tavern”.

24. I would therefore reject the appellant's case on the noise issue. There are two further points by way of postscript. First I would accept Mr Westaway's argument (skeleton, paragraphs 23 – 25) that while a licensing committee is not bound to follow a planning decision-maker's conclusion, nor *vice versa*, each will and should have regard to the other where both make decisions in the same context. That being so I would reject Ms Graham Paul's submission (skeleton paragraph 36) that licensed operators such as the appellant are "falling into a void" between separate legal regimes. Moreover I think the judge was in error at paragraph 77 in holding that "if... residents of the flats in the new development were not going to be subjected to unreasonable levels of noise, it would follow that those residents would not be likely to complain about such noise..." Humanity being what it is, people are liable to complain about anything; the question here is whether there is any objective possibility of quantifying, however roughly, the likely prospects of success of such complaints. There is none.
25. The second and final point concerns the fact (to which I have referred in passing) that the Inspector's conclusion on noise proceeded on the implicit basis that the windows of the flats would be closed. At the hearing my Lord McFarlane LJ raised the possible significance of this feature: residents would be likely to open their windows in fine weather (or would wish to do so), and if they did, increased levels of noise from the George might fuel complaints. However no point about noise and open windows was taken by the appellant before Lindblom J, nor in this court. So far as I can see the only reference in the planning process to open windows is the passage in the appellant's submission to the local planning authority which I have cited at paragraph 18. Moreover it seems to me that such a point, if it had been raised, would have been material to the Inspector's conclusion (paragraph 21) that the noise levels were reasonable; however, as I have emphasised (paragraph 9), there is no challenge in this court to that conclusion.
26. In fact Ms Graham Paul did not accept that planning permission could properly have been refused on the footing that the noise with the windows open would have been unreasonable, as I understood her because the developers had put forward a proper sound insulation system. That seems to me to be something of a *non sequitur*. If there was any point to be taken about noise and open windows, it would have gone to the Inspector's paragraph 21 conclusion. It has no independent force as a buttress for the appellant's fears of risk to her licence; and if it did, it would falter on the want of any means of quantifying the risk.

THE LIGHT ISSUE

27. The Inspector addressed the development's implications for natural light in the interior of the George in a single paragraph:

"17. Although the Council appear to be satisfied about the effects on residents within the adjacent public house, objections have been received in relation to these direct effects. I was able to gain access to the residential upper floors within the public house and to look out over the appeal site. Furthermore, the appellants submitted with the appeal an assessment of the effects of the proposal on daylight and sunlight received at the neighbouring property. As a result of my own consideration of

this matter and in the absence of any evidence to the contrary, I accept the conclusions set out therein, that there would be no unreasonable effects in this respect.”

28. At paragraph 80 of his judgment Lindblom J said this:

“I also accept the submissions of Mr Westaway and Mr Ground on the inspector's consideration of the likely effects of the proposed development on daylight and sunlight reaching the George Tavern. The inspector dealt with this matter in paragraph 17 of the decision letter. His conclusion matched that of the expert assessment on the effects of the development on daylight and sunlight, submitted by Swan with their application for planning permission in October 2011. The council had not opposed the development on these grounds. But the inspector came to his own judgment upon it, having regard to the material before him, and to what he had seen on his site visit, when he visited the upper floors of the George Tavern and looked out over the appeal site. Contrary to Ms Graham Paul's submission, he did not fail to consider what she described as the ‘abnormally sensitive uses’ on those upper floors. He did not neglect this aspect of Ms Forster’s objection, including her fear that the use of her premises ‘as a location for film, music videos and for fashion shoots’ would be jeopardized. As he said at the end of paragraph 17 of his letter, he was satisfied that the development would have ‘no unreasonable effects’ on daylight and sunlight. This was classically a judgment for him to make, and with which the court cannot, in my view, properly interfere. I cannot see how any more detailed reasons could be expected here. They would only elaborate on what was, in fact, a straightforward exercise of planning judgment.”

29. The appellant had raised specific concerns as to the effects of loss of light in the George (as she saw it) having regard to its use for film and photographic location shoots. She placed particular emphasis on the staircase. I will repeat this passage from her original submission to the local planning authority, under the heading “Location Business”:

“The original staircase is a beautiful feature of the George, which runs from the first to the third floors. It is used in almost every location shoot. The staircase gets its light solely from the east elevation, which would be blocked if the proposed development goes ahead. This would seriously jeopardise my locations business.”

Later in the same document this appears:

“The window onto the main stair landing between first and second floor is a set piece for almost all users. To deny this direct sunlight and much of its changing qualities of light would be a serious loss.”

There is no reference to loss of light in the appellant's June 2012 submission. However in her letter to the Inspector of 3 March 2014 she said this:

"The proposal will also result in a serious loss of light to the upper floors of The George Tavern, which will severely impact on my location business as further described below...

If the proposed application were to be approved... I would lose the sun light that pours through the windows onto the wide staircase and landings, the bedroom, part of the kitchen and my artists studio.

If this natural source of light were to be denied or compromised, I would lose an essential part of my revenue, which is not only important to the restoration of the building, but also subsidizes the running and upkeep of the George Tavern bar. This is an important factor and should be seriously taken into account."

30. These concerns are not referred to in paragraph 17 of the decision letter. It is, of course, well recognised that such decisions are to be read with a certain degree of latitude. As Lindblom J said in *Bloor Homes East Midlands Ltd* [2014] EWHC 754 (Admin) at paragraph 19:

"Decisions of the Secretary of State and his inspectors in appeals against the refusal of planning permission are to be construed in a reasonably flexible way. Decision letters are written principally for parties who know what the issues between them are and what evidence and argument has been deployed on those issues. An inspector does not need to 'rehearse every argument relating to each matter in every paragraph' (see the judgment of Forbes J in *Seddon Properties v Secretary of State for the Environment* (1981) 42 P. & C.R. 26, at p.28)."

But the appellant's point about light (especially on the staircase) and the effect of its diminution on her business was specific and distinct. There was, it is true, nothing about it in the local planning authority's presentation to the Inspector (they of course had refused planning permission), and it is not clear how far the issue received any emphasis at the site visit. Moreover the appellant's original submission to the local planning authority was more pointed, certainly in relation to the staircase, than her later letter to the Inspector. But in my judgment the issue was sufficiently flagged to require the Inspector to deal with it in terms; and he did not.

31. That conclusion might, I acknowledge, be undermined or indeed refuted if the evidence before the Inspector demonstrated that on the facts there was nothing in the point. But that is not the case. Dr Defoe's expert report, commissioned by the developers, has this reference to the staircase on the third page:

"The flank elevation of the George Tavern faces almost due east, from which it does benefit from the morning sunlight at

present and, although this will be almost totally eliminated by the proposed development, it should be noted that the 'rooms' affected are a staircase at first second and third floor levels, and what might conceivably be bedrooms to the rear of the second and third floors."

The report proceeds to discuss the development's effect on light through "two existing windows serving habitable rooms" and concludes that they "will experience a negligible reduction in VSC ['vertical sky component' – a measure of 'the amount of skylight falling on a vertical wall or window']". As I understand it – at the hearing we were shown a number of illustrative materials – these are not windows giving onto the staircase.

32. In the circumstances it is by no means clear that the appellant's apprehensions concerning light (especially upon the staircase) have objectively been set at rest. In my judgment the Inspector was bound to deal with them and did not do so. I do not think, with respect, that the judge was entitled to conclude at paragraph 80 that "[the Inspector] did not neglect this aspect of Ms Forster's objection [the 'abnormally sensitive uses'], including her fear that the use of her premises 'as a location for film, music videos and for fashion shoots' would be jeopardized".
33. I suspect, though this does not advance the matter, that the significance of the appellant's concerns may have been misplaced by the Inspector given the range of materials he had to consider. If so, it is perhaps an illustration of the need for vigilance on the part of a decision-maker dealing with a case, as happened here, on written representations only.

OVERALL CONCLUSION

34. I would allow the appeal on the light issue only. If my Lords take the same view, the question of relief arises. At the hearing counsel were agreed, I think correctly, that the only form of relief contemplated by the statute (s.288(5) of the 1990 Act) is an order to quash the grant of planning permission. That is the order I would make.

Lord Justice McFarlane

35. I agree.

Lord Justice Christopher Clarke

36. I also agree.