

Public Protection /Licensing
222 Upper Street, London
N1 1XR

Report of: Corporate Director of Public Protection

Meeting of: Licensing Regulatory Committee

Date: 19 July 2022

Ward: St Peters

Subject:

LONDON LOCAL AUTHORITIES ACT, 1991 PART II

RENEWAL OF THE SPECIAL TREATMENT LICENCE HELD IN RESPECT OF LONDON GRACE, 35 CAMDEN PASSAGE, LONDON, N1 8EA

1. Synopsis

- 1.1. This is an application for a renewal of the special treatment licence under the London Local Authorities Act 1991, Part II. A copy of the application form can be found at Appendix 1.
- 1.2. The application is to renew the provision of manicure and pedicure treatments at the premises.
- 1.3. The application is subject a representation from local residents in response to the application.

2. Recommendations

- 2.1. The Committee needs to consider all the evidence before determining this application;
- 2.2. If the Committee decides to refuse the application the London Local Authorities Act 1991 section 8 permits it to do so under one or more of the following grounds:
 - (a) the premises are not structurally suitable for the purpose;
 - (b) there is a likelihood of nuisance being caused by reason of the conduct, management or situation of the premises or the character of the relevant locality or the use to which any premises in the vicinity are put;
 - (c) the persons concerned or intended to be concerned in the conduct or management of the premises used for special treatment could be reasonably regarded as not being fit and proper persons to hold such a license;
 - (d) the persons giving the special treatment are not suitably qualified;
 - (e) the premises have been or are being improperly conducted;
 - (f) the premises are not provided with satisfactory means of lighting, sanitation and ventilation;
 - (g) the means of heating the premises are not safe;
 - (h) proper precautions against fire on the premises are not being taken;
 - (i) they are not satisfied as to the safety of equipment used in the special treatment or as to the manner in which the treatment is to be given;
 - (j) they are not satisfied as to the safety of the special treatment to be given;
 - (k) satisfactory means of escape in case of fire and suitable means for fighting fire are not provided on the premises;
 - (l) the applicant has, within the period of five years immediately preceding the application to the borough council, been convicted of an offence under this Part of this Act; or
 - (m) the applicant has failed to comply with the requirements of subsection (4) or (6) of section 7.

- 2.3. If the Committee decides to renew the application it should be subject to:
- (i) the standard conditions for special treatment premises (see appendix 5);
 - (ii) the conditions of the current premises licence; and
 - (iii) any conditions deemed appropriate by the Committee including that the provision of special treatments at the premises be suspended until the statutory nuisance to residents is resolved and the licensing team are notified of this in writing by the Council's Environmental Health Team.

3. Background

- 3.1. On 29 June 2017 the licensing team received an application for both a special treatment and premises licence for London Grace, 35 Camden Passage, London, N1 8EA.
- 3.2. The licensing team received no objections to the special treatment licence application so it was deemed granted on the 27 July 2017.
- 3.3. The applicant operated similar businesses in other locations in and around London. Licensing officers visited the London Grace site located in Westminster and were advised that the premises in Camden Passage would be fitted out and operated in a similar manner. As a result licensing had no concerns in regards to the new premises.
- 3.4. The premises licence application seeking the sale of alcohol under the Licensing Act 2003 received twelve letters of representation from the local residents. It was subsequently granted with conditions by the Council's Licensing Sub Committee on the 31st August 2017. The premises licence was issued subject to the following licence condition:
- 3.5. the licence shall not have any effect unless the premises has been granted a Massage and Special Treatments licence issued by the London Borough of Islington. The Special Treatment licence shall be maintained.
- 3.6. On 23/10/17 initial complaints of odour and noise nuisance were received from neighbouring residents via Licensing and the Out of Hours Response and Patrol Team. The history of these complaints are contained in the Environmental Health representation to this renewal application.
- 3.7. Although approved, the Special Treatment licence had not been issued upon receipt of the initial complaint. On issuing, it was subject to an additional condition stating that:

- 3.8. Odour from the business shall not cause a nuisance to the occupants of any properties in the vicinity.
- 3.9. The special treatment licence was issued until the 30th September 2018. The licensee sought a renewal within the required time scale.
- 3.10. During the consultation period an objection was received from local residents. The main grounds for objecting to the renewal of the licence are:
- (i) that the building is not structurally suitable for the purpose of providing nail treatments;
 - (ii) proper precautions against fire on the premises are not being taken; and
 - (iii) concerns about the applicants ability to comply with the special licence and its conditions.
- 3.11. The matter was originally listed to be heard at Regulatory Committee in November 2018. In order to give all parties an opportunity to resolve the matter without the need for a hearing it was adjourned.
- 3.12. The applicant had undertaken works at the premises and has also ceased the provision of licensable activities on the ground floor as a result of enforcement action from both the Environmental Health and the Council's Planning Team.
- 3.13. The matter was heard by Licensing Regulatory Committee on 4 February 2019. The decision of the Committee was to renew the licence for 6 months only, and to add the following additional condition to the licence;
- (i) That the extractor fan ventilation system be operated 24/7 and maintained as such.
- 3.14. The special treatment licence was issued on 21st February 2019. A renewal application was submitted on 15th February. On the 14th March a representation was received to this application from a local resident.
- 3.15. The licence was last considered by Council's regulatory Committee on 11 June 2019 when the current licence was granted.
- 3.16. The current licence was renewed in January 2022
- 3.17. During the consultation period an objection was received from local residents. The main grounds for objecting to the renewal of the licence are:
- (i) That the building is not structurally suitable for the purpose of providing nail treatments; and

- (ii) That the resident continues to be affected by odour nuisance and the business has not resolved these issues.

3.18. Since this licence was heard by the Licensing Regulatory Committee in 2019 there have been further investigations made by the Council's Environmental Health Team and a detailed summary of these actions is contained in Appendix 5 of this report.

4. Implications

4.1. **Financial Implications**

4.1.1. The Head of Finance reports that the applicant has paid the application fee of £341.00. Should the application be refused, the fee shall be refunded less the Council's costs in dealing with the application.

4.2. **Legal Implications**

4.2.1 The legal implications are set out in paragraph 2.1, 2.2. 2.3. In addition should the provision of special treatment licence be revoked, it would also result in the licence holders being unable to continue to sell alcohol until another Special Treatment licence is issued for the premises.

4.3. **Environmental Implications and contribution to achieving a net zero carbon Islington by 2030**

4.3.1. Committee reports need to consider the impacts that that proposals will have on the environment. An impact is defined as any change to the environment, whether positive or negative, wholly or partially resulting from Council activities. Almost all human activity has some impact on the environment, and it is very unlikely that any activity will not have any implications.

4.4. **Equalities Impact Assessment**

4.4.1 The council must, in the exercise of its functions, have due regard to the need to eliminate discrimination, harassment and victimisation, and to advance equality of opportunity, and foster good relations, between those who share a relevant protected characteristic and those who do not share it (section 149 Equality Act 2010).

4.4.2 The council has a duty to have due regard to the need to remove or minimise disadvantages, take steps to meet needs, in particular steps to take account of disabled persons' disabilities, and encourage people to participate in public life. The council must have due regard to the need to tackle prejudice and promote understanding.

4.4.3 An Equalities Impact Assessment is not required in relation to this report, as Public Protection Division have an EIA/RIA that covers all licensing activities – including applications so not required for individual applications.

4.5. **Planning Implications**

4.5.1 The advice from the planning team is that they have served a planning enforcement notice for unauthorised use of the whole site. This Notice was appealed by the licence holder, and the planning inspectorate found that the premises has the correct planning usage

5. Conclusion and reasons for recommendations

5.1. That the committee determines this application.

Appendices:

Appendix 1: Application form,

Appendix 2 Current premises licence and associated layout plan;

Appendix 3 Copy of current Licensing Act 2003 premises licence

Appendix 4: Representation

Appendix 5: EHO report

Appendix 6 : Hazard Awareness notice

Appendix 7: Supporting material from licence holder

Appendix 8: Local area map.

Background papers:

- London Local Authorities Act 1991
- Islington Council Special Treatment guidance notes and procedures
- Public Protection Equalities Impact Assessment

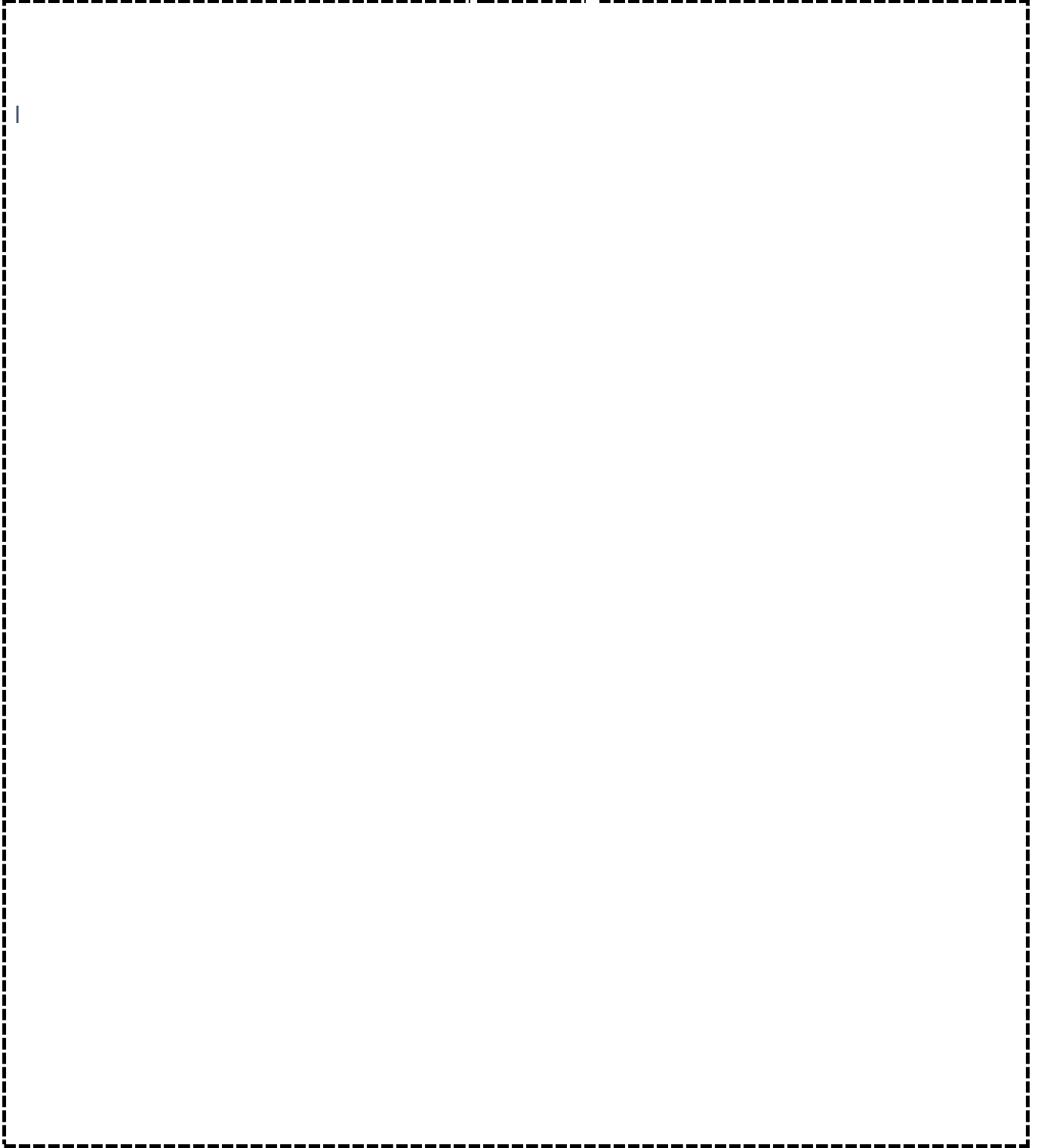
Final report


clearance: Signed by:

K Townsend
Keith Townsend

Corporate Director of Environment

Date: 11 July 2022



LONDON LOCAL AUTHORITIES ACT 1991, PART II
SPECIAL TREATMENT PREMISES  **ISLINGTON**

APPLICATION FOR RENEWAL OF A SPECIAL TREATMENT PREMISES LICENCE

This form should be fully completed, signed and forwarded to:

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

Or

licensing@islington.gov.uk

Enclosing a cheque or postal order for the appropriate fee made payable to London Borough of Islington and crossed (cash should not be submitted), Payments can be made over the phone via card through the licensing team.

FOR OFFICE USE ONLY	
Worksheet Number:	
Fee Paid:	
Cheque/Postal Order No:	
Receipt Number:	
Date Received:	
Initials:	

PLEASE READ THE ACCOMPANYING NOTES CAREFULLY BEFORE COMPLETING THIS FORM

I/We apply for a renewal of the annual special treatment licence for the premises named below:

	Licence Number	LN/000018324
	Licence Holder	London Grace Limited
	Premises Name	London Grace
1.	Address of the premises:	35 Camden Passage, London
	Postcode:	N1 8EA
	Telephone Number	██████████
	Email Address	████████████████████
2	How many persons <u>registered by the Council</u> to give special treatments do you intend to employ at the premises at any one time:	
3	List the names of all Therapists employed at the premises at the time of application:	
	Name	Registration Number
1	██████████	
█	██████████	
█	██████████	
█	██████████	
█	██████████	
6		
7		
8		

I declare that I undertake to carry out the following requirements:

a. I have sent a copy of this application form to the below responsible authorities:

Islington Licensing Police C/O London Borough of Islington 3 rd Floor 222 Upper Street London N1 1XR	Fire Safety Regulations: North East Area 2 London Fire Brigade 169 Union Street City Road London SE1 0LL
CNMailbox-.IslingtonPoliceLicensingTeam@met.police.uk	islingtongroup@london-fire.gov.uk

- b. Only those treatments named on the licence will be provided at the premises;**
- c. There have been no alterations to the sanitary, ventilation, lighting, heating, means of escape or fire fighting arrangements since the grant of the current licence (if alterations have taken place, please submit written details).**
- d. There have been no alterations to the premises layout and therefore no change to the premises plans.**
- e. The only persons I will employ to provide special treatment will be those registered by the Council and I will permit them only to give those treatments specified on their identification card and registration document;**
- f. The following documents will be kept on the premises and available for inspection by authorised officers;**
- **A current Periodic Inspection Report on the electrical installation;**
 - **A certificate confirming examination of all fixed and portable electrical equipment in the last 12 months;**
 - **Fire risk assessment**
 - **Special Treatment Licence issued by the council**
- g. I am aware that the licence is subject to the standard conditions for Special Treatment premises along with any other specified additional conditions.**
- h. I am aware of the regulations of the authority concerning special treatments. The details contained in the application form and any attached documentation are correct to the best of my knowledge and belief.**

DECLARATION:

The application must be signed by the applicant proposing to carry on the establishment. In the case of a company, the Managing Director or Company Secretary must sign.

I hereby declare that the particulars contained in this document are true to the best of my knowledge and belief.

Name in Block Capitals: KIRSTEN WHITE

Signature:  _____

Position: DIRECTOR

Dated: 05/01/2022

Data Protection Act 2018 (DPA 2018) and the General Data Protection Regulation (GDPR).

The information you provide may be disclosed to: other departments within Islington Council; the Police; other Local Authorities and Government Agencies only when and where necessary for the purposes of processing your application

We will always process your information in accordance with the law - for more information on the basis on which we process, use and store your information, please refer to the Council's Privacy Policy - <https://www.islington.gov.uk/about-the-council/information-governance/data-protection/privacy-notice>.

IMPORTANT NOTE:

THIS APPLICATION IS OPEN TO INSPECTION BY THE PUBLIC

LICENCE NUMBER: LN/000018324**SPECIAL TREATMENT PREMISES LICENCE**
SPECIAL TREATMENT - STANDARD

The Council of the Borough of Islington, under the provisions of Part II of the London Local Authorities Act 1991, hereby licenses:

Licence Holder: **London Grace Ltd**

Trading as: **London Grace**

to use the premises at: **London Grace, 35 Camden Passage, Islington, London, N1 8EA**

This licence authorises the following treatments:

Manicures

- MANICURES
- PEDICURE


This premises licence is subject to the General Standard Conditions, the relevant Treatment Specific Standard Conditions and any Additional Conditions, detailed below, specific to this licence. The licence is in force until:

31st January 2022


Additional conditions:

1. (1) The premises requires two hand washing facilities.

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



Service Manager (Public Protection)



Date of Issue

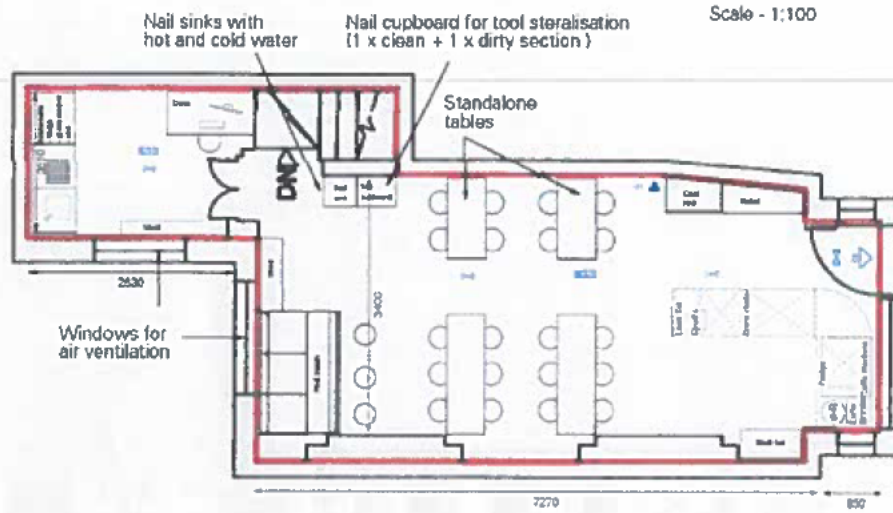
LONDON GRACE®

35 Camden Passage

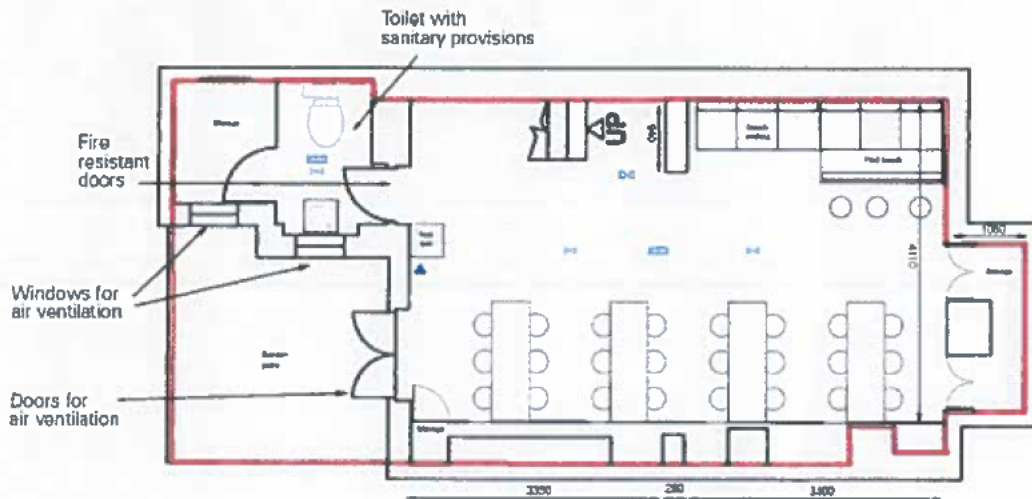
KEY	All Pressurised 300 m ² plus
	All fire resistant partitions as marked
EMERGENCY LIGHTING	
	F101 F1
	F101 ALARM LAMP POINT - SOLARISE
	HEAT & SMOKE DETECTOR
	ESCAPATED FIRE EXIT SIGN
	EMERGENCY LIGHTING
	FIRE EXTINGUISHER
	FIRE DOOR

Scale - 1:100

Ground Floor



Lower Ground Floor



Heating: there are a number of radiators on each floor to keep the store warm. The outgoing has confirmed that the store is a pleasant temperature when they are in use.

The Licence expires on **30th September 2018** It is the Licence Holder's responsibility to renew the licence; you will be sent an application form to renew the licence at least four weeks before the expiry date.

However, if you do not receive one please contact the licensing department or download the form from our website.

If you have any questions regarding the Licence, please do not hesitate to contact the Licensing Department.

Yours faithfully



Niall Forde
LICENSING OFFICER



**PREMISES LICENCE
LICENSING ACT 2003**

Premises licence number	LN18151-01092017	Date of original grant*	31 August 2017
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**An annual fee associated with this licence is to be paid on the anniversary of the original grant date.*

Postal address of premises, or if none, ordnance survey map reference or description			
LONDON GRACE 35 CAMDEN PASSAGE			
Post town	LONDON	Post code	N1 8EA
Telephone number			

Where the licence is time limited the dates
Not Applicable

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

The times the licence authorises the carrying out of licensable activities																												
<ul style="list-style-type: none"> The sale by retail of alcohol: <table> <tr> <td>Monday</td> <td>11:00</td> <td>to</td> <td>21:30</td> </tr> <tr> <td>Tuesday</td> <td>11:00</td> <td>to</td> <td>21:30</td> </tr> <tr> <td>Wednesday</td> <td>11:00</td> <td>to</td> <td>21:30</td> </tr> <tr> <td>Thursday</td> <td>11:00</td> <td>to</td> <td>22:30</td> </tr> <tr> <td>Friday</td> <td>11:00</td> <td>to</td> <td>22:30</td> </tr> <tr> <td>Saturday</td> <td>11:00</td> <td>to</td> <td>20:30</td> </tr> <tr> <td>Sunday</td> <td>11:00</td> <td>to</td> <td>16:30</td> </tr> </table> <p>Except on: Christmas Eve and New Year's Eve until 22:30.</p> <p>Non-standard timings: To permit the premises to be open for licensable activities for pre-booked parties from 09:00.</p>	Monday	11:00	to	21:30	Tuesday	11:00	to	21:30	Wednesday	11:00	to	21:30	Thursday	11:00	to	22:30	Friday	11:00	to	22:30	Saturday	11:00	to	20:30	Sunday	11:00	to	16:30
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Sunday	11:00	to	16:30																									

Gaming Machine Provision:
Not applicable

The opening hours of the premises:

Monday	11:00	to	22:00
Tuesday	11:00	to	22:00
Wednesday	11:00	to	22:00
Thursday	11:00	to	22:00
Friday	11:00	to	23:00
Saturday	11:00	to	21:00
Sunday	11:00	to	17:00

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

On supplies

Name, (registered) address, telephone number and e-mail (where relevant) of holder of premises licence

London Grace Ltd
Ency Associates Printware Court
Printware Court
Cumberland Business Centre,
Portsmouth
P5 1Ds

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

087941417

Name, address and telephone number of designated premises supervisor where the premises licence authorises the supply of alcohol

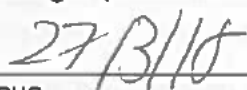
Kirsten White


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

2014/01413/LAPER London Borough of Hammersmith and Fulham

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


Service Manager (Commercial)


Date of Issue

Annex 1 - Mandatory conditions

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

There are further 'Mandatory conditions' applicable to licences authorising the supply of alcohol. A full list of the current mandatory conditions is available from the licensing pages on Islington's web site, www.islington.gov.uk. This list is subject to change by order of the Secretary of State and licensees and other responsible persons are advised to ensure they are aware of the latest conditions.

Annex 2 - Conditions consistent with the Operating Schedule

1. No beers or ciders shall be stocked, sold or supplied.
2. At all times the premises are open for the sale of alcohol, they shall operate principally as a nail bar and/or premises offering other cosmetic beauty treatments.
3. Alcohol shall only be sold or supplied to customers who are receiving nail or other cosmetic
4. beauty treatments and to no more than one other person accompanying each such customer.
5. Alcohol will only be served to customers who are seated within the premises.
6. CCTV shall be installed, operated and maintained, at all times that the premises is open for licensable activities, so as to comply with the following criteria:
7. 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. A record of these checks, showing the date and name of the person checking, shall be kept and made available to Police or authorised Council officers on request;
8. One camera will show a close-up of the entrance to the premises, to capture a clear, full length image of anyone entering;
9. The system will provide full coverage of the interior of the premises and any exterior part of the premises accessible to the public;
10. The system shall record in real time and recordings will be date and time stamped;

11. Recordings will be kept for a minimum of 31 days and downloaded footage will be provided free of charge to Police or authorised Council officers on request (subject to the Data Protection Act 1998) within 24 hours of any request and at all times, there will be a person on the premises who can operate the system sufficiently to allow Police or authorised Council officers to view footage on request and to supply a copy of footage immediately to Police to assist with the immediate investigation of an offence (subject to the Data Protection Act 1998).
12. The premises shall maintain a refusals register and use the same to record all and any instance when a person is refused the sale or supply of alcohol, the date and time of the incident, the reason for the refusal and the name of the staff member(s) dealing with the incident.
13. The refusals register shall be checked and counter-signed by the DPS or manager in charge of the premises at least once a week and the register shall be made available for inspection by police and other authorised officers on request.
14. Any instance of crime and disorder shall be reported to the police.
15. Customers shall not be permitted to bring their own alcoholic drinks into the premises.
16. The capacity of the premises shall be restricted to a maximum of 40 customers.
17. The licence shall not have any effect unless the premises has been granted a Massage and Special Treatments licence issued by the London Borough of Islington.
18. The edges of the treads of steps and stairways shall be maintained so as to be conspicuous.
19. The means or escape provided for the premises shall be maintained unobstructed, free of trip hazards, be immediately available and clearly identified in accordance with the plans provided.
20. During the hours of operation of the premises, the licence holder shall ensure sufficient measures are in place to remove and prevent litter or waste arising or accumulating from customers in the area immediately outside the premises, and that this area shall be swept and or washed, and litter and sweepings collected and stored in accordance with the approved refuse storage arrangements by close of business.
21. A direct telephone number for the manager or supervisor at the premises shall be publicly available at all times the premises is open.
22. No waste and recyclable materials (including bottles) shall be moved, removed or placed in outside areas between 21 :00 and 08:00 on the following day.
23. All waste shall be properly and placed out for collection no earlier than 30 minutes before the scheduled collection times.

24. The premises will operate a Challenge 25 policy whereby any person who appears to be under the age of 25 will be required to produce a photographic proof of age in one or other of the forms specified by the mandatory conditions, before being sold or supplied with alcohol.
25. Notices advertising the policy shall be displayed at the entrance to the premises and at the bar servery.
26. All staff involved in the sale or supply of alcohol shall receive training regarding the law relating to the sale of alcohol to children and persons who are drunk, before they commence their duties. Refresher training shall take place at least once every 12 months.
27. A written record of staff training shall be kept on the premises and made available for inspection by police and other authorised officers on request.

28.

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

29. The licence shall not have any effect unless the premises has been granted a Massage and Special Treatments licence issued by the London Borough of Islington. The Special Treatment licence shall be maintained.
30. The capacity of the premises shall be restricted to a maximum of 30 customers
31. Prominent, clear and legible notices must be displayed on the premises

Annex 4 – Plans

Reference Number: LN18151-01092017



Premises Licence Summary

Licensing Act 2003

Premises licence number	LN18151-01092017	Date of original grant*	31 August 2017
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**An annual fee associated with this licence is to be paid on the anniversary of the original grant date.*

Postal address of premises, or if none, ordnance survey map reference or description			
LONDON GRACE 35 CAMDEN PASSAGE			
Post town	LONDON	Post code	N1 8EA
Telephone number			

Where the licence is time limited the dates
Not Applicable

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

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

Name, (registered) address, telephone number and e-mail (where relevant) of holder of premises licence

London Grace Ltd
Ency Associates Printware Court
Printware Court
Cumberland Business Centre,
Portsmouth
P5 1Ds

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

087941417

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

Kirsten White

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

No restrictions

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

Flat,

Licensing
Islington Council
222 Upper Street
N1 1XR

10th February 2022,

RE: London Grace 35 Camden Passage Special Treatment's licence
Representations by Affected Residents:

Introduction:

Islington Council's surmised that the premises (35 Camden Passage) is **not structurally suitable for the presence of a nail/cocktail bar and party destination/venue:**

"The licensing team have concerns, based on the all the evidence submitted, that the **premises is not structurally suitable** for the provision of the licensable treatments being sought." - Jan Hart, Service Director – Public Protection – Islington Council

The Council have taken **enforcement action** against London Grace for **unlawfully occupying** the site at 35 Camden Passage. The current application under the London Local Authorities Act 1991 is a misapplication of the Act in question and the Council is in breach of its obligation.

Notwithstanding the above, we are strongly objecting on the following grounds:

(a) the premises are not structurally suitable for the purpose;

As Islington Council's own report Surmised

(b) there is a likelihood of nuisance being caused by reason of the conduct, management or situation of the premises or the character of the relevant locality or the use to which any premises in the vicinity are put;

We continue to be affected by a toxic odour nuisance that is likely to continue

(c) the persons concerned or intended to be concerned in the conduct or management of the premises used for special treatment could be reasonably regarded as not being fit and proper persons to hold such a licence;

The business have not resolved the toxic odour nuisance and have actively tried to obfuscate and gaslight us in order to remain at the unauthorised site.

(e) the premises have been or are being improperly conducted;

This is clear from the ongoing nuisance. London Grace Ltd. have operated in a premises without appropriate planning approval.

(f) the premises are not provided with satisfactory means of lighting, sanitation and ventilation;

This is clear from the ongoing nuisance.

SUMMARY OF NEGATIVE IMPACT TO RESIDENTS:

The Appellant (“London Grace Ltd.”) has impacted the fair use and enjoyment of our home since 2017 by causing us a **statutory toxic odour nuisance**.

To date, London Grace Ltd at 35 Camden Passage:

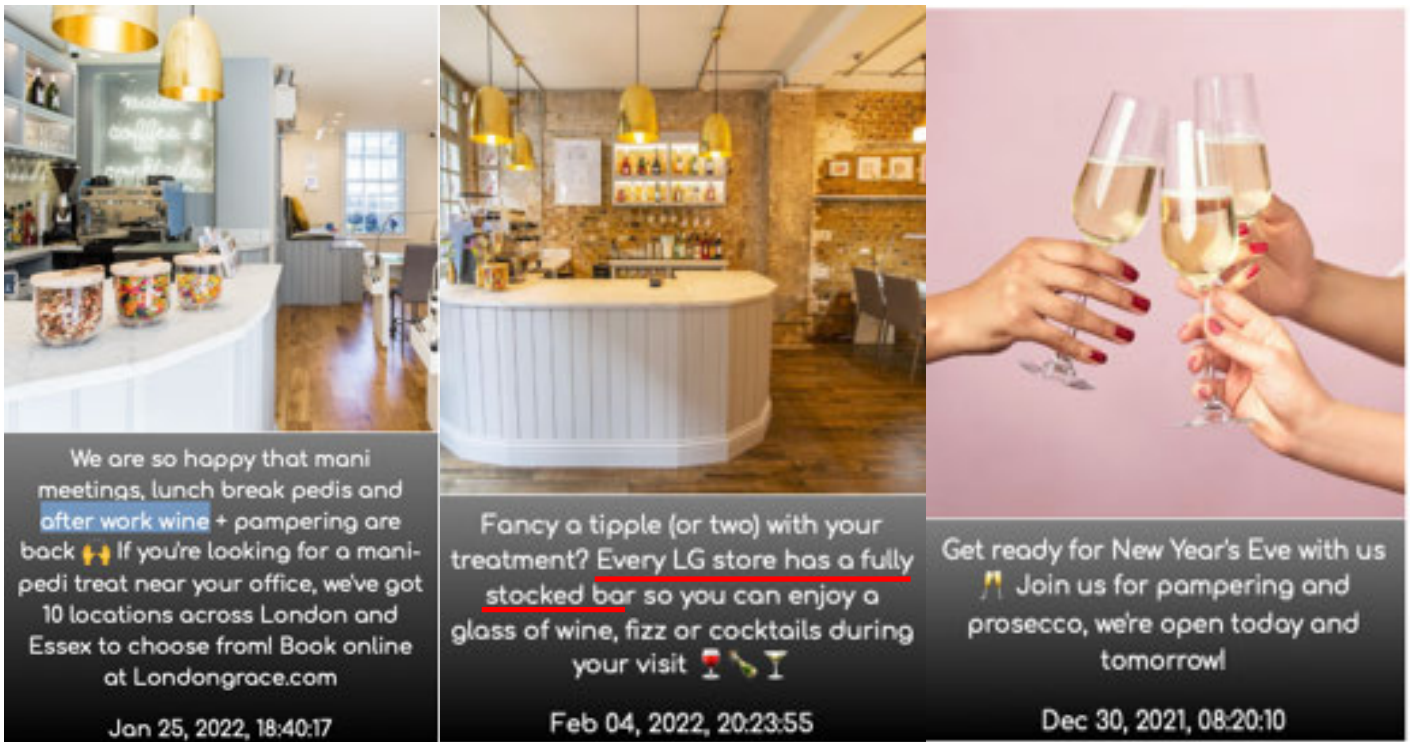
1. Have been issued by Islington Council with an **Abatement Notice** (available on request) for causing us a statutory odour nuisance (Environmental Protection Act 1990 Section 79(1) & 80).
2. The Council Officers who witnessed the toxic odour nuisance described it as follows:

“On entering through Complainants front door into the hallway the **smell of varnish immediately hits you**. **The smell was throughout the property**. On 1st floor front room C [sic] had 2 air purifiers that were on but the **smell was still very strong**. I checked the 2nd floor front bedroom and that had an air purifier that was on and the smell was the same. **In just the several minutes that I was making the assessment I left the property feeling light headed and extremely nauseous.**” (FOI)

AND; (separate occasion)

“Could smell a very strong **smell of nail varnish remover enough to make you dizzy** as soon as you enter the comps [sic] home the smell was also very strong in the living area and the kitchen which is **strong enough to stop the average person from using the room without the affects of the smell.**” (FOI)

3. London Grace Ltd are currently **still under investigation** by Islington Council who has engaged a UKAS accredited Occupational Therapist (Peritus Health Management, members of the British Occupational Health Society) to quantify the illegal levels of TVOCS emitted by the business into our home. This process is ongoing and has slowed as a result of the COVID-19 Pandemic. **We are still waiting for Michelle Webb to reply to our email dated 10th December in order to continue with the investigation.**
4. Legal proceedings have previously been initiated by Islington Council for repeated (3x times witnessed) breaches of the aforementioned Abatement Notice issued to London Grace Ltd.
5. London Grace Ltd. have operated in a premises without appropriate planning approval.
6. London Grace Ltd have breached conditions attached to their Special Treatment Licence.
7. London Grace Ltd incorrectly hold an ancillary alcohol license - given that their operations are trademarked “Nails, Coffee, and Cocktails™” and have a fully stocked bar.



8. London Grace Ltd. have been fined by Islington Council for incorrectly disposing of chemical refuse.
9. Islington Council's Anne Brothers reported (Pollution Team) that her officers witnessed:

“Reported they could hear a loud bass line of music from the shopThe officers also report a very overpowering smell of nail polish remover in the resident's home. The officer commented in his report the smell was so overwhelming he had to stand by a window as it made him dizzy.” (FOI – available on request)

CONTINUING EFFECT OF LONDON GRACE LTD ON OUR HEALTH:

The toxic odour nuisance occurs and recurs at different levels.

For example: **9.999 µg/m³ of TVOCs and 1.006mg/m³ of HCHOs** does not feel the same as 1.578µg/m³ TVOCs and 0.400mg/m³ HCHO. (Both benchmark levels have been measured in our home – data available on request).

However, both example toxin levels impact us and are detrimental to our enjoyment, fair use, and amenity of our home, and is severely affecting our mental and physical health.

The toxic odour nuisance that London Grace Ltd are responsible for is a **hazardous health risk** to us, and there are long term health risks associated with **inhaling** these products over time, symptoms of which we are already experiencing, like: **dermatitis**.

At 9.999µg/m³ TVOCs or above, we find it:

1. **Difficult to breathe,**
2. **Start coughing,**
3. **Suffer with chest pain,**
4. **Suffer with very high resting heart rates,**
5. **Eye irritation,**
6. **Headaches,**
7. **Hollow feeling in our nose,**
8. **Mental distress.**

While at 1.578 µg/m³ TVOCs we might suffer with:

1. **Intermittent eye irritation,**
2. **headaches,**
3. **hollow feeling in our nose,**
4. **Mental distress.**

This is no way to live, as we have done, since 2017.

We would describe the **mental** and **physical** impact of both example levels as being akin to being forced to stand in the middle of the road behind the running exhaust of a bus and being **forced** to remain completely still behind it.

It ought to be remembered that we are also unable to open ANY rear windows (kitchen, bedroom, bathroom, and hallway) in order to ventilate the toxic air because the **recycled toxins come back in through our open windows** from the “Vent-Axia” fans installed (without flues) by London Grace Ltd. that vent out towards the back of the building. Thus, we can only rely on our front windows (bedroom 1 and living room) for ventilation of toxic chemical fumes.

The weather plays a large role in how much we can open these windows, **since when it is cold it is very painful to maintain windows open 12 hours a day**. Our air purifiers mitigate this to a minimal extent, and although we have purchased 3 separate units, we are nevertheless unable to clear the toxins emanating from London Grace Ltd. that leak into our home.

It should be noted that the impact is not merely **physical** or **mental**; it is **material**, too. We are always cold at home. Our energy bills have skyrocketed since London Grace Ltd began squatting at 35 Camden Passage. Therefore, there is a material change in how we interact with our home because of the actions of London Grace Ltd.

FREQUENCY: Most days of the week.

WHAT HAVE RESIDENTS DONE TO TRY TO AMELIORATE THE SITUATION?

To date we have:

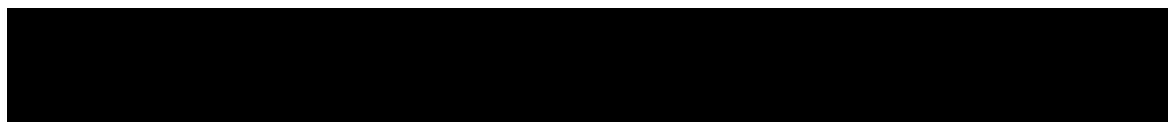
1. Purchased and maintained three (3x) air purifiers (filters change costs £150 every 3 months).
2. Carried out works to try and secure the building to prevent transfer of toxins.
3. We have reengineered our solid wood flooring throughout our home to block the transfer of odours. We did this to try and abate a nuisance that is not ours to abate.
4. We have sealed our kitchen area using industrial sealant.
5. Maintained our windows open 52 weeks a year, and thereby incurred crippling energy bills.
6. Engaged proactively with Council Officer's repeated requests to witness the nuisance for over four years, while admitting the problem has not been resolved.
7. Enabled the Council to witness the problem, as has been done on multiple occasions.
8. Provided years' worth of diary sheets (available on request).
9. Provided video diaries.
10. Provided toxins data, captured using specialised instruments at our cost.
11. Provided witness statements.

In light of the above, and given the severity of the on-going amenity impacts License, the should be refused.

We have had to tolerate unacceptable toxic odours since 2017. We do not believe we have to put up with this situation any longer. Granting London Grace Ltd. another license will simply be rewarding them for dangerous and irresponsible behaviour, and will be another flagrant breach of your obligations under the law.

We therefore urge the Council to refuse the License on all these grounds.

Yours faithfully,



ADDENDUM

MINIMUM CONDITIONS TO BE ATTACHED IN THE UNJUST EVENT OF ANY RENEWAL

Should the Islington Council be minded, despite the above evidence gathered by the relevant competent authority relating to statutory nuisances (Islington Council) and our chemical data, lived experience, witness statements, diary sheets, of **damage to nearby amenity by London Grace Ltd**, to license the business to remain at this site:

Licensing conditions **MUST** be attached to:

1. **RESOLVE** the *ongoing* toxic odour nuisance and eliminate **ANY** and **ALL** statutory disturbances to nearby amenity, including toxic chemicals, barbiturates, chemical solvents, nail bar smells, and noise.
2. These remedial works **MUST** include a robust mechanical ventilation system (as the Principal Technical Officer for Housing Islington, Mr John Thake, suggested. This **MUST** include flue extractor mechanical ventilation systems for the **ENTIRE** premises with flues that vent **ABOVE** the building's roof to **prevent secondary return** of chemicals through opened windows into the residential property.
3. This system **MUST** be inspected on a regular basis.
4. **ALL** installed ventilation systems must not produce **ANY** secondary noise nuisance or impact our amenity in ANY way.
5. **London Grace Ltd. MUST comply with ALL the recommendations laid out in the Hazard Awareness Notice issued to the Appellant.**
6. Damaged party ceiling **MUST** be reinstated, as requested by the Hazard Awareness Notice and the Building Inspection Report prepared by Islington Council.
7. Guttered airbricks **MUST** be reinstated, which were found to be guttered in the Hazard Awareness Notice and the Building Inspection Report prepared by Islington Council.
8. London Grace Ltd's recessed lighting in our party ceiling **MUST** be removed and the correct separation reinstated as was demanded by the Hazard Awareness Notice and the Building Inspection Report prepared by Islington Council.
9. Commercial Premises **MUST** be **entirely** sound proofed in line with party destinations and/or cocktail venues.
10. Business hours **MUST** be shortened to 11-5pm.
11. London Grace Ltd **MUST** apply for a **full** alcohol licence.
12. London Grace **MUST** be planning authorised.

LONDON GRACE, 35 CAMDEN PASSAGE, LONDON, N1 8EA
LONDON LOCAL AUTHORITIES ACT, 1991
SPECIAL TREATMENT LICENCE RENEWAL APPLICATION

Environmental Health Update: January 2019 to June 2022

1. November 2018 to June 2019 work undertaken with legal department regarding prosecution of business for breach of notices. Work included:
 - a. Collection of statements from out of hours response teams
 - b. Collection of statements from residents which could not be submitted as evidence due to hearsay.
 - c. Evidential tests
 - d. Collation of mitigation measures undertaken by business since breaches witnessed.
 - e. Further visits by out of hours team to try and witness further breaches.
2. 16/1/19 odour record sheets received from the complainant covering 10/10/18 until 11/01/19 including the period where the business trialled 24/7 operation of the extraction fans. During that that period, 27/11/18 until 14/12/18, no instances of odour were recorded in the diary records nor were the Out of Hours Response and Patrol Team called out. As a result of this new information the business agreed to operate the extraction unit 24/7 as of Monday 21 January 2019.
3. Further smoke tests were carried out on Wednesday 30 January 2019 using the same equipment and locations as the smoke test carried out in June 2018
 - a. Test one carried out in the basement gas meter cupboard resulted in smoke traveling to the residential entrance hall within 5 minutes.
 - b. Test two, carried out in the basement treatment area resulted in no smoke traveling between the two premises.
 - c. Test two was then repeated and no smoke travelled through.
4. It should be noted that the basement extraction system did not clear the smoke from the area as effectively as the ground floor extract cleared smoke during the June 2018 tests. On 30/1/19 additional ventilation was achieved by opening all windows and doors to clear smoke. This matter was raised by the officers carrying out the smoke test for the business to take up with their installation company.

5. 5/2/19 post committee correspondence from business includes :
 - a. To confirm we have instructed our team to:
 - i. seat clients close to the extraction fan (whenever possible)
 - ii. keep the window between the treatment room and toilet open whenever possible to help with the 'mixing' described by Michael Bull; and
 - b. continue to run the basement extraction fan 24/7
6. 25/5/19 ASB Out of Hours (out of hours team) called out. No nuisance witnessed.
7. 7/6/2019 resident odour diary sheets received covering 21/3/19 to 6/6/19 and including 13 incidents, one of noise from amplified music
8. 8/6/19- ASB Out of Hours call out 17:00. Call back 17:50 advised no longer issue.
9. 11/6/19 ASB Out of Hours 20:29 call out. 20:44 call back advised no longer an issue.
10. 27/6/19 Business and residents advised that the prosecution case had been discontinued on a barrister's advice that "it was not in the public interest" Resident advised to contact the council in case of continued issues and of their ability to take S82 Environmental Protection Act action themselves using their own evidence.
11. 11/7/19 ASB Out of Hours 21:20 call out: 22:30 call back advised dissipated.
12. 14/7/19 ASB Out of Hours 12:02 – call logged
13. 17/7/19 ASB Out of Hours 9:19 call out 19:25 call back no response.
14. 20/7/19 ASB Out of Hours 16:59 – visit at 17:59 – vague smell of nail varnish in living room whilst windows open. Officer visits nail bar: no fumes inside premises, window open, extractor fan switch on
15. 20/7/19 correspondence between Service Director and residents. Residents advised to call out of hours team when an issue.
16. 28/7/19 ASB Out of Hours Saturday 12:30 -visit smell dissipated on arrival. Resident advised they had ventilated by opening windows prior to visit.
17. 6/8/19 18:50 ASB telephone conversation with resident. So bad resident left residence. Resident went back to check and advised at 19:10 that smell had dissipated.
18. 28/8/19 visit by ASB Out of Hours. Smelled varnish smell in business. Entered residential premises, officers smelled similar odour in ground floor hall area which diluted as they went upstairs into residential area but was noticeable over two storeys.
19. 28/8/19 diary sheets received covering 15/8 to 28/8/19 some incidents plus period 23/8-28/8 where resident felt levels were unusually low and perhaps different use of chemicals.

20. August & September 2019- in response to receipt of odour diary sheets the business is visited to attempt to correlate peak odour allegations with peak business use. No obvious correlation between peak use, calls to ASB Out of Hours and peak allegations on odour diary sheets.
21. 12/9/19 am request from resident for EHO to attend. EHO not immediately available and complainant not able to accommodate visit later in the day.
22. 3/12/19 meeting at business to review findings as Angel BID (business improvement district) had funded VOC (volatile organic compounds) monitoring in the business.
 - a. Average VOC levels between 50-70 PPM in the business.
 - b. Only remaining works are sealing around gas meter area in basement but this is dependent on gas meter, belonging to residential, being relocated so works can be carried out. LG (London Grace) agree to put pressure on freeholder to negotiate relocation with residents.
23. No diary sheets, call outs, emails between 1/12/19 and 14/7/20. Premises largely closed from March 2020 to July 2020 due to lockdown.
24. 14/7/20 Business reopens and new complaint received from existing residents. Resident advise some remedial works carried out to residential property over lockdown including some sealing of floorboards and some sealing of kitchen area.
25. 3/9/20-13/4/21 no odour diary sheets received.
26. 13/4/21 email from residents with diary and video recording of their own monitoring of VOCs and other chemical compounds using their own monitoring equipment.
27. 13/4/21 correspondence with business seeking and receiving confirmation that extraction remains in constant use during business hours and that they have moved to specially commissioned products that are less than 50% acetone for wrap removals.
28. 13 to 19 April 2021 calls to ASB Out of Hours but no home visits being undertaken at present due to covid risk assessments.
29. April/May 2021 Public Protection (PP) agreed to commission the services of an independent Occupational Hygienist (OH) trained to the standards prescribed by the British Occupational Hygiene Society to monitor in both business and residential premises to investigate
 - a. Volatile Organic Compounds levels
 - b. Allegations of formaldehyde fumes.
 - c. Issues with the structure causing delays/accumulations of odours and/or unusual routes of transmission.
30. 28/5/21 residents and business agree to an investigation by an independent Occupational Hygienist proposal in principle.

31. 8/6/21 business provides full set of data sheets to Environmental Health and the Occupational Hygienist. The Occupational Hygienist advised from the information provided to them there were no formaldehyde containing chemicals in use at the business.
32. 25/6/21 appointed Occupational Hygienist specialist visited business to assist themselves with devising appropriate monitoring strategy and look at any obvious issues arising. Nothing obvious observed at time of visit -some nail service observed. Occupational Hygienist visited alone so as to not be influenced by PP previous measures while developing their methodology. Occupational Hygienist confirmed types of chemicals used by the business consistent with data sheets supplied.
33. July 2021 Environmental Health requested residents' permission to share their recording data with appointed Occupational Hygienist.
34. August & September Occupational Hygienist refined their proposal methodology of the investigation methodology to reflect incorporating June visit, business data sheets and residents monitoring information.
35. 1/10/21 first set of dates offered to resident and businesses. 3 dates given- all set for Fridays which Occupational Hygienist specialist had devised as best date to monitor as frequently the busiest day.
36. 1/10/21 business response. 5/10/21 resident request for more time to discuss etc.
37. 5/11/21 correspondence with residents advising ASB Out of Hours can be called out but covid risk assessment requiring adequate ventilation and wearing of face masks may reduce efficacy of visits but requesting continue to maintain diary sheets. Alternate late November and December dates offered for Occupational Hygienist visits to both business and residents.
38. Advised 12/12 not convenient for business and misunderstanding with residents meant other December dates missed.
39. 14/12/21 Planning inspectorate site visit with full access to business premises.
40. 1/4/22 update to residents on status of Hazard Awareness Notice that was served on freeholder and residential leaseholder. Misunderstanding meant PP unaware that residents were awaiting this clarification before they agreed dates for Occupational Hygienist visit.
41. 6/4/22 request from Service Manager to resident requesting dates to avoid over spring/summer for onsite Occupational Hygiene monitoring in business and residential areas.
42. 20/4/22 resident suggests alternative proposal for nail treatment bookings for day of Occupational Hygienist monitor. This is communicated to the Occupational Hygienist by email 19/5/22 and then discussed 13/6 22.
43. 13/6/22 Occupational Hygienist agree residents 3 hour block booking proposal providing their original methodology is followed in tandem on the day i.e. full days monitoring on both business and residential premises with member of the team with equipment in each site. Residents requested to liaise with

Occupational Hygienist and business regarding suitable date for Occupational Hygienist monitoring.

44. 13/6/2022- Last odour diary sheet received prior to December 2020. Video diary of monitoring equipment received in April 2021. Last ASB Out of Hours call out April 2021.

Environmental Health Report

October 2017 to January 2019

Islington Licensing Authority
Licensing Act 2003

REPRESENTATION FORM FROM RESPONSIBLE AUTHORITIES

Responsible Authority Environmental Protection

Your Name	Michelle Webb
Job Title	Environmental Health Manager
Postal and email address	222 Upper Street, London N1 1XR Michelle.webb@islington.gov.uk
Contact telephone number	020 7527 3852

Name of the premises you are making a representation about	London Grace
Address of the premises you are making a representation about	35 Camden Passage London N1 8EA

<i>Which of the four licensing Objectives does your representation relate to?</i>		<i>Please detail the evidence supporting your representation. Or the reason for your representation. Please use separate sheets if necessary</i>
To prevent public nuisance	Yes	See attached summary.

Suggested conditions that could be added to the licence to remedy your representation or other suggestions you would like the Licensing Sub Committee to take into account. Please use separate sheets where necessary and refer to checklist.	
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Signed: _____ Date:

Please return this form along with any additional sheets to: Licensing Support Team, Public Protection, 222 Upper Street, London N1 1XR or email to licensing@islington.gov.uk

This form must be returned within the Statutory Period. For more details, please check with the Licensing Support Team on 020 7527 3031

Summary

1. On 23/10/17 initial complaints of odour and noise nuisance received from neighbouring residents via licensing and the Out of Hours Response and Patrol Team.
2. The most recent call out was on 11/1/19.
3. A summary of the enforcement activities related to nuisance over the period 21/10/17 to 11/1/19 includes:
 - 3.1. 27 call outs to the Out of Hours Response and Patrol Team
 - 3.2. 9 call outs where an odour nuisance was witnessed (21/10/17, 28/10/17, 30/11/17, 16/1/18, 8/2/18, 26/4/18, 18/9/18, 27/10/18 and 11/1/19). On all of these occasions, officers identified that the smell in the shop was the odour they could smell in the complainant's premises.
 - 3.3. 12/6/18 a smoke test was carried out by Donna Garner (DGA) and Ahmet Kemal (AKE) (Senior EHOs) establishing smoke travels directly from the basement of LG into the hallway of the residential premises via the ceiling space and the gas meter cupboard. (Note this cupboard houses the gas meter for the residential premises in the basement of the commercial premises)
 - 3.4. S80 Environmental Protection Act notice served on London Grace on 20/6/18 requiring them to abate the nuisance. Notice is extended until 31/8/18 on request of LG as some remedial works are dependent on a third party. See Appendix A.
4. A more detailed overview of the case includes:
5. 26/10/17 DGA visited the business and carried out both a nuisance and health and safety assessment. At this time the business had been made aware of the issues and offered the following information:
 - 5.1. There was to be no use of glue or acrylic nail products on site.
 - 5.2. Their nail varnish had been specially commissioned so as not to use the main 5 chemicals associated with odour and side effects in the nail industry, i.e. Toluene, Dibutyl Phthalate (DBP), Formaldehyde, Formaldehyde resin and Camphor.
 - 5.3. Acetone based nail varnish remover was only used to remove gel varnish.
 - 5.4. They had commissioned a ventilation engineer to offer advice on extraction systems.

6. 31/10/17 DGA visited the complainant and identified some structural issues that might lead to odour transfer between commercial and residential premises.
7. In between 30.10/17 and 6/12/17 LG carried out work to seal airbricks and some gaps in cupboards and install a ventilation extract fan in the round floor salon.
8. 21/12/17 an appointment was made, by DGA, to carry out a more detailed visit on a day when LG had maximum bookings so as to enable identification of route of transmission, this was cancelled by the complainants and then re organised for 27/1/18.
9. 25/1/18 investigative visit carried out to the business by DGA and Michelle Webb (MWE) post visit advice to business included:
 - 9.1. Use of lidded bins for disposal of "take off materials"
 - 9.2. Installation of local exhaust ventilation including HABIA guidance on best practice in nail bars.
 - 9.3. Liaison with the electrician and builder to reinstate the fire separation.
 - 9.4. Referral to the Fire Safety officer.
 - 9.5. Improve the seal on the chimney breast air bricks.
 - 9.6. Designate specific workstations for Acetone wrap take offs and site these as close as possible to existing mechanical ventilation.
 - 9.7. Liaise with freeholder regarding structure of the building.
10. 27/1/18 investigative visit carried out at complainant's premises by DGA and MWE post visit advice to complainants included:
 - 10.1. to take up LG offer to contact directly.
 - 10.2. To keep diary sheets.
 - 10.3. To continue to contact the department when the odour is a problem.
 - 10.4. To cover the air brick in the front bedroom as you have done in the rear bedroom.
 - 10.5. To perhaps fill the gaps between the floorboards in the hallway.
 - 10.6. To investigate how the chimney breast was blocked off before it was cut into for the cooker in the kitchen.
11. 31/1/18 Information was provided regarding basement light fittings by LG electrician and the case was referred to the fire safety team who visited in February 2018 and advised it was compliant.
12. A smoke test was carried out 12 June 2018 and smoke clearly travelled from the basement into the complainant's property. The case was referred once more to the fire service, residential EH and a S80 EPA notice was served requiring LG to abate the nuisance.

13. A series of remedial actions were identified in relation to fire separation that are the responsibility of all three parties: freeholder, residential leaseholder and commercial leaseholder and on request of LG the notice period was extended to 31/8/18.
14. Since the service of notice LG have:
 - 14.1. Installed a second extract system in the basement of the shop.
 - 14.2. Reinstated the ceiling in the basement area.
 - 14.3. Temporarily sealed the gas meter cupboard in the basement (awaiting removal of the gas meter by freeholder/residential leaseholder before permanent solution).
 - 14.4. Trialled 24/7 operation of extract system from 27/11/18 to 14/12/18.
15. Since the notice has expired odour nuisance has been witnessed 3 times by the Out of Hours Response and Patrol Team on 18/9/18, 27/10/18 and 11/1/19.
16. Possible solutions suggested to LG that have not been taken up include:
 - 16.1. Installation of local exhaust ventilation as per Habia guidance.
 - 16.2. Permanently overrunning the ventilation extract system outside of working hours.
 - 16.3. Relocation of Acetone use to an area close to the extract fans.
17. Possible remedies that may help with the odour nuisance that have been suggested to the complainants and not addressed include:
 - 17.1. Filling gaps between the floorboards in the ground floor entrance hall.
 - 17.2. Investigation of the building in to the shared chimney breast in the kitchen.
 - 17.3. Relocation of the residential gas meter from a cupboard in the basement of the commercial premises into the residential premises to enable the ceiling to be permanently sealed.
 - 17.4. Works listed in the hazard warning report attached in Appendix B.
18. It should be noted that Commercial EH are currently trying to organise a further smoke test and also preparing a prosecution folder to be sent to legal regarding breaches of the S80 notice.
19. It should be noted that LG have recently converted the ground floor to retail only and relocated all nail bar services to the basement area. This is still subject to a planning enforcement investigation.
20. It should be noted that there remain works outstanding that are the responsibility of the Freeholder as well as the commercial and residential leaseholders.

21. It should be noted that it is not a straightforward solution to resolving the odour nuisance and it should be considered if a building with this current structure is in fact a suitable location for a nail bar. However, this is not clear given that there remain possible remedies that have not yet been implemented by all three parties.

91S LINGTON

TeamC

T 020 7527 3208Ext

F 020 7527 3097Fax

E john.thake@islington.gov.uk

W www.islington.gov.uk

Our ref: 180023927

Your ref:

Date: 25 July, 2018

The Company Secretary
Benchlevel Developments Ltd.
58-60 Bernere Street
London
W1T 3JS

This matter is being dealt with by:
John Thake

Dear Sir/Madam

HOUSING ACT 2004, SECTION 29 - HAZARD AWARENESS NOTICE
HOUSING HEALTH & SAFETY RATING SYSTEM (ENGLAND) REGULATIONS 2005
ADDRESS: 35 Camden Passage, Islington, London N1 BEA

I refer to my recent inspection of the above property under the provisions of the above legislation.

The Housing Health and Safety Rating System is a way of assessing the condition of residential premises and determining if any hazards exist. A hazard exists if:

- There is a risk of harm to the health and safety of anyone occupying, or likely to occupy, a dwelling, and
- Where that risk is caused by a deficiency in the dwelling, for example as a result of the construction of the building or lack of maintenance or repair.

For more information on the Housing Health and Safety Rating System please see the council website: www.islington.gov.uk/Housing/PrivateHousing/conditions.asp.

My inspection of the above dwelling identified Hazards which is shown on the attached Notification of Hazards (Schedule 1) for your information.

The council has a duty to take action in respect of any Category 1 hazards and it is council policy to take action for certain Category 2 hazards. Under Section 29 of the Housing Act 2004, the council is serving a Hazard Awareness Notice on you. This Notice advises you of the existence of Category 2 hazards and **whilst not requiring you to carry out any works**, recommends you take remedial action in relation to the hazards. The council considers the works specified in the Schedule 2 of this Notice to be practical and appropriate.

If you have any further queries then please contact me on 020 7527 3208.

Yours faithfully

A blue, handwritten signature, likely 'J Thake', written in a cursive style.

John Thake
Principal Technical Officer

Copy of this letter and notice has been sent to:

Alan Halil, Property Manager, JMW Barnard Management Ltd. 181 Kensington High Street, London W8 6SH

BENCHLEVEL DEVELOPMENTS Ltd. care of 103 Portobello Road, London W11 208
and care of Freeman Box Solicitors (reference RD/H10774-147), 8 Bentinck Street, London W1U 2BJ.

HOUSING ACT 2004
SECTION 29
HAZARD AWARENESS NOTICE

Notice No. 180023927

An identical notice has also been served on:

To: Benchlevel Developments Ltd.
58-60 Bemers Street
London
W1T 3JS

Serene John-Richards
The Flat
35 Camden Passage
London N1 BEA

1. You are the owner of the dwelling known as **35 Camden Passage, Islington, London, N1 SEA** C'the premises'
2. Islington Council ("the Council") is satisfied that Category 2 hazards exist(s) on the premises and is further satisfied that no Management Order is in force in relation to the premises under Chapter 1 or 2 of Part 4 of the Housing Act 2004.
3. This notice is served as the deficiencies specified in **SCHEDULE 1** give rise to the hazards at the premises as specified in **SCHEDULE 1**.
4. Under Section 29 of the Housing Act 2004 the Council advises you of the existence of the Category 2 hazard and, **whilst not requiring you to carry out any works**, advises you that it considers the works specified in **SCHEDULE 2** to this Notice to be practical and appropriate remedial action to be taken in relation to the hazard.
5. The Council considers the service of this **Hazard Awareness Notice** as the most appropriate course of action under Section 7(2) of the Housing Act 2004 for the reasons stated in the attached statement of reasons.

See SCHEDULE 2 for specification of works to be carried out.

Dated: 25th July 2018

Signed: 
Title: Principal Technical Officer
Authorised Officer

NOTE: The principal Environmental Health Officer dealing with this matter is: John Thake who can be contacted at:

Residenti I Team C
Public Protection Division
222 Upper Street
London N1 1XR

Telephone: 020 7527 3208

SEE NOTES ON REVERSE

Notes

Meaning of "category 1 hazard" and "category 2 hazard"

"Category 1 hazard" means a hazard of a prescribed description which falls within a prescribed band as a result of achieving, under a prescribed method for calculating the seriousness of hazards of that description, a numerical score of 1000 or more.

"Category 2 hazard" means a hazard of a prescribed description which falls within a prescribed band as a result of achieving, under a prescribed method for calculating the seriousness of hazards of that description, a numerical score below 1000;

"hazard" means any risk of harm to the health or safety of an actual or potential occupier of a dwelling or HMO which arises from a deficiency in the dwelling or HMO or in any building or land in the vicinity (whether the deficiency arises as a result of the construction of any building, an absence of maintenance or repair, or otherwise).

"prescribed" means prescribed by The Housing Health and Safety Rating System (England) Regulations 2005 www.opsigov.uk/si/si2005/20053208 (see section 261(1)); and "prescribed band" means a band so prescribed for a category 1 hazard or a category 2 hazard, as the case may be.

Advice

If you do not understand this notice or wish to know more about it, you should contact the Council. If you want independent advice about your rights and obligations, you should go to a Citizens' Advice Bureau, Housing Aid Centre, Law Centre or a solicitor. You may be able to obtain help with all or part of the cost of legal advice from a solicitor under the Legal Aid Scheme. If you do not know whether you could apply for Legal Aid you can see a solicitor who may be prepared to give you half-an-hour of legal advice for a small fee. If you want to know more about the works the Council requires you to do, you may wish to consult a surveyor.

HOUSING HEALTH & SAFETY RATING SYSTEM (ENGLAND) REGS 2005
HOUSING ACT 2004 SECTION 29

STATEMENT OF REASONS

RE: 35 Camden Passage, Islington, London, N1 SEA

The authority is satisfied that Category 2 hazards exists at the above premises and that action should be taken in respect of those hazards.

In determining the most appropriate action regard has been given to the following:

- Views of the owner who had been consulted during previous visits to the premises.
- Views of the occupiers who was present during the inspection of the premises.
- Nature and severity of the hazard. The authority considers that giving advice but not taking enforcement action to reduce/remove them is appropriate at this time.
- Impact course of action would have on the local environment by improving the fire safety of the premises and surrounding buildings in a densely populated area.
- Consideration of Listed Building status. **The interior of the building does not have listed status.**
- Value of the property is not relevant in this case.

The following actions (in bold) were considered before the authority made its decision:

1. The service of a **Hazard Awareness Notice** is the most appropriate course of action to deal with the Category 2 hazards identified in the premises due to the nature of the hazard and the risk they pose to occupiers of the property. The authority considers that giving advice but not taking enforcement action to reduce/remove them is appropriate [in this case] [at this time].
2. The service of an **Improvement Notice** is not an appropriate course of action to deal with the Category 2 hazards identified in the premises because the hazards are not considered to be severe enough to warrant enforcing the works indicated in the schedule. It is considered reasonable to give advice about the hazards and recommend remedial action.
3. The service of a **Suspended Improvement Notice** is not an appropriate course of action because remedial works can be carried out as advised.
4. The making of a **Prohibition Order** is not an appropriate course of action because it is reasonable and practicable to give advice about the remedial works to remove/reduce the hazards in this case.
5. Taking **Emergency Remedial Action** or making an **Emergency Prohibition Order** are not appropriate courses of action in this case because the hazards encountered do not pose an imminent risk of serious harm to the health and safety to occupiers and visitors to the property.
6. There are no good reasons known to the authority that would warrant considering serving a **Suspended Prohibition Or er.**
7. **Demolition or clearance** are not the most appropriate courses of action because of the high values of property in Islington and the demand on available units of accommodation within the area.

Decision

The decision is to serve a **Hazard Awareness Notice** which is considered to be the most reasonable and appropriate means for dealing with the hazard identified in the premises.

HOUSING HEALTH & SAFETY RATING SYSTEM (ENGLAND) REGS 2005

HOUSING ACT 2004 SECTION 12

SCHEDULE 1 (DEFICIENCIES AND HAZARDS ARISING)

RE: 35 Camden Passage, Islington1 London1N1 BEA

BACKGROUND

Description of Premises.

Construction.

Nineteen century brick built with solid walls, mid terraced, back to back of four stories including the basement. The ground floor has a front bay window shop front. The roof of the main building is pitched with flat roof to the three story rear extension. There is a light well to the rear of the building. It is noted that no building control records are held for this property so the assumption is it was converted without building control approval.

Accommodation.

Ground floor and basement commercial premises currently being used by London Grace as a nail bar. Both basement and ground floors are open plan with separate bathroom in the basement rear extension with a separate office above the bathroom on the ground floor.

The first and second floors form one residential flat. The first floor consisting of front sitting room, separate rear kitchen and bathroom in the rear extension. The second floor consists of front bedroom and rear bedroom.

Nature of Hazards under the Housing Health & Safety Rating System (HHSRS).

1.0 HHSRS Hazard No. 24 Fire Band D

- 1.1 Although the basement and shop have an automatic fire alarm and detection system with a control panel the system covers the commercial unit only and is not linked to alert occupiers of the flat above in the event of a fire in the commercial areas below the flat.
- 1.2 The flat has no working smoke alarms and no fire door to the kitchen which is open to the landing and stairs with the sleeping areas on the floor above.
- 1.3 The basement recessed lights are visible through ground floor floorboards in the flats ground floor entrance hall which would allow smoke and fire to spread into the flat in the event of a fire in the basement.

2.0 HHSRS Hazard No. 10 Volatile Organic Compounds Band E

- 2.1 The basement recessed lights are visible through ground floor floorboards in flats ground floor entrance hall and likely source of fumes/odours in ground floor entrance hall of the flat as well as for smoke in the event of a fire in the basement.
- 2.2 There are two chimney stacks one to the front of the building which pass through the front shop area and the first floor front sitting room and second floor front bedroom and out through the roof. The other is to the rear of the shop passing through first floor rear kitchen and second floor rear bedroom and out through the roof. A plastic waste pipe passes through the basement chimney areas and a lack of an effective seal around the hearths, services and the chimney stack would allow fumes/odours to pass through the building as well as the spread of fire.

3.0 HHSRS Hazard No.6 Carbon monoxide & fuel combustion products Band G

- 3.1 The basement rear cupboard contains a gas boiler for the shop with its flue through the rear wall into the rear light well with an air brick above. There is also an expel air fan in top glass panel of the doors venting onto the rear light well near the boiler flue and air brick. The close proximity of these could be drawing fumes/odours back into the building and convection up the chimney.
- 3.2 The first floor rear kitchen has a cooker inserted into the alcove formed in the chimney breast it is unclear if the cooker vents into the chimney or how the chimney is sealed at ground floor level and if the use of cooker fan if fitted causes a convection effect drawing fumes from the ground floor shop areas or from the basement expel air fan back into the air brick and up the chimney.

HOUSING HEALTH & SAFETY RATING SYSTEM (ENGLAND) REGS 2005

HOUSING ACT 2004 SECTION 12

SCHEDULE 2 (WORKS REQUIRED TO REDUCE/REMOVE THE HAZARDS)

RE: 35 Camden Passage, Islington, London, N1 BEA

1.0 HHSRS Hazard No. 24 Fire

- 1.1 The fire separation between the commercial and residential needs to provide 60 minutes' fire separation at the walls, ceilings and floors.
- 1.2 The basement and shops automatic fire alarm and detection system needs to be linked to a sounder in the flat to alert occupiers of the flat above of a fire in the commercial areas below.
- 1.3 A mains wired smoke alarm system are required at each level within the flat which complies with the requirements of BS 5839 Part 6, 2004
- 1.4 A 30-minute fire door is required to the first floor flats rear kitchen which meets the requirements of BS 476: Part 22:1987.

2.0 HHSRS Hazard No. 10 Volatile Organic Compounds

- 2.1 For fumes/odours to transfer between premises, two conditions must exist. First, there must be a hole, or pathway, for the air to move through and, second, there must be a driving force to push the air through the hole.

Despite appearances, buildings can have relatively leaky interior: ceilings, floor and wall partitions that allow air to move through the building. Fumes/odours transfer between apartments would not otherwise be possible. There may be leakage pathways through the walls and floors separating the two properties, above and below the apartment, through electrical outlets and switches, - wiring penetrations, - plumbing penetrations, - ducts, - Joints between the walls and floors that define your buildings boundaries - false ceilings and chimneys.

3.0 HHSRS Hazard No.6 Carbon monoxide & fuel combustion products

- 3.1 The basement rear flue need to be extended to 1.2 meters above the air brick.
- 3.2 The second floor boilers flue need to be located and checked for gas regulations compliance.
- 3.3 Redundant flues need to be removed and openings sealed.

MISCELLANEOUS

References to the "left" and "right" are stated throughout as though standing at the front door of the flat.

The Environmental Health Officer must be informed of the date for the start of works.

Whilst works are in progress, due care and attention is to be paid towards the provisions of the Health and Safety at Work etc. Act 1974 and Control of Pollution Act 1974. While works are in progress, the common hallways, landings and stairways should be kept free from accumulations of rubbish, debris and materials etc. On completion of the works, the site should be left in a clean tidy condition and free from builders' debris.

When carrying out the foregoing works, ensure all surfaces disturbed or damaged are made good, decorated and left to match existing.

All works shall be carried out in a proper manner to the satisfaction of the Local Authority. Where British Standards or Codes of Practice are applicable, they should be adhered to.

Your attention is drawn to the requirements of the Control of Asbestos Regulations 2006 and The Management of Health and Safety at Work Regulations 1999. Before carrying out works and in accordance with the provisions of Health and Safety Asbestos Survey Guide (HSG264), you are strongly advised to ensure that a refurbishment survey of the premises is undertaken prior to any works being commenced.

It should not be presumed that materials in the premises are asbestos free unless there is strong evidence to support this. If you require further advice or guidance on this please contact Islington Council, Residential Environmental Health for advice on 0207 527 3083.

The building may be listed or in a conservation area, if so special requirements apply to building works and some of the repairs specified in this schedule may have to be altered. For further information, contact: 0207 527 2000

All gas installations and supply pipes must comply with current Gas Safety Regulations.

All wiring to comply with BS 7671 requirements for electrical installations IEE Wiring Regulations 17th edition.

Proper advance notification of works shall be given to the residents and all necessary aid given for moving furniture and fittings, protecting possessions and providing alternative services as necessary.

Appendix 5

LONDON GRACE®

London Grace
35 Camden Passage
Islington, London
N1 8EA

Licensing - Public Protection
Islington Council
222 Upper Street
London
N1 1XR

15 June 2022

Dear Sir / Madam

RE: London Grace Ltd hearing, 21 June 2022

Please find our response and supporting documentation to the letter of objection dated 10 February 2022, on the following grounds:

Ground 1

London Grace Ltd have been issued by Islington Council with an Abatement Notice (available on request) for causing us a statutory odour nuisance (Environmental Protection Act 1990 Section 79(1) & 80).

Response to ground 1

Islington Council decided that it would not be in the public interest to proceed with this prosecution against London Grace Ltd and therefore discontinued the prosecution and notified the Court.

Supporting evidence:

- *A. Outcome of Abatement Notice*

Ground 2

The Council Officers who witnessed the toxic odour nuisance described it as follows:

“On entering through Complainants front door into the hallway the smell of varnish immediately hits you. The smell was throughout the property. On 1st floor front room C [sic] had 2 air purifiers that were on but the smell was still very strong. I checked the 2nd floor front bedroom and that had an air purifier that was on and the smell was the same. In just the several minutes that I was making the assessment I left the property feeling light headed and extremely nauseous.” (FOI)

AND; (separate occasion)

“Could smell a very strong smell of nail varnish remover enough to make you dizzy as soon as you enter the comps [sic] home the smell was also very strong in the living area and the kitchen which is strong enough to stop the average person from using the room without the affects of the smell.” (FOI)

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Response to ground 2

London Grace commissioned an odour assessment by Michael Bull, Global Environmental Consulting Leader at ARUP in December 2018 following an alleged odour nuisance in the residential premises above the shop. To address such complaints London Grace installed a new ventilation system into their premises on both the ground and basement floors. The assessment of this new system concluded that there were no obvious pathways for odorous materials to pass from the shop into the flat apart from minor gaps in the building fabric. Further works to seal gaps in the building structure were also carried out.

Notwithstanding these works, London Grace received an Abatement Notice in January 2019 that progressed to a court hearing which was promptly dropped on 14th June 2019. An email in relation to this is included. London Grace Ltd has since been in regular contact with Islington Council's Environmental Commercial Health Manager.

From these discussions a number of measures have been put forward by the Council including the following:

- Running the basement extraction fan 24/7
- Covering of two air bricks within the existing chimney breasts
- Development of product to use of an alternative to acetone remover
- Seating of clients close to the extraction fan (whenever possible)

The above works have all been carried out as requested. Further to this London Grace has installed an odour sensor at the premises that gathers data on the substances present in the air of the unit. Since its installation there have been no recordings of harmful levels of substances associated with products used within the store. The only outstanding suggestion from the Council is the movement of the resident's gas meter from the shop basement into their own dwelling so that the gas cupboard can be blocked (removing the last potential route for odour). London Grace is waiting for the landlord and residents to instruct the gas company as this is illegal for them to commission.

It is noted that the residents have submitted entries from an Odour Nuisance Diary that relate to entries dating from 2018. There are no entries from the time after London Grace carried out works to the building to resolve this matter, along with the implementation of the above recommendations. We submit minutes from the 2019 STL committee meeting. At this meeting it was confirmed that the Committee was satisfied that London Grace had taken reasonable steps to carry out remedial works to allay the odour issues and complaints and had taken on board recommendations made by Islington's Environmental Health Team.

Supporting evidence:

- *A. Outcome of Abatement Notice*
- *B. London Grace Odour Report*
- *C. Minutes from Committee hearing 2019*

Ground 3

London Grace Ltd are currently still under investigation by Islington Council who has engaged a UKAS accredited Occupational Therapist (Peritus Health Management, members of the British Occupational Health Society) to quantify the illegal levels of TVOCS emitted by the business into our home. This process is ongoing and has slowed as a result of the COVID-19 Pandemic. We are still waiting for Michelle Webb to reply to our email dated 10th December in order to continue with the investigation.

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Response to ground 3

London Grace is fully cooperative with this investigation and suggested dates in November 2021 to carry out testing, but were informed by the Environmental Health Manager, Michelle Webb, that these dates were no longer going to work. Michelle Webb enquired about a December date, however London Grace were otherwise engaged, and January was suggested instead. London Grace did not receive a further response regarding the investigation after their last email on 4th November 2021, but understand this may have been due to the Omicron COVID wave.

Supporting evidence:

- *D. VOC monitoring email from Environmental Health Manager*

Ground 4

Legal proceedings have previously been initiated by Islington Council for repeated (3x times witnessed) breaches of the aforementioned Abatement Notice issued to London Grace Ltd.

Response to ground 4

Please refer to "Response to ground 1"

Ground 5

London Grace Ltd. have operated in a premises without appropriate planning approval.

Response to ground 5

Planning permission was granted on 9th June 2022.

Supporting documentation:

- *E. London Grace planning decision.*

Ground 6

London Grace Ltd have breached conditions attached to their Special Treatment Licence.

Response to ground 6

London Grace disputes this claim, and no evidence has been submitted.

Ground 7

London Grace Ltd incorrectly hold an ancillary alcohol license - given that their operations are trademarked "Nails, Coffee, and Cocktails™" and have a fully stocked Bar.

Response to ground 7

London Grace disputes this claim. London Grace holds Premises Licences across all London Grace sites and follows the conditions for each specific store i.e. serving drinks to clients receiving treatments.

Supporting documentation:

- *F. London Grace Premises Licence*

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Ground 8

London Grace Ltd. have been fined by Islington Council for incorrectly disposing of chemical refuse.

Response to ground 8

London Grace received a fine in 2017 as the waste that had been correctly put out, but was then moved. London Grace settled this fine.

Supporting documentation:

- *G. Waste receipt 2017*

Ground 9

Islington Council's Anne Brothers reported (Pollution Team) that her officers witnessed:

"Reported they could hear a loud bass line of music from the shopThe officers also report a very overpowering smell of nail polish remover in the resident's home. The officer commented in his report the smell was so overwhelming he had to stand by a window as it made him dizzy" (FOI - available on request)

Response to ground 9

The residents have made several references to the playing of amplified music from the premises. London Grace contests this. Camden Passage is a lively area, where several music noise sources are audible, primarily from shoppers and visitors to the area and also music from within shops and restaurants. There are two sonos speakers installed within the unit (one on each floor). These were chosen as they do not feature any base. London Grace was keen to ensure that they were not causing nuisance when they first received reports of potential noise from the unit. They commissioned an independent advisor, SPL Track, in 2018 to ensure that they were complying with all necessary regulations. Their report concluded that the two speakers in London Grace were 'hardly capable of producing a 'loud base line' and that the music source level had a lower frequency than a domestic television. This Report is attached. Despite these findings the speaker on the ground floor was lowered on the wall in accordance with recommendations from the Council. An email from Ann Brothers (Islington Licensing Noise Liaison Officer) on January 14th 2020 which was sent in response to a complaint from the neighbours, where she states she does not believe there is a statutory noise nuisance established at London Grace, is also attached.

Supporting documentation:

- *H. London Grace noise report*
- *I. Email from Ann Brothers*

Kind regards

Kirsten White & Lauren Williams

London Grace Directors

From: Wooder, Imogen [mailto:Catherine.Wooder@islington.gov.uk]

Sent: 14 June 2019 11:32

To: Philip Day <P.Day@laceyssolicitors.co.uk>

Subject: London Grace Ltd

Dear Mr Day

Islington Council has reviewed the prosecution and in particular has considered your representations made on 8th May 2019. It now appears to Islington Council that it would not be in the public interest to proceed with this prosecution against London Grace Ltd and therefore we will be discontinuing the prosecution and notifying the Court. The usual procedure in non-CPS cases is to “offer no evidence” at a hearing which only the Prosecution need attend.

Imogen Wooder

Licensing and Prosecutions Solicitor

Legal Services

Resources Department (Law & Governance)

London Borough of Islington

Council Offices, 7 Newington Barrow Way, London N7 7EP

0207 527 2477

DX 324801 HORNSEY 2

If I am away from my desk and the matter is urgent please contact Ella Lee on Ella.Lee [@islington.gov.uk](mailto:Ella.Lee@islington.gov.uk)

This e-mail is intended for the addressee only. If you have received it in error, please contact the sender and delete the material from your computer. Please be aware that information in this email may be confidential, legally privileged and/or copyright protected.

London Grace
Angel Store
Odour Appraisal

Issue | 6 December 2018

This report takes into account the particular instructions and requirements of our client.

It is not intended for and should not be relied upon by any third party and no responsibility is undertaken to any third party.

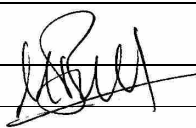
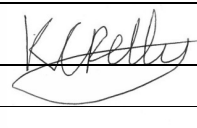
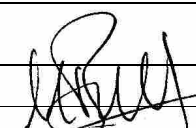
Job number 238826

Ove Arup & Partners Ltd
13 Fitzroy Street
London
W1T 4BQ
United Kingdom
www.arup.com

ARUP

Document Verification

ARUP

Job title		Angel Store		Job number	
				238826	
Document title		Odour Appraisal		File reference	
Document ref					
Revision	Date	Filename			
Draft 1	14 Nov 2018	Description	First draft		
			Prepared by	Checked by	Approved by
		Name	Michael Bull		Michael Bull
		Signature			
Issue	6 Dec 2018	Filename	0002Report Issue.doc		
		Description			
			Prepared by	Checked by	Approved by
		Name	Michael Bull	Katie Petty	Michael Bull
		Signature			
		Filename			
		Description			
			Prepared by	Checked by	Approved by
		Name			
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		Name			
		Signature			

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Issue Document Verification with Document



[HELP1]

Contents

	Page
1 Introduction	1
2 London Grace – Angel	2
3 Assessment of Odour Nuisance Potential	7
3.1 Solvents – Background Information	7
3.2 Appraisal Approach	8
3.3 SPR Assessment	8
4 Conclusions	12

Appendices

Appendix A

Fan Specification

Appendix B

Floor Plans

1 Introduction

Ove Arup and Partners Ltd (Arup) has been commissioned by London Grace to undertake an odour appraisal at their store at 35 Camden Passage, London N1 8EA. These premises have received odour complaints from the residents of the flat situated above the store and also received an Abatement Notice from the local authority from the London Borough of Islington relating to odour. The odour complaints generally relate to solvent smells – particularly acetone.

Several improvements have been made to the premises to address the alleged odour issues, this appraisal examines the potential for odour nuisance to occur.

The study has examined the nature and quantities of solvents used on the premises; collates information regarding the odour and irritation thresholds for the main solvents involved; examines the operations at the store (in relation to potential solvent use and storage); examines the current ventilation system at the store and then uses a Source, Pathway, Receptor approach to assess the potential for odour nuisance.

2 London Grace – Angel

The store is located in Camden Passage and uses the ground floor and basement of the building. There are a wide variety of shops in Camden Passage including several cafes, a cheese shop and a chocolatier. The cafes maybe have some minor cooking odours associated with their operations, it is notable that one shop is actively pumping perfume odours into the pavement area.

The London Grace store provides nail treatments some using polish or gel polish. There are four manicure tables and a pedicure bench on the ground floor, and four manicure tables and one pedicure bench in the basement which is generally only used for party packages. Arup was advised by London Grace that there is normally a maximum of four staff present carrying out nail treatments although there is capacity within the store for more treatments to take place concurrently. Arup were also advised that normally, only one or two tables are in use at one time except at peak periods.

The opening hours are

Monday to Wednesday: 9am - 9pm

Thursday and Friday: 9am - 10pm

Saturday: 9am - 8pm;

Sunday: 10am - 4pm

The main products used in the store that contain organic solvents are detailed in Table 1 , the exact composition of each product is not provided in the product data sheets although a range is given in some cases.

Table 1 Solvent types present in each product

Product	Solvents present
Acetone based nail varnish remover	Acetone
Non-acetone based nail varnish remover	Ethyl acetate (25-100%) Ethanol (25-100%)
Nail polish	Acetone Ethyl acetate Butanol Butyl Acetate
Shellac	Acetone Ethanol Butyl Acetate

The store has provided details of the quantities of products used in September together with estimate of the amount used for each treatment. Typically solvent containing products are used for about 10 minutes of each treatment. This information is summarised in Table 2.

Table 2 Details of products used

Product	Bottle size (ml)	Treatments per bottle	Use per treatment (ml)	Monthly usage ml (bottles)
Shellac Base	7	35	0.20	70 (10)
Shellac Colour	7	20	0.35	126 (18)
Shellac Top	7	18	0.39	140 (20)
Nail Polish Base	12	30	0.40	84 (7)
Nail Polish Colour	12	35	0.35	132 (11)
Nail Polish Top	12	55	0.22	84 (7)
Nail Varnish remover	-	-	10	2000
Nail varnish remover (acetone free)	-	-	10	2000

The total monthly solvent use is therefore less than 5 litres (equivalent to less than 1.5 grammes/hour the shop is open). While both nail polish and shellac contain solvents, the use of nail varnish remover results in the highest rates of solvent release and consequently have the highest potential for odour to be produced.

The products are stored in sealed bottles on the tables and spare inventory is kept in closed cupboards. There is no open storage of solvents. Used product bottles are disposed of daily in waste bags placed outside of the store at the end of the day. No significant odours can be expected from the storage of any of the products as they would be unusable if left open.

Ventilation fans are fitted in the rear windows on the on both floors, these were installed on 6th December 2017 on the ground floor and 28th June 2018 in the basement. The fans are switched on at the start of the day and left running during opening hours and for up to 30 minutes after closing (regardless of activity within the store). The fan specification is provided in Appendix A. As operated these provide 220 litres/sec flow. The plans of the store are provided in Appendix B. From these the volume of the store areas has been estimated and the average residence time and the number of air changes per hour calculated and these are shown in Table 3.

Table 3 Room volumes and ventilation details

Floor	Volume of room (m³)	Average residence time (secs)	Number of air changes per hour
Ground floor	78	355	10.1
Basement	79	360	10

As the fans are mounted in the rear walls, the general direction of airflow in the rooms will be from the front (Camden Passage side) to the rear of the property. Arup has been informed by London Grace that the local authority carried out smoke testing in the ground floor and was satisfied that the installed fan provided good ventilation.

The potential routes for air to flow between the store and the residential property above are through the ceiling and one wall of the ground floor, and through part of the ceiling into the stair area of the flat from the basement. There are no obvious openings where there could be transfer of odorous gases however, the residents have noted they can see the light fittings through their floorboards. In the basement, the ceiling below the stairwell has been covered with a further layer of fire proofed material designed to block the transfer of odours through this route into the residential property.

Potentially there can be some transfer of odours into the residential property through gaps in light fittings. Following a council investigation, some gaps were found around the ceiling associated with pipework from the gas meter in the basement, these gaps were sealed with foam on advice from the local authority in 2018. No other gaps could be found by the council during this visit.

While there may be some routes where odours could pass (e.g. through the light fittings), these will be small and it cannot be expected that large volumes of gases would pass from the basement to the residential property. As there are active ventilation extract fans in the shop, it will be under negative pressure compared with the residential property (unless the property also has extracts fitted) meaning that when the fans are active, air should be drawn from the flat into the shop premises rather than vice versa.

In principle, odours could enter the residential property from the outside from recirculation of the extracted air. However, the complaints from the residents have referred to odours building up when their property is closed up and this route appears to be unlikely.

3 Assessment of Odour Nuisance Potential

3.1 Solvents – Background Information

As detailed in Section 2, the main solvents in the products used in London Grace are acetone, ethyl acetate and ethanol. There are other solvents used in much smaller quantities and the three solvents above are likely to represent at least 90% of the solvents used on site. Where complaints or observations have identified an odour, it has always been described as Acetone. All of the solvents used are heavier than air.

3.1.1 Acetone

There is a wide range of reported odour thresholds for acetone, the Scottish Environment Protection Agency (SEPA) guidance¹ provides the following information:

- Odour threshold: 47.4-1613 mg/m³
- Irritation of the eyes, nose and throat: 720 mg/m³

A study² prepared for the UK Department of the Environment (DoE) in 1994 reported a best estimate odour threshold for acetone of 13.9 mg/m³.

The Health and Safety Executive short (15 minute average) and long (8 hour average) term exposure limits for acetone are 3620 and 1210 mg/m³ respectively.

3.1.2 Ethyl Acetate

There is also a wide range of reported odour thresholds for ethyl acetate, the SEPA and DoE studies report a best estimate threshold of 2.41 mg/m³ with the DoE study reporting a range of 1.25-3.82 mg/m³.

The Health and Safety Executive short and long term exposure limits for ethyl acetate are 1468 and 734 mg/m³ respectively.

The European Commission Scientific Committee on Occupational Exposure Limits³ that no irritation was observed from exposure to Ethyl Acetate at exposure below 1468 mg/m³. The same document notes that self-reported irritation levels are strongly influenced by whether odour is detected.

¹ SEPA – Odour Guidance, version 1, January 2010.

https://www.sepa.org.uk/media/59919/sepa_odour_guidance.pdf

² AEA Technology, 'Odour Measurement and control, an update, August 1994

³ Recommendation from the Scientific Committee on Occupational Exposure Limits for ethyl acetate SCOEL/SUM/1, November 2008

3.1.3 Ethanol

The SEPA and DoE studies report a best estimate odour threshold for ethanol (ethyl alcohol) of 0.28 mg/m³ with the DoE study reporting a range of 0.17-0.39 mg/m³.

The Health and Safety Executive long term exposure limit for ethanol is 1920 mg/m³, there is no short term exposure limit.

3.2 Appraisal Approach

A useful framework for the odour appraisal is the Source Pathway Receptor (SPR) approach detailed in the Institute of Air Quality Management (IAQM) odour guidance for planning⁴. This approach examines the nature and magnitude of the source, the effectiveness of the pathway from the source to the receptor, and then considers the sensitivity of the receptor. The IAQM guidance also suggests a multi-tool approach (i.e. using more than one assessment tool) and therefore the results of the monitoring undertaken and an examination of the complaints made has been carried out.

3.3 SPR Assessment

3.3.1 Source

The use of materials containing organic solvents is the source of odour complaints received. No other significant sources of odour are present within the London Grace premises. As noted in Section 2 it is the use of the nail varnish remover that results in the highest solvent emission rate. This is used in two ways in the treatments, standard nail polish is removed with acetone based solvents using cotton pads. Nail varnish remover is placed on the pad and the nail technician manually wipes this on the nails.

The process for removing shellac is different, small absorbent pads mounted on foil are used. The solvent is added to the pad and then the pad applied to the nail and the foil used to wrap around the nail and left in place for several minutes. This allows the nail to be “soaked” in the nail varnish remover but minimises the evaporation of solvent. The foil seal is not totally airtight but it will significantly reduce the solvent emission rate. After use, the pads are placed in covered bins, these bins are not airtight and solvent will gradually be released after their disposal. It is assumed that most solvent would be evaporated before the bins are emptied at the end of the day. Arup is informed that the removal process takes around 10 minutes.

⁴ Bull et al, (2108). IAQM Guidance on the assessment of odour for planning, Institute of Air Quality Management.

Assuming (as a worse case) that all the solvent evaporates into the air during the ten minute period and that 10 ml of remover⁵ is used then the average emission rates of each solvent during a treatment would be

- Acetone : 13.1 mg/s
- Ethyl Acetate: 15 mg/s
- Ethanol: 13.1 mg/s

These emission rates assume that the removing fluid is entirely made up of a single solvent although in some cases they are mixtures. It also assumes that the solvent applied would completely evaporate during the treatment time. In reality the manner of application of the non-acetone based remover would suggest a much lower evaporation rate as is applied in a manner designed to restrict loss of the solvent.

It would be reasonable to assume that the initial emission rate would be higher than the average emission rate (and conversely that the emission rate at the end of the treatment would be lower). During the 10 minute treatment time, the air within the room would have been replaced 1.6 times which should remove the majority of the solvent from the premises.

Examining one extreme, if no ventilation was present and the solvent used during the treatment was equally dispersed throughout the room then the resulting concentration of acetone would be 112 mg/m³ after a treatment. This situation would not occur but does represent a possible worse case situation. In reality, ventilation is always operational and the solvent vapours would not be distributed evenly around the room. Close to the treatment area, concentrations will be higher particularly at the start of the treatment. However, further from the treatment area concentrations will decline quickly as a result of dilution and dispersion. It can be expected that the lowest concentrations would be found on the street side of the building as the air flow is towards the rear of the building.

It can be reasonably concluded that short term peaks of solvent concentrations within the premises will be above the odour threshold for some minutes but that the ventilation rates will rapidly reduce concentrations.

3.3.2 Pathway

The potential pathways from the shop to the residential flat are very limited. While there is the potential for minor gaps to exist within the building fabric there are no large openings available where significant volumes of air can pass from the shop to the residential area. Following the local authority investigation the work on the ceiling and sealing the gaps by the gas pipes was carried out. These did not represent very effective pathways before the improvements were carried, particularly the gaps around pipes for the gas meter which were found inside a closed cupboard.

⁵ 10 ml of acetone = 7.85 grammes; 10 ml of ethyl acetate = 9.02 grammes; 10 of ethanol = 7.9 grammes

A second factor to take into account is even if gaps exist there must also be a positive pressure difference between the shop and the residential flat for significant transfer of odours to occur. Without this pressure difference, the only method for odours to be transferred is by diffusion which is a much slower process. As the London Grace premises are actively ventilated it is more likely that the airflow will be from the residential flat into the shop, rather than the opposite direction.

3.3.3 Receptor

The most sensitive receptors are the residents in the flat above the shop and these are considered to be high sensitivity receptors.

3.3.4 SPR Conclusions

The activities within the London Grace premises result in the use of small quantities of odorous solvents, most commonly acetone but also ethyl acetate. The odour threshold for ethyl acetate is an order of magnitude lower than that reported for acetone (1.25 mg/m³ for ethyl acetate vs 13.9 mg/m³ for acetone). However, acetone is a more volatile solvent reflected by its higher vapour pressure. Given the quantities of material used, the concentrations of these solvents within the shop premises will be above the odour thresholds near to the point of application when products are being applied.

As the air is replaced within the rooms several times an hour, concentrations of solvents should reduce quickly to below the odour threshold.

The solvent concentrations where irritation has been reported are much higher – 720 mg/m³ for acetone and 1468 mg/m³ for ethyl acetate. Apart from very close to the point of application, given the ventilation rates in the room, it is unlikely that concentrations of solvents could reach irritation levels within the shop premises (and hence cannot exceed these levels within the residential flat unless another source of solvent is present).

To assess the potential for the solvents to cause an odour nuisance within the residential flat above the shop, the pathways for gas transfer between the shop premises and the flat have to also be considered. To have a plausible risk of odour nuisance, any gas containing solvents above the odour threshold has to be transported into the residential flat above the shop without significant dilution.

There are no obvious direct connections between the shop and the flat, therefore the only route between the two are gaps in the building fabric. All visible gaps have been sealed within the shop. Unless the flat has active extraction fitted then the air pressure within the shop should be lower than the flat (as it is extracting air through the fans during opening hours). Without significant gaps and with a negative pressure difference there is not a plausible route for significant transport of odorous gases (if they are present) from the shop to the residential property during normal operation.

The extraction fans are left on for at least 30 minutes after the final treatment of the day which would change the air within the shop approximately five times. No

products containing solvents are left open after the shop is closed and all solvent containing waste is disposed of outside of the shop. It is therefore very unlikely solvent concentrations within the shop would exceed odorous thresholds when it is closed and staff are not present. Providing the fans have been left on for sufficient period, it is not likely that any significant volume of odorous gases would remain within the shop when the fans are switched off and the premises closed. There would therefore be no risk of any odour nuisance from the shop when it is closed.

4 Conclusions

The London Grace premises in Camden Passage has been the subject of an alleged odour nuisance from organic solvents (particularly acetone) in the residential premises above the shop. To address these complaints, London Grace has installed a new ventilation system into their premises on both the ground and basement floors. There have been further works to seal gaps in the building structure that were observed during a visit by the local authority.

The activities at London Grace typically use less than 5 litres of solvent each month. Over 80% of this solvent arises from the use of acetone and acetone free nail varnish remover. The use of the nail varnish remover results in the highest emission rate of solvent in the premises. During this activity, solvent concentrations can exceed the known odour thresholds of ethyl acetate and acetone but are very unlikely to breach the reported irritation thresholds for the two solvents.

Although there will be some locations where the odour threshold is exceeded (particularly close to the point of treatment) the ventilation fans installed in the premises replace the air within the premises approximately 10 times an hour which would remove any solvent in the atmosphere from the premises. The fans will also result in a negative pressure within the shop premises compared with the residential property above the shop.

There are no obvious pathways for odorous materials to pass from the shop into the flat apart from minor gaps in the building fabric. The negative pressure difference between the shop and the flat means that the passage of air should be from the flat into the shop. Given the lack of pathway and negative pressure difference, there is no route identified for odorous gases to pass from the shop to the flat apart from diffusion (a slow process) and minor leakage through the building fabric. The risk of odour nuisance is therefore low.

The ventilation fans are left on for 30 minutes after the final treatment to remove any residual odours at the end of the day and no solvent containing products are stored unsealed. Any waste containing solvents is removed from the premises at the end of the day. There is therefore no source of significant solvent odours in the London Grace premises when they are closed and staff have left the building with consequently a very low risk of odour nuisance.

Appendix A

Fan Specification

A1 Fan Specification

Traditional T-Series Window Fan

- Extract/intake fans in 4 sizes: 6", 7", 9" and 12"
- Patented electronic shutter system ensures quiet trouble free operation
- To obtain the best from your fan, use the Ecotronic controller
- Shutter open/fan off mode
- Low sound levels
- Easy fit connector Top Socket, standard on all models
- Designed for single or double glazing up to 32mm thick



UK's No. 1 Commercial Fan

The T-Series fan range is fitted with a Vent-Axia M-Tech motor, developed to improve performance, lower running costs and maintain the T-Series' rugged reliability. A patented speed control pack is simply plugged in one of 3 positions to provide low, medium or boost speed matching the fan performance to the requirements of the installation.

Instantaneous Shutter

With energy saving in mind T-Series Fitting Kits are supplied complete with an integral instantaneous automatic louvre shutter concealed behind the interior grille. It operates on both extract and intake and at any angle of mounting.

When the fan is used with a T-Series or Ecotronic controller, the shutter can be set open with the fan motor switched off to provide natural ventilation without the security risk of an open window.

Top Socket

A connector Top Socket is standard on all T-Series fans allowing fast and trouble-free mains connection.

Easy Cleaning

Integrated component design allows all parts to be dismantled for cleaning without the use of specialist tools.

Electrical

Motor purpose-designed. Suitable for running at any angle. Quiet running. Suitable for operation in ambient temperatures from -40°C to +50°C.

Fitted with Standard Thermal Overload Protection (S.T.O.P.).

Supply voltage 220-240V/1/50Hz.

Window Kit

Designed for use in single or double glazing, most types of glass and materials up to 32mm thick. Greater thicknesses can be accommodated using Extended Fixing Rod Sets. Can also be mounted in a fixing plate or wall, in ducts or above ceilings.

Models

Complete Fan

Model	Stock Ref
TX6WW	W161110
TX7WW	W162110
TX9WW	W163110
TX12WW	W164110

Fan Core (excludes Fitting Kit)

Size	Stock Ref
TX6	472012
TX7	472013
TX9	472014
TX12	472015

Window Kits (excludes Fan Core)

Size	Stock Ref
TX6	472020
TX7	472021
TX9	472022
TX12	472023

Accessories

Extended Fitting Rod set

Size	Stock Ref
6/7/9"	568104
12"	568106

Controllers

Ecotronic Controller Surface Mounting

Stock Ref

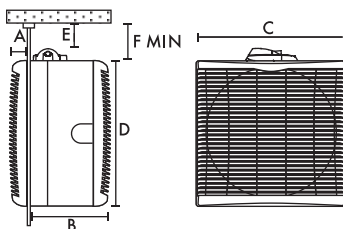
W362320

T-Series Controller Surface Mounting

Stock Ref

W361119

Dimensions (mm)



Size Dim.	6 in	7 in	9 in	12 in
A	31	31	39	41
B	130	130	150	177
C	226	265	304	381
D	220	258	302	378
E	19	19	19	19
F	54	54	54	54
Fixing hole Ø	184	222	260	337
Weight kg*	3.57	3.93	5.35	7.7

*Complete product.

Performance Guide

Model	Extract performance m ³ /h (l/s)			Watts (high)	Sound dB(A) (med) @ 3m	Amps @ 240V
	low	medium	high			
TX6 Window	245 (68)	315 (88)	360 (100)	30	41	0.24
TX7 Window	305 (85)	395 (110)	485 (135)	40	37	0.24
TX9 Window	465 (130)	685 (190)	795 (220)	85	43	0.42
TX12 Window	1095 (305)	1415 (393)	1615 (449)	105	48	0.51

Appendix B

Floor Plans

B1 **Floor Plans**



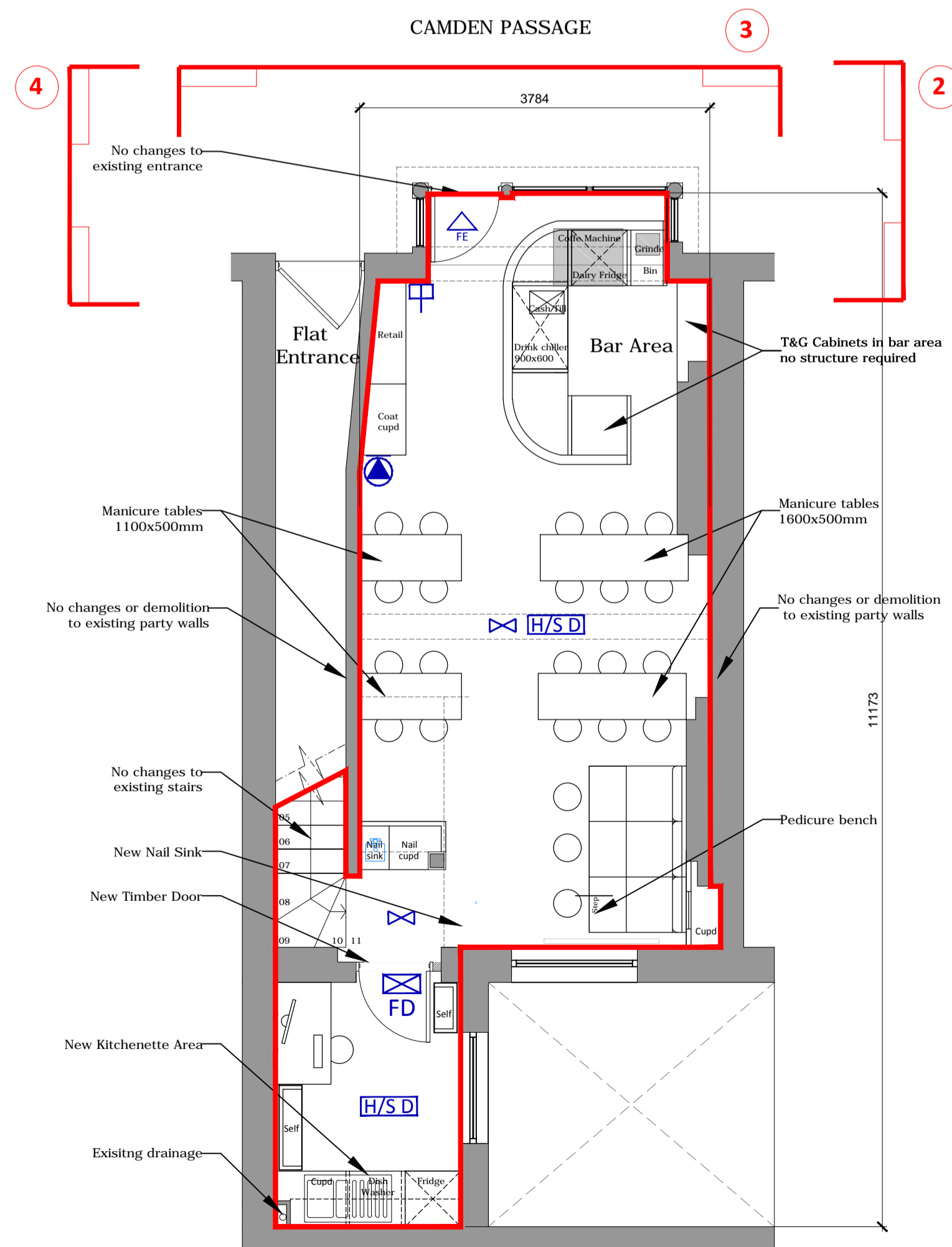
1 Location plan
1:200 @ A1 or 1:400 @ A3



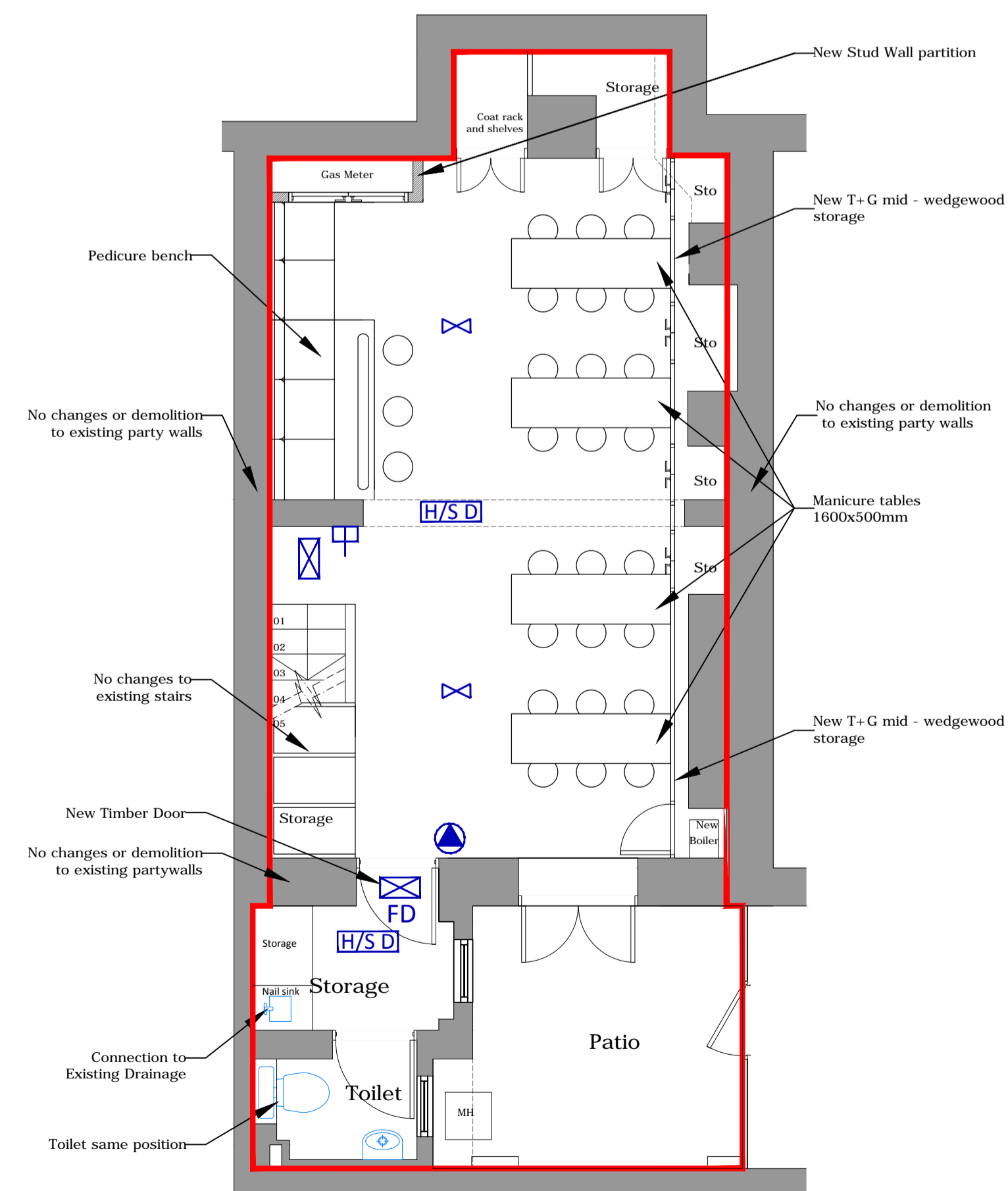
2 Side Elevation 01 - Proposed
1:50 @ A1 or 1:100 @ A3

3 Front Elevation - Proposed
1:50 @ A1 or 1:100 @ A3

4 Side Elevation 02 - Proposed
1:50 @ A1 or 1:100 @ A3



5 Ground Floor Plan - Proposed
1:50 @ A1 or 1:100 @ A3



6 Basement Floor Plan - Proposed
1:50 @ A1 or 1:100 @ A3

KEY	
	AREA FOR LICENSABLE ACTIVITIES AS PERMITTED
EMERGENCY LIGHTING	
	FIRE ALARM CALL POINT + SOUNDER
	HEAT & SMOKE DETECTOR
	ILLUMINATED FIRE EXIT SIGN
	EMERGENCY LIGHTING
	FIRE EXTINGUISHER
	FIRE DOOR

The painted letters comply with Class 5 of the Advertisement Regulations.

- The letters are 125mm height
- The letters are not more than 3.1m height from street level
- They will not be illuminated
- They will not exceed the 10% of the external façade

London Borough of Islington

Licensing Regulatory Committee - 11 June 2019

Non-confidential minutes of the meeting of the Licensing Regulatory Committee held at Islington Town Hall, Upper Street, N1 2UD on 11 June 2019 at 4.00 pm.

Present: **Councillors:** Nurullah Turan (Chair), Marian Spall (Vice-Chair)
and Michelline Safi-Ngongo

Councillor Nurullah Turan in the Chair

13 APOLOGIES FOR ABSENCE

Received from Councillor Kat Fletcher.

14 DECLARATION OF SUBSTITUTE MEMBERS

None.

15 DECLARATIONS OF INTEREST

None.

16 MINUTES OF THE PREVIOUS MEETING

RESOLVED:

That the minutes of the meeting held on 4 February 2019 be confirmed as an accurate record of proceedings and the Chair be authorised to sign them.

17 MEMBERSHIP, TERMS OF REFERENCE AND DATES OF MEETINGS OF THE LICENSING REGULATORY COMMITTEE IN 2019/2020

RESOLVED:

That the membership of the Licensing Regulatory Committee, appointed by the Council on 16 May 2019, its terms of reference and dates of meetings for the municipal year 2019/20, as detailed in Appendix A of the report of the Interim Corporate Director of Resources, be noted.

18 RENEWAL OF SPECIAL TREATMENT LICENCE APPLICATION - LONDON GRACE, 35 CAMDEN PASSAGE, N1 8EA (Item B1)

In his introduction and welcome to the meeting, the Chair informed all present that Committee members had read all of the written material presented to them with the agenda, including additional emails, one dated 3 June 2019, from Mr Philip Day of Laceys Solicitors, representing the applicant, and the other from one of the objectors and dated 11 June 2019.

The Licensing Officer reminded the Committee of the background to this application, when the Committee had granted a Special Treatments Licence to the

Licensing Regulatory Committee - 11 June 2019

applicant on 4 February 2019. Referring to page 26 of the agenda, he noted that there had been two complaints made to the Council's ASB Team since February 2019, when the Committee had last considered an application for a Special Treatment Licence for this premises. The first complaint was dated 23 May 2019 and the next complaint had been received on 8 June 2019, logged at 4.40pm. The ASB Team had contacted the complainant at 5.45pm, when the complainant had said that the odour had cleared, but that they wanted the complaint recorded for the record. In response to a question as to whether there had been any further complaints, the Licensing Officer said that there had been localised complaints and that was why these had been contained in the exempt appendix, since it had not been possible to redact the paperwork without identifying the residents.

The applicant asked whether any odours had been witnessed since 4 February 2019 and the Licensing Officer confirmed that there had not.

One of the complainants asked whether the Council had sufficient services in place to ensure that complaints of odour could be witnessed in the future. The Licensing Officer confirmed that there were sufficient services in place and that the Council's ASB Team had responded to and witnessed odour complaints at the premises in the past.

The applicant stated the grounds for her application, stating that she was keen to work with the Council to understand the issues of which the objector had complained. She had spent time and money on the premises to put things right. She was grateful that a Special Treatments Licence had been granted in February 2019 and that no odours had been witnessed since that time. Her colleague, who managed the premises, said that she too was keen to work with the Council to ensure that there were no issues and had engaged with the Angel Business Improvement District, who had shared with them the costs of installing smell sensors in the basement of the premises and with wifi costs. The sensors would be able to receive and record data on odour.

In response to a question from a member of the Committee as to whether there was a system in place for the upstairs residents to complain if the odour was too strong, the applicant said that both residents had their email addresses. She added that there had been a complaint about noise, but not about odour.

A member of the Committee asked whether it might be possible to have odour sensors installed in the hallway of the flat above the premises. The applicant thought that it would be possible, as the Angel Business Improvement District would be open to residents' requests for the sensors.

A member of the Committee asked whether there had been any developments about the issue of the situation of the gas meter. The applicant confirmed that there had not. A notice had been served on the landlord. The applicant had paid to have the meter boxed in, which was as much as they could do. The member of the Committee asked whether it was possible that the fumes were emanating from the

dry cleaners' premises nearby. The applicant stated that she had asked that that possibility be looked at but was not sure of the current position.

One of the objectors stated that the odour from the nail bar was an ongoing problem and that "it was no-one's fault". It could be due to the structure of the building. She acknowledged the work that the applicant had carried out. Fumes continued to enter her flat through the windows. The objectors were also keen to see the issue of the positioning of the gas meter resolved, but this was a matter for the landlord and they were waiting to hear from the landlord on the matter. She maintained that she did not own anything outside of her own flat. She thought that the installation of odour measuring devices in her flat, such as those installed in the nail bar, would be helpful. She then went on to quote from Environment Agency guidance on odours, which stated that it was not enough to rely on toxicity and that matters such as strength, frequency, intensity, offence and location had also to be taken on board. Long term intermittent exposure to odour constituted a nuisance. It was extremely difficult to get someone to witness odour immediately and it took time. The odour nuisance she had complained about was classed as frequent, due to the number of calls she had had to make to the Council's ASB Team.

The other objector to the application said that the premises being discussed were not a bakery. He and his sister were dealing with acetone fumes. He described the physical effects he had suffered as a result of the acetone fumes, which he described as a "constant stressor" on their wellbeing. It was as though all the surfaces in their flat had been wiped with bleach. They had no wish to be in contact with the business every time they could smell the acetone odour. The gas meter was not theirs, as they were not the freeholders and it was owned by the landlord. The nail bar owners had access to the gas meter. The dry cleaners did not use acetone, so was therefore not affecting them. The extractors in the business premises downstairs were pulling out air from the premises, which then rose up through the windows of the flat above where he lived. They could not open their bedroom or kitchen windows because of this. The thousands of pounds already spent by the premises' managers to try to rectify the nuisance caused the objectors in the flat above more pressure. They could not live like this.

A member of the Committee asked how often the odour was present in the flat and whether it was a daily occurrence, and whether it was worse on some days than others. The objector stated that it was due to acetone use by the premises. The premises opened at 9.00am to 9.15am each day and the smell occurred in their flat above the premises. It was a daily odour and smelt of musty nail polish. In response to a question about their communications with the business downstairs, the objector said that when they first opened they had had a party and he had had to ask them to turn their music down and that they were laughed at. The objectors informed the Council and the freeholder and asked them to get in touch. He stated that he was living in the midst of a nuisance. The other objector said that it was not personal against the present downstairs occupiers. However, they did not want to be affected, as they had been, in that environment. It appeared that it could be due to a structural fault.

The objectors were asked for their views on how the nuisance might be stopped. One of the objectors said that the use of acetone should be ceased altogether. As residents, they were living under much stress and wanted to live in peace. He felt as though he was being forced to become a part of the ongoing dialogue with the premises below with regard to the odour nuisance. The nuisance suffered by the objectors had been documented multiple times. He maintained that, if it was not serious, the Council would not be taking the premises' managers to Court.

In response, the applicant stated that the issue in understanding the problem was to understand that they used such small amounts of acetone in their daily work that it was difficult to see how that could be the cause of the problems. Referring to the objectors' diary of nuisance events, she noted that on all of the dates referred to, there had never been more than four clients on the premises. One client usually took one hour for treatment. Less than 5ml of acetone was used for each treatment and, with the operation of the extractor fans 24/7, it was hard to understand how it could be the cause of any nuisance to the upstairs premises. Acetone was heavier than air, so she failed to see how it could rise to the flat above.

The manager of the premises queried how the objectors could know that the odour in their flat was acetone. There were 120 staff employed across her business premises, with many women, four or five of whom were pregnant. She herself had had a baby and worked in one of the nail bar premises. There had been no complaints from any of their staff or clients about an odour. They did not use acrylics or gels and some even brought children to have a nail polish treatment. Seven other stores were situated under residential premises, most of which were older buildings.

She added that she personally was working to develop a product to remove nail polish which was 49% acetone-free. She hoped that the first batch would be available for use in 6-8 weeks' time.

In response to a further question, the applicant replied that her employees' work hours were varied, but could range up to 45 hours per week.

RESOLVED:

That, subject to the Standard Conditions for Special Treatment Premises and Standard Conditions for Premises Providing Nail Treatments, together with the additional conditions on the current licence at Appendix 2 of the agenda, viz:

1. Odour from the business shall not cause nuisance to the occupants in the vicinity
2. That the extractor fan ventilation system be operated 24/7 and maintained as such

the application from Ms Kirsten White for the renewal of a Special Treatment Licence in Islington, for the purposes of manicures and pedicures only, in the premises known as London Grace, at 35 Camden Passage, N1 8EA, be approved for a period of 18 months.

Reason for decision

The Committee considered all of the written and oral evidence.

The Committee noted that there had been only two complaints since 4 February 2019, which had been logged but not witnessed by Environmental Health.

The Committee was satisfied that London Grace had taken reasonable steps to carry out remedial works to allay the odour issues and complaints and had taken on board recommendations and suggestions made by the Council's Environmental Health Team. The Committee noted that the applicant was being proactive by installing odour sensors on the premises and developing an alternative to acetone.

19 **RENEWAL OF SPECIAL TREATMENT LICENCE APPLICATION - LONDON GRACE, 35 CAMDEN PASSAGE, N1 8EA - EXEMPT APPENDIX (Item E1)**
RESOLVED:

That the contents of the exempt appendix be noted.

The meeting ended at 5.20 pm

CHAIR

VOC monitoring.

2 messages

Webb, Michelle <Michelle.Webb@islington.gov.uk>

To: Kirsten White <kirsten@londongrace.co.uk>, Lauren Williams <lauren@londongrace.co.uk>

Hi Lauren and Kirsten,

Apologies but neither remaining November date s going to work for the monitoring. Peritus has agreed an alternative of 12/12/21. I've just emailed residents and would ask if you are able

I'm off for a couple of days now but will be back on Monday to discuss

Regards,

Michelle Webb (she/her)

Environmental Health Manager - Commercial Team East.

Public Protection and Regulatory Services. Islington Council.

3rd floor, [222, Upper Street, London. N1 1XR.](#)

Tel: 0207 527 3852

Alternative contact number: 0207 527 3816

www.islington.gov.uk

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For details, go to islington.gov.uk
Get protected and help us all get back to work.

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Kirsten White <kirsten@londongrace.co.uk>
To: "Webb, Michelle" <Michelle.Webb@islington.gov.uk>
Cc: Lauren Williams <lauren@londongrace.co.uk>

Thu, Nov 4, 2021 at 12:41 PM

Hi Michelle

That's a shame the November dates don't work.

I'm afraid Lauren and myself are away on the 12th Dec and we would like to attend. Our diaries are quite busy in the lead up to Christmas but we have lots of availability in January if this could work?

Best wishes

Kirsten
[Quoted text hidden]

Kirsten White
London Grace Founder
www.londongrace.co.uk

LONDON[®]
GRACE



Appeal Decision

Site visit made on 14 December 2021

by Richard S Jones BA(Hons), BTP, MRTPI

an Inspector appointed by the Secretary of State

Decision date: 09 June 2022

Appeal Ref: APP/V5570/C/21/3277829

Ground floor and basement, 35 Camden Passage, London, N1 8EA

- The appeal is made under section 174 of the Town and Country Planning Act 1990 as amended. The appeal is made by London Grace Limited against an enforcement notice issued by London Borough of Islington.
 - The notice, numbered ENF/2018/342, was issued on 12 May 2021.
 - The breach of planning control as alleged in the notice is, without planning permission, the change of use of the ground floor and basement from a retail use (Class E (a)) to a mixed use consisting of nail bar, retail (including but not limited to, clothing, fashion accessories and health & beauty/nail products), café, cocktail bar and party/event venue hire.
 - The requirements of the notice are to:
 - 1) Cease the unauthorised mixed use elements of the ground floor and basement unit; these being a nail bar, café, cocktail bar and party/event venue hire.
 - The period for compliance with the requirements is three months.
 - The appeal is proceeding on the grounds set out in section 174(2)(a), (c), (f) and (g) of the Town and Country Planning Act 1990 as amended. Since an appeal has been brought on ground (a), an application for planning permission is deemed to have been made under section 177(5) of the Act.
-

Decision

1. The appeal is allowed, the enforcement notice is quashed and planning permission is granted on the application deemed to have been made under section 177(5) of the Town and Country Planning Act 1990 Act as amended for the development already carried out, namely the change of use of the ground floor and basement from a retail use (Class E (a)) to a mixed use consisting of nail bar, retail (including but not limited to, clothing, fashion accessories and health & beauty/nail products), café, cocktail bar and party/event venue hire, at ground floor and basement, 35 Camden Passage, London, N1 8EA, as shown on the plan attached to the notice and subject to the following condition:
 - 1) The cocktail bar and party/event venue hire uses hereby permitted shall only take place between the following hours:
 - 0900 – 2100 hours Mondays – Fridays;
 - 0900 – 2000 hours on Saturdays; and
 - 1000 – 1600 hours on Sundays and Bank Holidays.

Preliminary Matters

2. The appeal form cites grounds (a), (f) and (g). However, the appellant has raised issues which relate to ground (c). The parties have had an opportunity to consider the representations made by the appellant and I have therefore determined the appeals as proceeding with the additional ground.

The Appeal on Ground (c)

3. A ground (c) appeal is that the matters alleged in the notice do not constitute a breach of planning control. In this case, the alleged breach is the change of use of the ground floor and basement from a retail use (Class E (a)) to a mixed use consisting of nail bar, retail, café, cocktail bar and party/event venue hire.
4. The Town and Country Planning (Use Classes) (Amendment) (England) Regulations 2020 (Use Class Regulations 2020) came into force on 1 September 2020, amending the Town and Country Planning (Use Classes) Order 1987 (UCO). The amendments created a new broad 'commercial, business and service' use class (Class E) that incorporates former classes, including A1 (shops), A3 (food and drink), elements of D1 (non-residential institutions) and D2 (assembly and leisure), as well as other uses deemed suitable for a town centre.
5. Consequently, the sale of food and drink principally to visiting members of the public, where consumption is mostly undertaken on the premises, now falls under Class E. As a change of use within a single use class does not amount to development requiring planning permission¹, the change of use from retail, to a mixed use including retail and café, does not constitute a breach of planning control.
6. The appellant also argues that the nail bar use could be deemed to fall within Class E(c)(iii) – '*other services which it is appropriate to provide in a commercial, business or service locality*'. Prior to the Use Class Regulations 2020 coming into force, a nail bar would have been a sui generis use. However, I am mindful that the explanatory memorandum for those Regulations² states that the Government considered a complete overhaul to be required '*to better reflect the diversity of uses found on high streets and in town centres and to provide the flexibility for businesses to adapt and diversify to meet changing demands.*'
7. It is further recognised that '*Modern high streets and town centres have changed so that they now seek to provide a wider range of facilities and services, including new emerging uses, that will attract people and make these areas viable now and in the future*'. The Memorandum clarifies that the reforms '*are primarily aimed at creating vibrant, mixed use town centres by allowing businesses greater freedom to change to a broader range of compatible uses which communities expect to find on modern high streets, as well as more generally in town and city centres.*' Such sentiments can reasonably be applied to a nail bar, which has clearly become a well-established feature of modern high streets.
8. As part of the revisions to the UCO, a number of classes, and uses within classes, have been removed in recognition that they can give rise to important local considerations. Those have been included in the list of uses which are specifically identified in Article 3(6) of the UCO as uses which do not now fall within any use class. This means that changes to and from these uses will be subject to full local consideration through the planning application process.

¹ Subject to the provisions of the UCO

² Explanatory Memorandum to the Town and Country Planning (Use Classes) (Amendment) (England) Regulations 2020 (2020 No.757)

9. It was clearly open to the Government to include nail bars, which is not a new or novel use, in that list, but, it did not do so. Therefore, having regard to the above stated reasons for changing the UCO, I find, on the balance of probabilities, that a nail bar falls within Class E(c)(iii). The change of use from retail, to a mixed use including retail and nail bar, does not therefore constitute a breach of planning control.
10. A wine bar and drinking establishment is included within Article 3(6). A change of use from retail to a mix use including retail and cocktail bar, therefore requires planning permission. A breach of planning control has therefore occurred. Moreover, it is not suggested that a material change of use to a party/event venue hire premises does not require planning permission.
11. On the basis that the previous use was retail, that element of the mixed use is not in breach of planning control. Indeed, the enforcement notice does not require the retail use to cease.
12. Because there is a mixed use, it is not open to me to decouple elements of it; the use is a single mixed use with all its component activities. Consequently, it would not be appropriate to correct the allegation by deleting reference to the nail bar and café, and the ground (c) appeal fails.

The Appeal on Ground (a) and the Deemed Planning Application

Main Issues

13. The main issues are:

- whether the alleged mixed use results in an unacceptable loss of a retail unit and/or a break in the continuity of the primary retail frontage; and
- the effect on the living conditions of neighbouring residents, with particular regard to odour and noise.

Reasons

Retail unit and primary retail frontage

14. The appeal relates to the alleged change of use of the ground floor and basement of No 35 Camden Passage, which has a Primary Retail Frontage within the Angel Town Centre.
15. From the outside, the premises has the appearance of a café, with the coffee making machine and grinder sitting on top of a counter directly behind the shopfront. The counter also acts as the cocktail bar with the drinks located on shelving behind. A small table and two stools are located to its side. Beyond the counter, along one side wall, is a retail display area, selling beauty related items, jewellery and clothing. Much of the remainder of the ground floor is taken up by two manicure tables. In the basement there are four manicure tables and one pedicure bench.
16. The vast majority of the floorspace is therefore used for nail treatments, retail and café. That is reflected in the completed Planning Contravention Notice (PCN) which details approximately 85% of sales from the same. However, I have found under ground (c) that those uses are not in breach of planning control. If the appeal on ground (a) were to fail, when I came to consider ground (f), I would nevertheless delete the requirements to cease the nail bar,

- retail and café elements of the mixed use, as those requirements would exceed what is necessary to remedy the breach of planning control. For the purposes of the ground (a) appeal, my consideration is therefore limited to those uses which are in breach, namely the cocktail bar and party/event venue hire.
17. The appellant explains that drinks (both hot and alcoholic) are only to be purchased by customers receiving nail treatments. Indeed, there are no sitting places other than two small stools and nail stations. The cocktail bar element therefore has a limited presence within the premises.
 18. The appellant further explains that the basement can be hired for a range of occasions for groups of up to 20 people, with nail treatments as the main component of the event. For some of these events, alcohol is also served along with food that is bought in. Operationally that makes sense as the ground floor could continue to be used separately and in the normal way.
 19. Islington's Core Strategy February 2011 Policy CS 5 lists the areas to continue to be the main shopping area, and Camden Passage as a specialist retail area for the antiques trade. The mixed use is not antique related and as such does not conform in that regard.
 20. The alleged mix use does however accord with paragraph A of Core Strategy Policy CS 14 which states that *'Islington will continue to have strong cultural and community provision with a healthy retail and service economy providing a good range of goods and services for the people who live, work and study in the borough'*. Indeed, the popularity of the services provided is demonstrated by the significant number of submissions made in support of the appeal.
 21. Paragraph D of Policy CS 14 seeks to limit the excessive loss of shops to other uses whilst Islington's Local Plan: Development Management Policies June 2013 (LPDMP) Policy DM4.1 places great weight on the need to retain any shops which currently or could potentially be utilised by small and independent retailers. However, the loss of such a premises has been able to occur without a breach of planning control taking place. Whether or not cocktails are served to customers and whether or not the basement is sometimes used for private events, does not alter that.
 22. Given the alleged mixed use, I see no conflict with Policy DM4.4 insofar as it seeks to maintain and enhance the retail and service function of Islington's Town Centres. The mixed use also complies with a number of the relevant criteria of Paragraph C of Policy DM4.4 in that the scale of the use is consistent with the small units of Camden Passage. The premises retains an attractive historic shopfront thereby respecting the centre's heritage. It also provides an active and open shopfront of an independent operator which contributes to the vitality, viability and vibrancy of the centre. The overall character, function and local distinctiveness of the centre is not unacceptably diminished.
 23. I am also mindful that a retail use could change to other uses within Class E, such as financial services, without the requirement for planning permission. Such a use would be significantly more harmful to the character of Camden Passage.
 24. LPDMP Policy DM4.5A states that within the primary frontages proposals to change the use of existing retail premises will not be permitted unless five criteria are satisfied. As the premises is not an existing retail premises and that

change was able to occur without planning permission, the relevance of the policy is questionable. Moreover, the event hire relates to the basement and is not technically primary frontage. The cocktail bar is but has a very limited presence.

25. In any case, the first criteria of the policy, A.i), is that the resulting proportion of retail units would not fall below 70%. The appellant has provided survey evidence that even with the alleged change of use, the centre retains 79% of the frontage in retail use (Class E(a)).
26. The Council refer to a figure of 71.18% from its Retail Survey of 2019 and question whether the appellant has surveyed all units. In any event, the Council has not shown that the alleged mixed use, which includes retail, would reduce the figure of 71.18% to less than 70%. Based on the evidence before me, retailing remains the principal and dominant land use. I note that the Council refer to its emerging Local Plan Policy R7 which raises the percentage figure to 75, but that attracts less weight than the adopted figure of 70% of Policy DM4.5.
27. The level of support for the business also points towards a valued service with a significant number of customers being attracted to the premises, thereby stimulating footfall in Camden Passage and supporting/complementing independent retail and café businesses through linked trips. The cocktail bar and event hire form part of the overall offer and attraction.
28. Therefore, although the appellant acknowledges that the alleged mixed use results in a break in continuity of retail frontage of more than one non-retail unit (two) - contrary to criteria Aii), I do not find that individually or cumulatively that results in a harmful effect on the predominantly retail function, so as to conflict with criteria A.iv). Indeed, a retail element is retained and in overall terms the alleged mixed use positively contributes to the vitality and viability of Camden Passage.
29. In respect of criteria A.v), an active frontage is retained, both during the daytime and evening. Although the retail role is limited, the mixed use is clearly appropriate within a town centre location.
30. Although the appellant refers to extensive marketing following the vacation of the shoe shop that previously occupied the premises, evidence to that effect has not been provided. In any case, the appellant acknowledges that the marketing period fell short of the two years required by criteria Aiii). However, the appellant has provided a list of 18 premises that are currently vacant. Consequently, it is unlikely that the mixed use is precluding occupation by an antique dealer or other specialist retailer.
31. LPDMP Policy DM4.9 states that the Council will continue to protect and promote the role of specialist shopping areas in the borough, particularly at Camden Passage and Fonthill Road. However, for the reasons explained, the policy is now unable to protect the premises from changing its use from specialist retail to other uses within Class E of the UCO. Moreover, for the reasons explained, I find the uses to be compatible and complementary to the predominant retail use of Camden Passage and presents an attractive and active frontage in keeping with the character of the specialist shopping area. I do not therefore find conflict with the corresponding parts Policy DM4.9.

32. I have also found the alleged mixed use to comply, in overall terms, with Core Strategy Policy CS 14 and Policy DM4.4. Although there is conflict with parts of Policies CS 5, DM4.1 and DM4.5.A, the weight I have attached to the same is limited because of the individual merits of the alleged development and the significant change in circumstances arising from the revised UCO, which means that the loss of the retail unit and break in the continuity of the primary retail frontage were able to occur without a breach of planning control.
33. Moreover, the use of the basement for nail treatments could continue whether or not it is used for private hire/events. Similarly, the ground floor uses (café, retail and nail bar) could continue with or without the cocktail bar use. The loss of retail unit and the break in the primary retail frontage can and has occurred, irrespective of those two uses.
34. The material considerations in this case therefore indicate that the deemed planning application could be decided otherwise than in accordance with those development plan policies where conflict has arisen.

Living conditions

35. As noted, the alleged mixed-use business occupies the ground floor and basement of No 35. The two upper floors of No 35 form a residential dwelling, accessed via a door adjacent to the shopfront.
36. The reason for issuing the enforcement notice refers to the potential to cause harm to neighbouring residential amenity but is not explicit in what that harm might be. Nevertheless, the occupants of the residential property directly above object on the basis of noise and odour arising from the solvents used in nail treatment products, as well as the associated mental and physical effects.
37. Whilst I sympathise with the occupants, for the reasons explained, the nail bar use is not in breach of planning control and therefore I would not require that element of the mixed use to cease. Consequently, it cannot form part of my ground (a) considerations relating to living conditions which are restricted to the noise effects of the cocktail bar and party/event venue hire.
38. In respect of the former, the premises is subject to a licence for the consumption of alcohol but the appellant explains that no drink can be consumed on the premises unless ordered by a customer purchasing a nail service. Moreover, the completed PCN refers to the consumption of alcoholic drinks amounting to 5% of the total turnover. Accordingly, the level of noise disturbance would not be comparable to that of a typical bar.
39. As noted the basement can be hired for a range of occasions for groups of up to 20 people, with nail treatments as the main component of the event. For some of these events, alcohol is also served along with food that is bought in. The information contained within the PCN details only 5% of turnover is derived from such events, thereby implying that they are relatively infrequent. The ground floor also buffers the use from the dwelling above.
40. I appreciate that the premises operates during the evening and that noise can travel through the building. However, the nail bar, café and retail uses can occur anyway without the requirement for planning permission. Within the context of a relatively lively commercial street with nearby night time uses, and having regard to the extent and nature of the cocktail bar use and likely infrequency and extent of the event venue hire use, unacceptable noise

disturbance is unlikely to occur from the inclusion of those two uses, so long as they do not carry on late into the evening time, beyond 2100 hours. A condition could be imposed to that effect.

41. On that basis, I do not find conflict with LPDMP Policies DM4.2 or DM4.3 or paragraph 130 of the National Planning Policy Framework. Those policies seek, amongst other things, to resist uses that detrimentally affect the amenity of an area.

Other Matters

42. An interested party has queried whether the premises is primarily used as a nail bar, or whether it is in a mixed use. However, this was considered by an Inspector in a previous appeal³ who found the premises to be in mixed-use. I find no reason to disagree.
43. The appeal property is a Grade II listed building situated within the Angel Conservation Area. As set out above, I have found that the premises retains an attractive historic shopfront that is in keeping with neighbouring units and adds to the vitality of Camden Passage. Accordingly, the alleged mixed use preserves the character and appearance of the Conservation Area.
44. The Council also confirms that listed building consent was granted in October 2017 for internal alterations. Although it states that planning permission and listed building consent is required for an extraction flue, that is a matter for the Council and the appellant.
45. Reference is made by the occupants of the flat at No 35 to a statutory odour nuisance and the issuing of an Abatement Notice by the Council under the Environmental Protection Act 1990. However, I note that following a review, the Council deemed that it would not be in the public interest to proceed with the prosecution.
46. The occupants contend that the appellant has a track record of ignoring the requirements of licencing agencies and is not a reliable operator. However, the Council has granted Special Treatment Premises Licences⁴ for manicures and pedicures at the appeal property and the minutes from the Licensing Regulatory Committee on 11 June 2019 confirm that the Committee was satisfied that the appellant had taken reasonable steps to carry out remedial works to allay the odour issues and complaints and had taken on board recommendations and suggestions made by the Council's Environmental Health Team. The Committee also noted that the appellant was being proactive by installing odour sensors on the premises and developing an alternative to the use acetone.
47. Reference is made to the appellant being fined for incorrectly disposing of chemical refuse but that is dealt with under separate legislation and is not an issue for this appeal.
48. Concern is raised that the appellant has not met the requirements of Article 7 of the Town and Country Planning (Development Management Procedure) Order 2015 (the DMPO) for applications for planning permission. However, the

³ Appeal Ref: APP/V5570/C/19/3236444

⁴ Under the London and Local Authorities Act 1991, Part II

appeal is made against the issue of an enforcement notice, rather than refusal of a planning application. Article 7 does not therefore apply.

Conditions

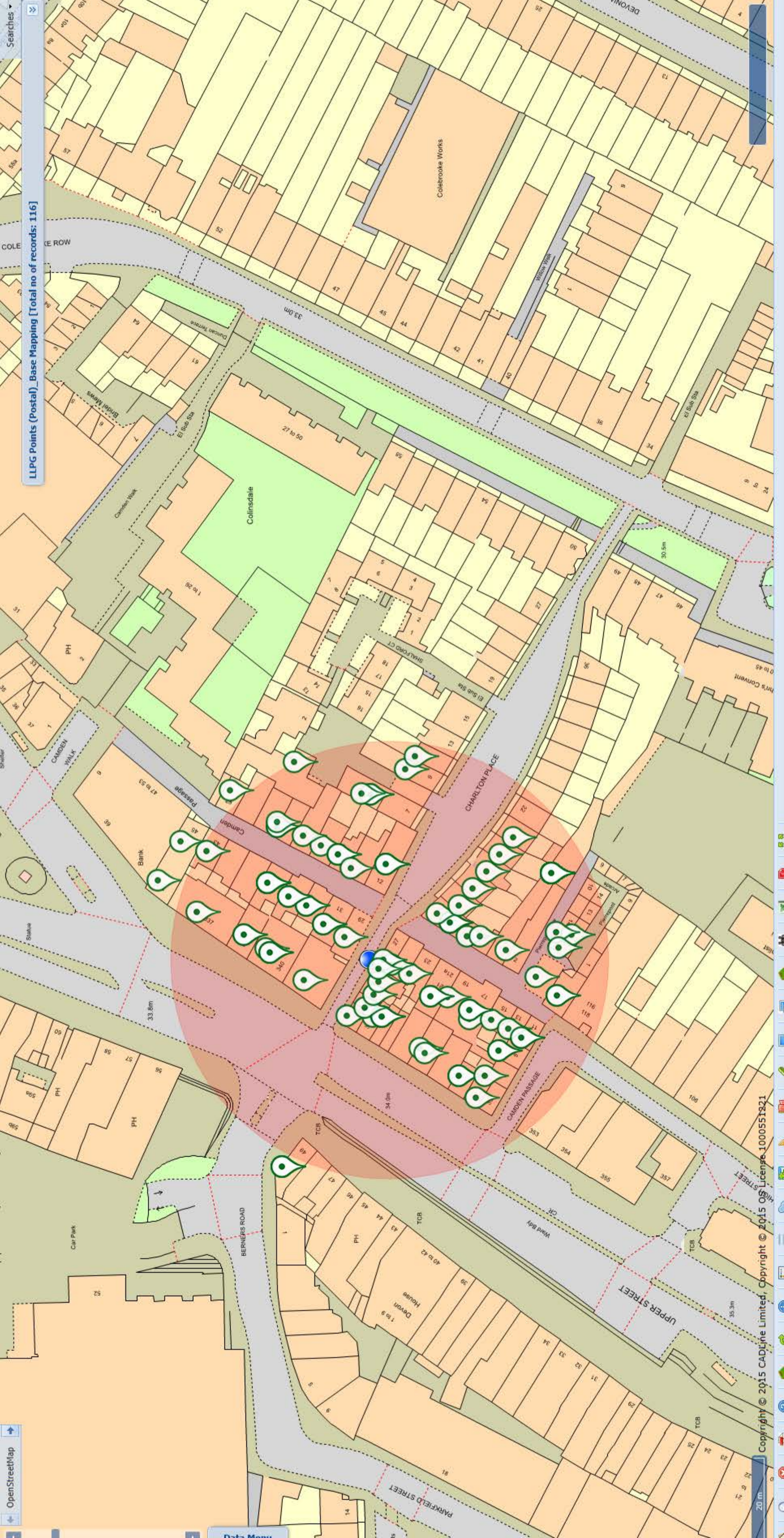
49. The Council has suggested a condition be imposed that, following the cessation of the mixed use, the premises is returned to a retail use. However, that would be contrary to the intentions of the recent changes to the UCO and is not justified in the particular circumstances of this case.
50. The Council has also suggested an hours of operation condition, which in respect of the cocktail bar use and event hire is reasonable and necessary to ensure those aspects do not operate late into the evening. The appellant has confirmed such a condition to be acceptable should I consider it necessary. In any case, the hours suggested by the Council do not restrict the use beyond those hours displayed at the time of my site visit.
51. I appreciate that other businesses in the vicinity operate later but I am unaware whether there are residential uses above them. Shortening the business hours to between 1100 and 1700 hours, as suggested by the occupants of No 35, is not justified having regard to my above findings and the particular circumstances of this case. Notwithstanding the duty placed on me to have regard to the desirability of preserving the listed building or any features of special architectural or historic interest which it possesses, I reach the same conclusion for a condition requiring sound proofing measures.
52. I note that the occupants have also requested conditions be attached to resolve the odour nuisance through measures including mechanical ventilation. However, for the reasons explained the nail bar use is not in breach of planning control. It is not therefore reasonable to attach conditions relating to that aspect of the mixed use. Further conditions are suggested requiring compliance with a Hazard Awareness Notice, but such matters are dealt with under separate legislation. The resolution of any property damage that may have been caused is a matter for the parties involved and as such cannot be reasonably included as a condition.

Conclusion on the Ground (a) appeal

53. For the reasons given above, I conclude that the appeal succeeds on ground (a). I shall grant planning permission for the development as described in the notice. The appeals on grounds (f) and (g) do not therefore fall to be considered.

Richard S Jones

INSPECTOR



LLPG Points (Postal)_Base Mapping [Total no of records: 116]