



LICENSING (HEARING) SUB-COMMITTEE

Wednesday 17 July 2019 at 10.00 am

Council Chamber - Epsom Town Hall

The members listed below are summoned to attend the Licensing (Hearing) Sub-Committee meeting, on the day and at the time and place stated, to consider the business set out in this agenda.

Councillor Rob Geleit (Chair)
Councillor David Reeve

Councillor Humphrey Reynolds

Yours sincerely

Chief Executive

For further information, please contact Democratic Services, 01372 732122 or email democraticservices@epsom-ewell.gov.uk

AGENDA

1. DECLARATIONS OF INTEREST

Members are asked to disclose the existence and nature of any Disclosable Pecuniary Interests in respect of any item to be considered at the meeting.

2. EXCLUSION OF PRESS AND PUBLIC (Pages 3 - 4)

The Committee is asked to consider whether it wishes to pass a resolution to exclude the Press and Public from the meeting in accordance with Section 100A (4) of the Local Government Act 1972 on the grounds that the business involves the likely disclosure of exempt information as defined in paragraphs 1, and 2 of Part 1 of Schedule 12A to the Act (as amended) and that pursuant to paragraph 10 of Part 2 of the said Schedule 12A the public interest in maintaining the exemption outweighs the public interest in disclosing the information.

3. TO DETERMINE SUITABILITY OF A PERSONAL LICENCE HOLDER TO REMAIN LICENSED FOLLOWING CONVICTION FOR A RELEVANT OFFENCE (Pages 5 - 22)

The Committee is asked to determine if any action should be taken against a Personal Licence Holder.

4. PREMISES LICENCE VARIATION DIA Y NOCHE, 30 OAKS SQUARE, EPSOM, KT19 8AS (Pages 23 - 122)

The Sub-Committee is requested to determine whether or not the variation application should be granted.

Licensing (Hearing) Sub-Committee
17 July 2019

Exclusion of Press and Public

The Committee is asked to consider whether it wishes to pass a resolution to exclude the Press and Public from the meeting in accordance with Section 100A (4) of the Local Government Act 1972 on the grounds that the business involves the likely disclosure of exempt information as defined in paragraphs 1, and 2 of Part 1 of Schedule 12A to the Act (as amended) and that pursuant to paragraph 10 of Part 2 of the said Schedule 12A the public interest in maintaining the exemption outweighs the public interest in disclosing the information.

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**PREMISES LICENCE VARIATION DIA Y NOCHE, 30 OAKS SQUARE,
EPSOM, KT19 8AS**

Head of Service/Contact:	Rod Brown, Head of Housing & Community
Annexes/Appendices (attached):	Annexe 1 – Application Form Annexe 2 – Agreed conditions between Applicant and Surrey Police. Annexe 3 – Representation from a local resident Annexe 4 – Representation from Environmental Health Annexe 5 – Current Premises Licence Annexe 6 – Location Map
Other available papers (not attached):	Code of Conduct and Practice in Licensing Procedures and Hearings Statement of Licensing Policy Licensing Act 2003 Guidance Issued under Section 182 of the Licensing Act 2003

Report summary

The Sub-Committee is requested to determine the variation application made under the Licensing Act 2003

Recommendation (s)

- (1) The Sub-Committee is requested to determine whether or not the variation application should be granted.**

1 Current Position

- 1.1 The current times the licence authorises the carrying out of licensable activities for Dia Y Noche , 39 Oaks Square, Epsom, Surrey. KT19 8AS are as follows;

SALE OF ALCOHOL BY RETAIL

MONDAY TO THURSDAY 09.00 HOURS UNTIL 23.00 HOURS

FRIDAY TO SATURDAY 09.00 HOURS UNTIL MIDNIGHT

SUNDAY 10.00 HOURS UNTIL 23.00 HOURS

CHRISTMAS EVE 09.00 HOURS UNTIL 01.00 HOURS

NEW YEARS EVE 09.00 HOURS UNTIL 01.30 HOURS

HALLOWEEN, ST PATRICKS DAY; ST GEORGES DAY; 09.00 HOURS UNTIL MIDNIGHT.

PROVISION OF REGULATED ENTERTAINMENT

LIVE MUSIC

THURSDAY 18.00 HOURS UNTIL 23.00 HOURS

FRIDAY AND SATURDAY 18.00 HOURS UNTIL MIDNIGHT

SUNDAY 17.00 HOURS UNTIL 22.00 HOURS

CHRISTMAS EVE 18.00 HOURS UNTIL 01.00 HOURS

NEW YEARS EVE 18.00 HOURS UNTIL 01.30 HOURS

HALLOWEEN, ST PATRICKS DAY; ST GEORGES DAY; 18.00 HOURS UNTIL MIDNIGHT.

RECORDED MUSIC

MONDAY TO THURSDAY 08.00 HOURS UNTIL 23.00 HOURS

FRIDAY TO SATURDAY 08.00 HOURS UNTIL MIDNIGHT

SUNDAY 09.00 HOURS UNTIL 23.00 HOURS

CHRISTMAS EVE 08.00 HOURS UNTIL 01.00 HOURS

NEW YEARS EVE 08.00 HOURS UNTIL 01.30 HOURS

HALLOWEEN, ST PATRICKS DAY; ST GEORGES DAY; 08.00 HOURS UNTIL MIDNIGHT.

PERFORMANCE OF DANCE

MONDAY TO THURSDAY 08.00 HOURS UNTIL 23.00 HOURS

FRIDAY TO SATURDAY 08.00 HOURS UNTIL MIDNIGHT

SUNDAY 09.00 HOURS UNTIL 23.00 HOURS

CHRISTMAS EVE 08.00 HOURS UNTIL 01.00 HOURS

NEW YEARS EVE 08.00 HOURS UNTIL 01.30 HOURS

HALLOWEEN, ST PATRICKS DAY; ST GEORGES DAY; 08.00 HOURS UNTIL MIDNIGHT.

ANYTHING OF A SIMILAR DESCRIPTION TO THAT FALLING WITHIN (E), (F) AND (G);

MONDAY TO THURSDAY 18.00 HOURS UNTIL 23.00 HOURS

FRIDAY TO SATURDAY 18.00 HOURS UNTIL MIDNIGHT

SUNDAY 18.00 HOURS UNTIL 23.00 HOURS

CHRISTMAS EVE 18.00 HOURS UNTIL 01.00 HOURS

NEW YEARS EVE 18.00 HOURS UNTIL 01.30 HOURS

HALLOWEEN, ST PATRICKS DAY; ST GEORGES DAY; 18.00 HOURS UNTIL MIDNIGHT.

LATE NIGHT REFRESHMENT

FRIDAY TO SATURDAY 23.00 HOURS UNTIL MIDNIGHT

CHRISTMAS EVE 23.00 HOURS UNTIL 01.00 HOURS

NEW YEARS EVE 23.00 HOURS UNTIL 01.30 HOURS.

The opening hours of the premises are as follows;

SUNDAY TO THURSDAY 08.00 HOURS UNTIL 23.00 HOURS
FRIDAY TO SATURDAY 08.00 HOURS UNTIL MIDNIGHT
SUNDAY 09.00 HOURS UNTIL 23.00 HOURS
CHRISTMAS EVE 08.00 HOURS UNTIL 01.30 HOURS
NEW YEARS EVE 08.00 HOURS UNTIL 02.00 HOURS
HALLOWEEN, ST PATRICKS DAY; ST GEORGES DAY; 08.00 HOURS UNTIL
MIDNIGHT.

The supply of alcohol is for consumption on the premises.

2 Introduction

2.1 An application has been received the Variation of a Premises licence for the Premises known as Dia Y Noche, 39 Oaks Square, Epsom, Surrey. KT19 8AS. The proposed variation is for an additional one hour on Thursdays, Fridays and Saturdays and for an additional half hour to Monday, Tuesday and Wednesdays. No change to Sundays. This is for all licensable activities except live music. See Annexe 1.

2.2 The application also proposes amendment to current premises licence conditions.

The agreed conditions between the Applicant and Surrey Police are set out as Annexe 2.

3 Representations from Interested Parties

3.1 One representation from a local resident has been received on the grounds of Prevention of Public Nuisance. See Annexe 3.

4 Representations from Responsible Authorities

4.1 No other representations apart from Environmental Health have been received. Environmental Health also submitted noise files. Annexe 4.

4.2 Although no representations have been received from Surrey Police, the Applicant and Surrey Police have been in communication to agree the conditions as set out in Annexe 2.

5 Policy Considerations

5.1 A copy of the Statement of Licensing Policy effective from December 2018 has been distributed to all parties. Members will need to have due regard to the representations submitted and the location of the premises within the Borough.

5.2 The premises is located within the "red zone" defined within the Council's Statement of Licensing Policy.

6 Equalities and Other Legal Implications

- 6.1 Decisions on licensing matters engage issues of human rights, in particular, Article 1 of the First Protocol, the peaceful enjoyment of possessions, Article 6, the right to a fair hearing, and Article 8, respect for private and family life. However, interference with Convention rights is permitted where lawful and necessary in the interests of public safety, the prevention of disorder or crime, the protection of health and morals or for the protection of the rights and freedoms of others.
- 6.2 Due regard must also be had to the public sector equality duty enshrined in Section 149 of the Equality Act 2010.

7 Conclusions

- 7.1 The Panel is requested to determine whether or not the application should be granted

Ward(s) affected: Town Ward;



Ehh04/zd136/prem

Town Hall
The Parade
Epsom
Surrey, KT18 5BY
Telephone 01372 732000
www.epsom-ewell.gov.uk

Schedule 3, Regulation 5

Application to vary a premises licence under the Licensing Act 2003

PLEASE READ THE FOLLOWING INSTRUCTIONS FIRST

Before completing this form please read the guidance notes at the end of the form. If you are completing this form by hand please write legibly in block capitals. In all cases ensure that your answers are inside the boxes and written in black ink. Use additional sheets if necessary.

You may wish to keep a copy of the completed form for your records.

I/We DEAN KIRBY / DIAY NOCHE LTD
(Insert name(s) of applicant)

being the premises licence holder, apply to vary a premises licence under section 34 of the Licensing Act 2003 for the premises described in Part 1 below

Premises licence number <u>EEBC / 17 / 00058 / LAPRE</u>

Part 1 – Premises Details

Postal address of premises or, if none, ordnance survey map reference or description <u>39 THE OAKS SQUARE</u> <u>WATERLOO ROAD</u>			
Post town	<u>EPSOM</u>	Postcode	<u>KT19 8AS</u>

Telephone number at premises (if any)	<u>01372-635353</u>
Non-domestic rateable value of premises	<u>£34 750.</u>

Part 2 – Applicant details

Daytime contact telephone number	<u>07768 194491</u>
E-mail address (optional)	<u>deankirby66@hotmail.co.uk</u>

Current postal address if different from premises address	THE RIDGE 51 ST CLAIR DRIVE		
Post town	WORCESTER PARK SURREY	Postcode	KT4 8UG

Part 3 - Variation

Please tick as appropriate

Do you want the proposed variation to have effect as soon as possible?

☒ Yes

☐ No

If not, from what date do you want the variation to take effect?

DD	MM	YYYY

Do you want the proposed variation to have effect in relation to the introduction of the late night levy? (Please see guidance note 1) ☐ Yes ☐ No

Please describe briefly the nature of the proposed variation (Please see guidance note 2)

2) THE PROPOSED VARIATION IS FOR AN ADDITIONAL ONE HOUR ON FRIDAYS & SATURDAYS. TO ADD 1/2 HALF HOUR MONDAY TUESDAY & WEDNESDAY. ONE ADDITIONAL HOUR ON THURSDAY (NO CHANGE SUNDAY) THIS IS FOR ALL LICENSEABLE ACTIVITIES EXCEPT LIVE MUSIC (NO CHANGE)

TO AMEND THE FOLLOWING CONDITIONS

NO 3. TO READ ONE SIA REGISTERED D.S. WILL BE ON DUTY EACH FRIDAY & SATURDAY WITH THE USE OF THE ENTRY SCANNER SYSTEM IN PLACE

CONDITION 7 TO READ A MEMBER OF STAFF WHO IS FIRST AID TRAINED WILL ALWAYS BE PRESENT ON THE PREMISES DURING OPENING HOURS WHERE POSSIBLE

CONDITION 18 TO READ CHILDREN WILL BE PERMITTED IN THE PREMISES WHEN ACCOMPANIED BY A RESPONSIBLE ADULT, & WHILST EATING A MEAL. NO UNACCOMPANIED CHILDREN ALLOWED ON PREMISES

CONDITION 10. NO CUSTOMERS TO USE OUT SIDE SEATING AREA AFTER 23:00 ALL FURNITURE REMOVED BY 23:15

CONDITION 11. NO CUSTOMERS TO TAKE DRINKS OUTSIDE AFTER 23:00.

If your proposed variation would mean that 5,000 or more people are expected to attend the premises at any one time, please state the number expected to attend:

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Part 4 Operating Schedule

Please complete those parts of the Operating Schedule below which would be subject to change if this application to vary is successful.

Provision of regulated entertainment (Please see guidance note 3) Please tick all that apply

- a) plays (if ticking yes, fill in box A) ☐
- b) films (if ticking yes, fill in box B) ☐
- c) indoor sporting events (if ticking yes, fill in box C) ☐
- d) boxing or wrestling entertainment (if ticking yes, fill in box D) ☐
- e) live music (if ticking yes, fill in box E) ☐
- f) recorded music (if ticking yes, fill in box F) ☒
- g) performances of dance (if ticking yes, fill in box G) ☒
- h) anything of a similar description to that falling within (e), (f) or (g) (if ticking yes, fill in box H) ☒

Provision of late night refreshment (if ticking yes, fill in box I)



Supply of alcohol (if ticking yes, fill in box J)



In all cases complete boxes K, L and M

A

Plays Standard days and timings (please read guidance note 8)			Will the performance of a play take place indoors or outdoors or both – please tick (please read guidance note 4)	Indoors	<input type="checkbox"/>
				Outdoors	<input type="checkbox"/>
				Both	<input type="checkbox"/>
Day	Start	Finish			
Mon			<u>Please give further details here</u> (please read guidance note 5)		
Tue					
Wed			<u>State any seasonal variations for performing plays</u> (please read guidance note 6)		
Thur					
Fri			<u>Non standard timings. Where you intend to use the premises for the performance of plays at different times to those listed in the column on the left, please list</u> (please read guidance note 7)		
Sat					
Sun					

B

Films Standard days and timings (please read guidance note 8)			<u>Will the exhibition of films take place indoors or outdoors or both – please tick (please read guidance note 4)</u>	Indoors	<input type="checkbox"/>
				Outdoors	<input type="checkbox"/>
				Both	<input type="checkbox"/>
Day	Start	Finish	<u>Please give further details here (please read guidance note 5)</u>		
Mon					
Tue					
			<u>State any seasonal variations for the exhibition of films (please read guidance note 6)</u>		
Wed					
Thur					
			<u>Non standard timings. Where you intend to use the premises for the exhibition of films at different times to those listed in the column on the left, please list (please read guidance note 7)</u>		
Fri					
Sat					
Sun					

C

Indoor sporting events Standard days and timings (please read guidance note 8)			Please give further details (please read guidance note 5)
Day	Start	Finish	
Mon			
Tue			State any seasonal variations for indoor sporting events (please read guidance note 6)
Wed			
Thur			
Fri			Non standard timings. Where you intend to use the premises for indoor sporting events at different times to those listed in the column on the left, please list (please read guidance note 7)
Sat			
Sun			

D

Boxing or wrestling entertainments Standard days and timings (please read guidance note 8)			<u>Will the boxing or wrestling entertainment take place indoors or outdoors or both – please tick</u> (please read guidance note 4)	Indoors	<input type="checkbox"/>
				Outdoors	<input type="checkbox"/>
				Both	<input type="checkbox"/>
Day	Start	Finish			
Mon			<u>Please give further details here</u> (please read guidance note 5)		
Tue					
Wed			<u>State any seasonal variations for boxing or wrestling entertainment</u> (please read guidance note 6)		
Thur					
Fri			<u>Non standard timings. Where you intend to use the premises for boxing or wrestling entertainment at different times to those listed in the column on the left, please list</u> (please read guidance note 7)		
Sat					
Sun					

E

Live music Standard days and timings (please read guidance note 8)			Will the performance of live music take place <u>indoors or outdoors or both – please tick</u> (please read guidance note 4)	Indoors	<input type="checkbox"/>
				Outdoors	<input type="checkbox"/>
				Both	<input type="checkbox"/>
Day	Start	Finish	<u>Please give further details here</u> (please read guidance note 5) NO CHANGE		
Mon					
Tue					
Wed					
Thur			<u>State any seasonal variations for the performance of live music</u> (please read guidance note 6)		
Fri					
Sat			<u>Non standard timings. Where you intend to use the premises for the performance of live music at different times to those listed in the column on the left, please list</u> (please read guidance note 7) NO CHANGE TO NON STANDARD TIMINGS		
Sun					

F

Recorded music Standard days and timings (please read guidance note 8)			Will the playing of recorded music take place indoors or outdoors or both – please tick (please read guidance note 4)	Indoors	<input checked="" type="checkbox"/>
				Outdoors	<input type="checkbox"/>
				Both	<input type="checkbox"/>
Day	Start	Finish	Please give further details here (please read guidance note 5)		
Mon	08:00	23:30			
Tue	08:00	23:30			
Wed	08:00	23:30	State any seasonal variations for the playing of recorded music (please read guidance note 6)		
Thur	08:00	24:00			
Fri	08:00	01:00			
Sat	08:00	01:00	Non standard timings. Where you intend to use the premises for the playing of recorded music at different times to those listed in the column on the left, please list (please read guidance note 7) NO CHANGE TO NON STANDARD TIMINGS		
Sun	09:00	23:00			

G

Performances of dance Standard days and timings (please read guidance note 8)			Will the performance of dance take place indoors or outdoors or both – please tick (please read guidance note 4)	Indoors	<input checked="" type="checkbox"/>
Day	Start	Finish		Outdoors	<input type="checkbox"/>
Mon	08:00	23:30	Please give further details here (please read guidance note 5)	Both	<input type="checkbox"/>
Tue	08:00	23:30			
Wed	08:00	23:30	State any seasonal variations for the performance of dance (please read guidance note 6)		
Thur	08:00	24:00			
Fri	08:00	01:00	Non standard timings. Where you intend to use the premises for the performance of dance at different times to those listed in the column on the left, please list (please read guidance note 7) NO CHANGE TO NON STANDARD TIMINGS		
Sat	08:00	01:00			
Sun	09:00	23:00			

H

Anything of a similar description to that falling within (e), (f) or (g) Standard days and timings (please read guidance note 8)			Please give a description of the type of entertainment you will be providing	
Day	Start	Finish	<u>Will this entertainment take place indoors or outdoors or both – please tick</u> (please read guidance note 4)	Indoors <input type="checkbox"/>
Mon	08:00	23:30		Outdoors <input type="checkbox"/>
				Both <input type="checkbox"/>
Tue	08:00	23:30	<u>Please give further details here</u> (please read guidance note 5)	
Wed	08:00	23:30		
Thur	08:00	24:00	<u>State any seasonal variations for entertainment of a similar description to that falling within (e), (f) or (g)</u> (please read guidance note 6)	
Fri	08:00	01:00		
Sat	08:00	01:00	<u>Non standard timings. Where you intend to use the premises for the entertainment of a similar description to that falling within (e), (f) or (g) at different times to those listed in the column on the left, please list</u> (please read guidance note 7)	
Sun	09:00	23:00		
<p style="text-align: center;">NO CHANGE TO NON STANDARD TIMINGS</p>				

I

Late night refreshment Standard days and timings (please read guidance note 8)			Will the provision of late night refreshment take place indoors or outdoors or both – please tick (please read guidance note 4)		Indoors	<input checked="" type="checkbox"/>
					Outdoors	<input type="checkbox"/>
					Both	<input type="checkbox"/>
Day	Start	Finish	Please give further details here (please read guidance note 5)			
Mon	08:00	23:30				
Tue	08:00	23:30				
Wed	08:00	23:30	State any seasonal variations for the provision of late night refreshment (please read guidance note 6)			
Thur	08:00	24:00				
Fri	08:00	01:00	Non standard timings. Where you intend to use the premises for the provision of late night refreshment at different times, to those listed in the column on the left, please list (please read guidance note 7) NO CHANGE TO NON STANDARD TIMINGS			
Sat	08:00	01:00				
Sun	09:00	23:00				

J

Supply of alcohol Standard days and timings (please read guidance note 8)			Will the supply of alcohol be for consumption – please tick (please read guidance note 9)		On the premises	<input checked="" type="checkbox"/>
					Off the premises	<input type="checkbox"/>
					Both	<input type="checkbox"/>
Day	Start	Finish	State any seasonal variations for the supply of alcohol (please read guidance note 6)			
Mon	08:00	23:30				
Tue	08:00	23:30				
Wed	08:00	23:30				
Thur	08:00	24:00				
Fri	08:00	01:00				
Sat	08:00	01:00				
Sun	09:00	23:00	Non-standard timings. Where you intend to use the premises for the supply of alcohol at different times to those listed in the column on the left, please list (please read guidance note 7) NO CHANGE TO NON STANDARD TIMINGS			

K

<p>Please highlight any adult entertainment or services, activities, other entertainment or matters ancillary to the use of the premises that may give rise to concern in respect of children (please read guidance note 10).</p>

L

Hours premises are open to the public Standard days and timings (please read guidance note 8)			State any seasonal variations (please read guidance note 6)
Day	Start	Finish	
Mon	08:00	23:30	
Tue	08:00	23:30	
Wed	08:00	23:30	
			Non standard timings. Where you intend the premises to be open to the public at different times from those listed in the column on the left, please list (please read guidance note 7)
Thur	08:00	24:00	
Fri	08:00	01:00	
Sat	08:00	01:00	
Sun	09:00	23:00	

NO CHANGE TO MON
STANDARD TIMINGS

Please identify those conditions currently imposed on the licence which you believe could be removed as a consequence of the proposed variation you are seeking.

① ^{CONDITION (3)} REDUCTION TO ONE SIA REGISTERED DOOR SUPERVISOR
FRIDAY & SATURDAY & NON STANDARD DAY FROM 20:00 HOURS
WITH THE INCLUSION OF SCANNING MACHINES SET UP

② CONDITION (7) ADD - Where possible

③ CONDITION (10) NO CUSTOMERS TO USE OUTSIDE SEATING AREA
AFTER 23:00 HOURS & ALL FURNITURE REMOVED 23:15

④ CONDITION (11) NO CUSTOMERS TO BE ALLOWED TO TAKE DRINKS
OUTSIDE AFTER 23:00 HOURS

⑤ CONDITION (18) CHILDREN WILL BE PERMITTED ON THE PREMISES
ONLY WITH A RESPONSIBLE ADULT. NO UNACCOMPANIED CHILDREN
WILL BE ALLOWED ON THE PREMISES

Please tick as appropriate

- I have enclosed the premises licence
- I have enclosed the relevant part of the premises licence



If you have not ticked one of these boxes, please fill in reasons for not including the licence or part of it below

Reasons why I have not enclosed the premises licence or relevant part of premises licence.

M Describe any additional steps you intend to take to promote the four licensing objectives as a result of the proposed variation:

a) General – all four licensing objectives (b, c, d and e) (please read guidance note 11)

ALL STAFF TO BE MADE AWARE OF ALL CONDITIONS MADE ON THE PREMISE TO BE ABIDED BY AS POSSIBLE
THE USE OF THE DAY LOG BOOK FOR ANY EVENT THAT TAKES PLACE THIS IS TO BE SIGNED BY THE DPS REGULARLY.
THE USE OF CCTV & PHAN BACK FOR PREVENTION OF CRIME & DISORDER
ALL STAFF AWARE OF ANGLA & SAY SOMETHING IF YOU SEE IT CAMPAIGN

b) The prevention of crime and disorder

A FULLY OPERATING CCTV SYSTEM 6 CAMERAS IN PLACE
30 DAY REPLAY RECORD FACILITY
THE USE OF THE SCANNERS ON FRI SAT EVENING TO GAIN ENTRY TO THE PREMISE WITH ONLY TRAINED PERSONA
TOILETS SHALL BE CHECKED HOURLY DURING OPENING HOURS + RECORD KEPT AT FRONT + CHECKED
AN INCIDENT LOG IS KEPT ON THE PREMISE & ANY INCIDENTS LOGGED BY DPS MAX TO BE MADE READY AVAILABLE TO AUTHORIZED COUNCIL OFFICER OR POLICE OFFICER

c) Public safety

A MEMBER OF STAFF WHO IS FIRST AID TRAINED WILL BE PRESENT AT THE PREMISES AT ALL TIMES WHERE POSSIBLE
SIGNS SHALL BE CLEARLY DISPLAYED AT THE ENTRANCE/EXIT TO THE PREMISES REQUESTING PATRONS TO RESPECT PEOPLES AND TO BE QUIET WHEN LEAVING THE PREMISES
A ZERO DRUG POLICY SHALL BE ENFORCED & SIGNS INDICATING THIS SHALL BE PROMINENTLY DISPLAYED IN THE PREMISES

d) The prevention of public nuisance

NO CUSTOMER TO USE OUTSIDE SEATING AFTER 23:00
ALL FURNITURE TO BE REMOVED BY 23:15
NO DRINKS OUT SIDE AFTER 23:00
NO NEW ARRIVALS AFTER 23:00 ON FRIDAY/SATURDAY
and NO DISORDERLY BEHAVIOUR
NO AMPLIFIED LIVE MUSIC SHALL BE PERMITTED AFTER 23:00 HRS

e) The protection of children from harm

ALL MEMBERS OF STAFF SHALL BE TRAINED FOR CSE AWARENESS AND A CSE POLICY ADOPTED AS NECESSARY. THE SAY SOMETHING IF YOU SEE SOMETHING CAMPAIGN POSTER SHALL BE DISPLAYED WITHIN THE PREMISES
A CHILDREN 25 scheme shall be enforced
children will be permitted in the premises when accompanied by a responsible adult / whilst eating in / or attending a private function
NO UNACCOMPANIED CHILDREN WILL BE PERMITTED IN THE PREMISES

Checklist:

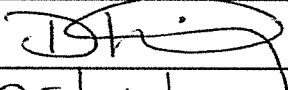
Please tick to indicate agreement

- I have made or enclosed payment of the fee; or ☒
- I have not made or enclosed payment of the fee because this application has been made in relation to the introduction of the late night levy. ☐
- I have sent copies of this application and the plan to responsible authorities and others where applicable. ☒
- I understand that I must now advertise my application. ☒
- I have enclosed the premises licence or relevant part of it or explanation. ☒
- I understand that if I do not comply with the above requirements my application will be rejected. ☒

IT IS AN OFFENCE, UNDER SECTION 158 OF THE LICENSING ACT 2003, TO MAKE A FALSE STATEMENT IN OR IN CONNECTION WITH THIS APPLICATION. THOSE WHO MAKE A FALSE STATEMENT MAY BE LIABLE ON SUMMARY CONVICTION TO A FINE OF ANY AMOUNT.

Part 5 – Signatures (please read guidance note 12)

Signature of applicant (the current premises licence holder) or applicant's solicitor or other duly authorised agent (please read guidance note 13). **If signing on behalf of the applicant, please state in what capacity.**

Signature	
Date	25/04/2019
Capacity	OWNER

Where the premises licence is jointly held, signature of 2nd applicant (the current premises licence holder) or 2nd applicant's solicitor or other authorised agent (please read guidance note 14). **If signing on behalf of the applicant, please state in what capacity.**

Signature	
Date	
Capacity	

Contact name (where not previously given) and address for correspondence associated with this application (please read guidance note 15)

Post town		Post code	
Telephone number (if any)			

If you would prefer us to correspond with you by e-mail, your e-mail address (optional)

Notes for Guidance

This application cannot be used to vary the licence so as to extend the period for which the licence has effect or to vary substantially the premises to which it relates. If you wish to make that type of change to the premises licence, you should make a new premises licence application under section 17 of the Licensing Act 2003.

1. You do not have to pay a fee if the only purpose of the variation for which you are applying is to avoid becoming liable for the late night levy
2. Describe the premises. For example, the type of premises, its general situation and layout and any other information which could be relevant to the licensing objectives. Where your application includes off-supplies of alcohol and you intend to provide a place of consumption of these off-supplies of alcohol, you must include a description of where the place will be and its proximity to the premises.
3. In terms of specific regulated entertainments please note that:
 - Plays: no licence is required for performances between 08.00 and 23.00 on any day, provided that the audience does not exceed 500.
 - Films: no licence is required for 'not-for-profit' film exhibition held in community premises between 08.00 and 23.00 on any day provided that the audience does not exceed 500 and the organiser (a) gets consent to the screening from a person who is responsible for the premises; and (b) ensures that each such screening abides by age classification ratings.
 - Indoor sporting events: no licence is required for performances between 08.00 and 23.00 on any day, provided that the audience does not exceed 1000.
 - Boxing or Wrestling Entertainment: no licence is required for a contest, exhibition or display of Greco-Roman wrestling, or freestyle wrestling between 08.00 and 23.00 on any day, provided that the audience does not exceed 1000. Combined fighting sports – defined as a contest, exhibition or display which combines boxing or wrestling with one or more martial arts – are licensable as a boxing or wrestling entertainment rather than an indoor sporting event.
 - Live music: no licence permission is required for:
 - a performance of unamplified live music between 08.00 and 23.00 on any day, on any premises.
 - a performance of amplified live music between 08.00 and 23.00 on any day on premises authorised to sell alcohol for consumption on those premises, provided that the audience does not exceed 500.
 - a performance of amplified live music between 08.00 and 23.00 on any day, in a workplace that is not licensed to sell alcohol on those premises, provided that the audience does not exceed 500.
 - a performance of amplified live music between 08.00 and 23.00 on any day, in a church hall, village hall, community hall, or other similar community premises, that is not licensed by a premises licence to sell alcohol, provided that (a) the audience does not exceed 500, and (b) the organiser gets consent for the performance from a person who is responsible for the premises.
 - a performance of amplified live music between 08.00 and 23.00 on any day, at the non-residential premises of (i) a local authority, or (ii) a school, or (iii) a hospital, provided that (a) the audience does not exceed 500, and (b) the organiser gets consent for the performance on the relevant premises from: (i) the local authority concerned, or (ii) the school or (iii) the health care provider for the hospital.

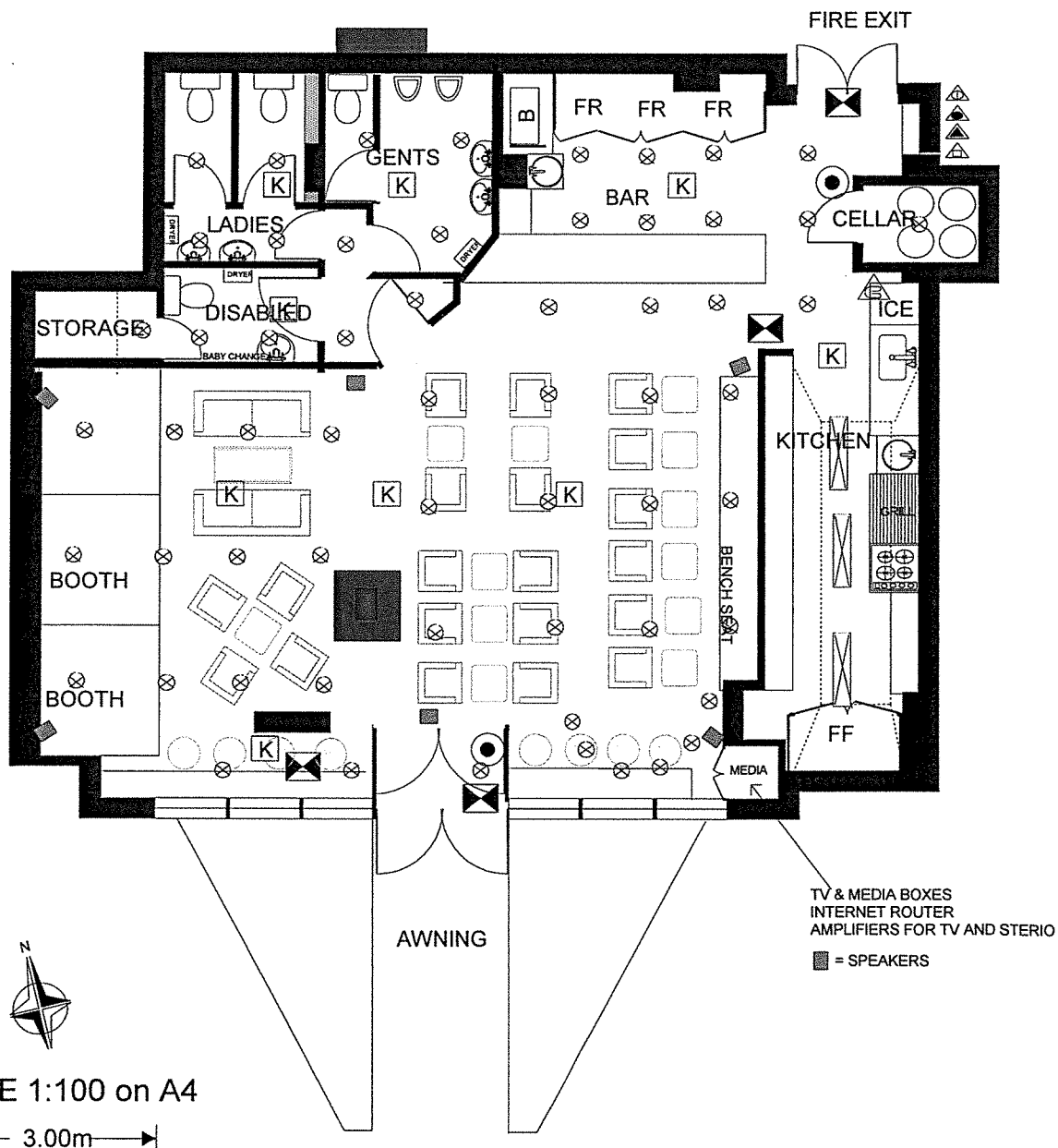
- Recorded Music: no licence permission is required for:
 - any playing of recorded music between 08.00 and 23.00 on any day on premises authorised to sell alcohol for consumption on those premises, provided that the audience does not exceed 500.
 - any playing of recorded music between 08.00 and 23.00 on any day, in a church hall, village hall, community hall, or other similar community premises, that is not licensed by a premises licence to sell alcohol, provided that (a) the audience does not exceed 500, and (b) the organiser gets consent for the performance from a person who is responsible for the premises.
 - any playing of recorded music between 08.00 and 23.00 on any day, at the non-residential premises of (i) a local authority, or (ii) a school, or (iii) a hospital, provided that (a) the audience does not exceed 500, and (b) the organiser gets consent for the performance on the relevant premises from: (i) the local authority concerned, or (ii) the school proprietor or (iii) the health care provider for the hospital.
 - Dance: no licence is required for performances between 08.00 and 23.00 on any day, provided that the audience does not exceed 500. However, a performance which amounts to adult entertainment remains licensable.
 - Cross activity exemptions: no licence is required between 08.00 and 23.00 on any day, with no limit on audience size for:
 - any entertainment taking place on the premises of the local authority where the entertainment is provided by or on behalf of the local authority;
 - any entertainment taking place on the hospital premises of the health care provider where the entertainment is provided by or on behalf of the health care provider;
 - any entertainment taking place on the premises of the school where the entertainment is provided by or on behalf of the school proprietor; and
 - any entertainment (excluding films and a boxing or wrestling entertainment) taking place at a travelling circus, provided that (a) it takes place within a moveable structure that accommodates the audience, and (b) that the travelling circus has not been located on the same site for more than 28 consecutive days.
4. Where taking place in a building or other structure please tick as appropriate (indoors may include a tent).
 5. For example state type of activity to be authorised, if not already stated, and give relevant further details, for example (but not exclusively) whether or not music will be amplified or unamplified.
 6. For example (but not exclusively), where the activity will occur on additional days during the summer months.
 7. For example (but not exclusively), where you wish the activity to go on longer on a particular day e.g. Christmas Eve.
 8. Please give timings in 24 hour clock (e.g. 16.00) and only give details for the days of the week when you intend the premises to be used for the activity.
 9. If you wish people to be able to consume alcohol on the premises, please tick 'on the premises'. If you wish people to be able to purchase alcohol to consume away from the premises, please tick 'off the premises'. If you wish people to be able to do both, please tick 'both'.
 10. Please give information about anything intended to occur at the premises or ancillary to the use of the premises which may give rise to concern in respect of children regardless of whether you intend children to have access to the premises, for example (but not exclusively) nudity or semi-nudity, films for restricted age groups or the presence of gaming machines.
 11. Please list here steps you will take to promote all four licensing objectives together.

12. The application form must be signed.
13. An applicant's agent (for example solicitor) may sign the form on their behalf provided that they have actual authority to do so.
14. Where there is more than one applicant, each of the applicants or their respective agents must sign the application form.
15. This is the address which we shall use to correspond with you about this application.

LIGHTING PLAN
DIA Y NOCHE
39 THE OAKS SQUARE
EPSOM KT19 8AS
APPROXIMATE INTERNAL FLOOR AREA
1338 SQ.FT / 124.3 SQ.M.

- FIRE FIGHTING EQUIPMENT
- 1= WATER FIRE EXTINGUISHER
 - 2= FOAM FIRE EXTINGUISHER
 - 3= FIRE BLANKET IN CONTAINER
 - 4= CARBON DIOXIDE EXTINGUISHER
 - 5= DRY POWDER EXTINGUISHER
 - 6= HOSE REEL (No. indicates length)
 - 7= SAND BUCKET
 - 8= AREA COVERED BY AUTO SPRINKLER SYSTEM
 - 9= AREA COVERED BY SMOKE DETECTOR
 - 10= AREA COVERED BY HEAT DETECTOR
 - 11= AREA COVERED BY ESCAPE LIGHTING
 - 12= AREA COVERED BY ILLUMINATED EXIT SIGN
 - 13= CONTROL PANEL SOUNDER
 - 14= BREAK GLASS CALL POINT
 - 15= FIRE ALARM POINT
- SHOWING ESCAPE PLAN AND ACTION PLAN

- DOOR CODES
- BF = BREAK FASTENING DOOR
 - FFF = DOOR FREE OF ALL FASTENINGS
 - SCA = SELF CLOSING AUTOMATIC DOOR
 - PB = PANIC BOLT DOOR
 - SF = SIMPLE FASTENING DOOR
 - SL = SECURITY LOCK
 - VP = VISUAL PANEL DOOR
 - S = SMOKE RESISTANT DOOR
 - S22= EMERGENCY EXIT NOTICE
 - S13= FIRE DOOR KEEP SHUT
 - S14= FIRE DOOR KEEP LOCKED
 - S17= SECURE DOOR OPEN WHEN PREMISES OPEN



SCALE 1:100 on A4

3.00m

Annexe 2

Agreed conditions between Applicant and Surrey Police

Condition 3 – One SIA Door Supervisor will be on duty Friday, Saturday and non-standard days from 20:00 – close of business. On Friday, Saturday and non-standard days between the hours of 20:00 – close of business the use of the ID Scanner will be implemented. The scanner is not to be operated by the Door Supervisor.

Condition 7 – A member of Staff who is first aid trained will always be present on the premises during operating hours, where possible.

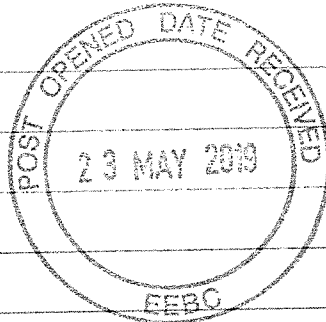
Condition 10 – No customers to use the outside seating area associated with the premises after 23:00. All furniture to be removed or stored securely by 23:15.

Condition 11 – No Customers to take drinks outside after 23.00 hours.

Condition 18 – Children will only be permitted on the premises when accompanied by a responsible adult, and in any case at the discretion of the management.

①

RE:



Andrew Dyer,
11, The Oaks SQ,
Epsom, Surrey.
KT19 8AR.

23 May 2019.

RE - Variation of Premises Licence for
Dia-y-Noche, 39, The Oaks SQ, Epsom.

I am putting in writing my
objection to Proposed 1 (one) hour
extension on Thursday's/Friday's,
Saturday's & 1/2 (half hour) extensions
on Monday/Tuesday's/Wednesday's.
My reasons are the increased noise
continuing later than is currently
allowed. Although said premises
has taken measures to sound proof,
this is ineffectual due to the traffic
of people continuously going in and out
of the entrance doors, as the
smoking area is located at the
front.

②

Additionally the loud chatter/
laughing/screaming/arguing of
said Patron's when outside
smoking causes additional noise
I have submitted various
recordings via the noise app to
back up my claims.

I also wish to oppose condition 10
regarding customers seated out
front for longer periods as this
is additional noise as mentioned
above.

I would like to take this
opportunity to praise said venue
for the generally polite and
curtious manner many of their
Patron's display when leaving
at the end of the evening.

It is unfortunate that Dia-y-roche

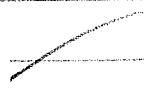
③

is located in the corner of oaks square, and the buildings act to resonate and amplify any sounds made which means it can be as noisy within my home as if you were stood just outside the premises.

I will be more than happy to discuss my objections should I be required to.

I will send this letter by email & forward original by post.

Kind regards



Rod Brown
Head of Housing and Environmental Services



Agenda Item 4
Annex 4

FAO
Licensing Department

Town Hall
The Parade
Epsom
Surrey
KT18 5BY
Main Number (01372) 732000
Text: 07950 080202
www.epsom-ewell.gov.uk
DX 30713 Epsom

23rd May 2019

Please find enclosed the representations in relation to Dia Y Noche Licensing Application from the Environmental Health Team.

Regards

A handwritten signature in black ink, appearing to read "Charlotte Scott", followed by a long horizontal line.

Charlotte Scott
Environmental Health Officer

Licence review representations - Epsom & Ewell Borough Council – Environmental Health

Dia Y Noche, 39 The Oaks Square, Epsom, KT19 8AS

Overview

In June 2017 the licensed premises Dia Y Noche started trading. Prior to this the premises has been occupied by food businesses with mainly day time trade.

Substantiated complaints have been received concerning

- Noise from external amplified speakers
- Noise from customers in external seating area / smoking
- Noise from amplified music within the building

Epsom & Ewell Borough Council – Environmental Health is of the opinion that that the Licensing objective of Prevention of Public Nuisance has been undermined.

Below is an overview of the staged intervention the Environmental Health department have had with the premises operator.

Prior to the premises opening the operator of the business discussed proposals regarding operation and liaised with an officer in the Environmental Health team. This officer requested that the operator instruct the services of an acoustic consultant to undertake an assessment of noise from the premises. An Acoustic Design Report was produced on 11 May 2017 which outlined remedial works that should be completed to try and reduce the levels of noise surrounding residential accommodation could be exposed to. A copy of this acoustic report has been included in the Appendix of this report.

Noise complaints have been received in relation to the premises

Date of noise complaint	Nature of noise complaint
23/06/2018	People and music noise
13/07/2018	Loud music and doors open
24/07/2018	Amplified music
31/07/2018	Loud music
29/09/2018	Football match and speakers outside

More recently noise complaints were received from three separate complainants between 29/03/19 and 23/04/19. Two complaints were in relation to music noise from a speaker

outside of the premises and the other in relation to noise in the complaints property from inside the premises.

The complainants have been submitting recordings via The Noise App, which is an application which allows the complainants to record the noise when they are being disturbed. Copies of these recordings have been provided as evidence to support the representation being made.

Date of noise complaint	Nature of noise complaint
Original complaint - 23/03/2019	Music
Update 29/03/2019	Music
Update 19/04/2019	Music
Update 4/05/2019	Music
Original complaint - 19/04/2019	Speaker outside the premises
Update 20/04/2019	Speaker outside the premises and doors open wide
Original complaint – 21/04/2019	Speaker outside the premises - continual music.
Update 03/05/2019	People noise
Update 10/05/2019	People noise

Noise from external amplified speakers

The operator of the business was contacted on 26th April 2019 to notify him of the complaints received and that we were undertaking investigations to establish whether a statutory nuisance exists. Following this conversation the operator decided that the premises would no longer use the external moveable speaker to provide music. Since this change has been implemented we have not received complaints regarding music noise from outside the premises. Commensurate with this, a suggested condition is nominated in this document which restricts the future use of external speakers.

Noise from customers in external seating area / smoking

Complainants are still experiencing disturbances as a result of noise from patrons of the premises using the outside area. The premises are not effectively managing people noise within the current licence therefore the Environmental Health team would not support an extension to the hours of the licence. Owing to the presence of a greater proportion of

residences in Oaks Square compared with Derby Square this department has not received any recent noise complaints in relation to other businesses in the development.

The department has installed calibrated noise monitoring equipment into one of the complainant's properties. They utilised this equipment to record when they were being disturbed to demonstrate how the operation of the premises is affecting their enjoyment of their property.

As a result of the noise complaints this would be an appropriate opportunity to review the condition in relation to number of individuals permitted in the smoking area. Based on the capacity of the premises it is proposed that the number is reduced from 10 to 5 people. It is felt that 5 people would be easier for the premises to manage and also a calculation has been completed based on the Joint Strategic Needs Assessment (JSNA)¹. This calculation has been provided in the Appendix of this report. Other licensed premises in the Borough have smoking areas with conditions restricting the number of individuals permitted in these areas. From experience and witnessing how these smoking areas are managed it is necessary to control and limit the number of individuals.

The premises does not currently have a condition requiring them to proactively monitor noise, from both music and people, associated with the premises. Given the amount of residential accommodation in the vicinity of the premises and noise complaints being received a condition relating to monitoring, and documenting these checks, would promote the licensing objective of the prevention of public nuisance.

It is expected that if the proposed conditions were added to licence and adhered to noise associated with the premises would be better controlled and public nuisance less likely to occur.

Noise from amplified music within the building

With reference to music entertainment taking place within the building structure itself, the Acoustic Design Report² states "...it is likely that music noise levels should comply with the proposed requirements at the residential properties opposite but are likely to exceed the proposed requirements within the residential properties above". It is the position of the Environmental Health team that without additional structural measures, it remains likely that noise levels within the residential properties above will be excessive and an extension in hours of is inappropriate leading to the undermining of the licensing objective.

Summary

Whilst there has been some co-operation and engagement with the Environmental Health Team the issues with noise associated with the premises there still continues to be valid complaints. A staged approach of enforcement has been utilised but it appears that more formal intervention, in the form of a representation to the consultation in relation to the premises licence variation, is required. There has been some welcome improvement in

¹ <https://www.surreyi.gov.uk/jsna/improving-health-behaviours/#header-the-level-of-need-in-the-population>

² (Adnitt Acoustics, 2017)

relation to noise from amplified music where the source was a moveable speaker position outside the premises following the discontinuation of the use of this speaker.

Based on the content of this representation, Epsom & Ewell Borough Council – Environmental Health would request the following:

- That permission for the extension of an hour on a Friday and Saturday until 01:00hours and an additional half an hour Monday to Thursday 23:30hours for all licensable activities, except live music, is not granted.
- The variation of Condition 10 is not permitted.
- The variation of Condition 11 is not permitted.
- Condition 12 is varied to reduce the number of people permitted in the smoking area after the specified area.
- Include an additional condition in relation to noise monitoring.
- Include an additional condition in relation to external sources of amplification.

Proposed conditions have been included with this report and have been provided to the applicant prior to the hearing.

Evidence provided in Appendix

- Acoustic report provided in relation to Dia Y Noche. 39 The Oaks Square, Epsom, KT19 8AS
- Noise App summary completed by complainants
- Noise App recordings made by complainants on CD
- Audio noise monitoring completed by complainant on Trojan noise monitoring equipment on CD
- Calculation to determine the basis for number of people submitted in smoking area (including extract from JSNA report)
- Proposed conditions for the premises licence

APPENDIX

ADNITT ACOUSTICS
Renaissance House
32 Upper High Street
Epsom, Surrey
KT17 4QJ

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F: +44 (0)845 127 5121
E: enquiry@adnitt.com
W: www.adnitt.com



39 Oaks Square
Epsom, Surrey, KT19 8AS
Report 1921/EBF/R1- 11 May 2017
Annex 4

Report 1921/EBF/R1-
Issue Date 11 May 2017

Project **39 Oaks Square**
Epsom, Surrey, KT19 8AS

Title **Acoustic Design Report**
Sub Title

Client Dia y Noche Ltd.
39 Oaks Square
Epsom
Surrey
KT19 8AS

Case No

Author Chris Turner BSc(Hons) MSc MIOA
MInstP

Checked Graham Shaw BSc(Hons) MSc
MIOA AMInstP

Revision	Reason	Checked	Signature

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Appendix A: Glossary of Acoustic Terms

Appendix B: Sound Insulation Test Result Figures

Figure 1921/ AB 3 : Comparison of Noise Levels with NANR Reference Curve

1. INTRODUCTION

- 1.1 Adnitt Acoustics have been commissioned by Dia y Noche Ltd to undertake an acoustic assessment of the new café bar at 39 Oaks Square, Epsom, Surrey.
- 1.2 The assessment makes use of the results of a series of acoustic tests undertaken between the venue and nearby residential properties above the unit and in the building opposite.
- 1.3 An assessment of the likely music noise levels has been undertaken using the predicted acoustic performances of the separating floor and through the front façade against the good practice criteria found within the relevant Codes of Practice and research reports.
- 1.4 As this is a technical report it will be necessary to make use of some technical terms. To assist the reader a glossary has been included in Appendix A.

2. ACOUSTIC DESIGN REQUIREMENTS

National Planning Policy

- 2.1 Since March 2012 national planning policy has been governed by the National Planning Policy Framework (NPPF). Paragraph 123 of the NPPF gives generic advice with regard to noise and vibration.

“Planning policies and decisions should aim to:

- (i) avoid noise from giving rise to significant adverse impacts on health and quality of life as a result of the new development;*
- (ii) mitigate and reduce to a minimum other adverse impacts on health and quality of life arising from noise from the new development, including through the use of conditions;*
- (iii) recognise that development will often create some noise and existing businesses wanting to develop in continuance of their business should not have unreasonable restrictions put on them because of changes in nearby land uses since they were established; and*
- (iv) identify and protect areas of tranquillity which have remained relatively undisturbed by noise and are prized for their recreational and amenity value for this reason.”*

- 2.2 Further guidance with regard to the phases and “significant adverse impacts” and “adverse impacts” is given in the Noise Policy Statement for England (NPSE) which provides the following guidance.

“There are two established concepts from toxicology that are currently being applied to noise impacts, for example, by the World Health Organisation. They are:

NOEL - No Observed Effect Level

This is the level below which no effect can be detected. In simple terms, below this level, there is no detectable effect on health and quality of life due to the noise.

LOAEL - Lowest Observed Adverse Effect Level

This is the level above which adverse effects on health and quality of life can be detected.

Extending these concepts for the purpose of this NPSE leads to the concept of a significant observed adverse effect level.

SOAEL - Significant Observed Adverse Effect Level

This is the level above which significant adverse effects on health and quality of life occur.”

- 2.3 The NPSE further clarifies that due to the complex and subjective nature at which noise impacts are perceived by individuals or groups of individuals that:

“It is not possible to have a single objective noise-based measure that defines SOAEL that is applicable to all sources of noise in all situations. Consequently, the SOAEL is likely to be different for different noise sources, for different receptors and at different times. It is acknowledged that further research is required to increase our understanding of what may constitute a significant adverse impact on health and quality of life from

noise. However, not having specific SOAEL values in the NPSE provides the necessary policy flexibility until further evidence and suitable guidance is available.”

2.4 A hierarchy of noise impacts has recently been published by the Department for Communities and Local Government as part of the National Planning Practice Guidance (NPPG). This hierarchy is presented as a table and has been reproduced below.

Perception	Examples of Outcomes	Increasing Effect Level	Action
Not Noticeable	No Effect	No Observed Effect	No specific measures required
Noticeable and not intrusive	Noise can be heard, but does not cause any change in behaviour or attitude. Can slightly affect the acoustic character of the area but not such that there is a perceived change in the quality of life	No Observed Adverse Effect Level (NOAEL)	No specific measures required
		Lowest Observed Adverse Effect Level	
Noticeable and intrusive	Noise can be heard and causes small changes in behaviour and/or attitude, e.g. turning up volume of television; speaking more loudly; where there is no alternative ventilation, having to close windows for some of the time because of the noise. Potential for some reported sleep disturbance. Affects the acoustic character of the area such that there is a perceived change in the quality of life.	Observed Adverse Effect	Mitigate and reduce to a minimum
		Significant Observed Adverse Effect Level	
Noticeable and disruptive	The noise causes a material change in behaviour and/or attitude, e.g. avoiding certain activities during periods of intrusion; where there is no alternative ventilation, having to keep windows closed most of the time because of the noise. Potential for sleep disturbance resulting in difficulty in getting to sleep, premature awakening and difficulty in getting back to sleep. Quality of life diminished due to change in acoustic character of the area.	Significant Observed Adverse Effect	Avoid

Perception	Examples of Outcomes	Increasing Effect Level	Action
Noticeable and very disruptive	Extensive and regular changes in behaviour and/or an inability to mitigate effect of noise leading to psychological stress or physiological effects, e.g. regular sleep deprivation/awakening; loss of appetite, significant, medically definable harm, e.g. auditory and non-auditory	Significant Observed Adverse Effect	Prevent

Table 1921/T1 - National Planning Practice Guidance with regard to Noise

Local Planning Policy

- 2.5 The local authority, Epsom and Ewell Borough Council, have the following planning policy with regard to noise, Core Strategy Policy CS6:

“Proposals for development should result in a sustainable environment and reduce, or have a neutral impact upon, pollution and climate change. The Council will expect proposals to demonstrate how sustainable construction and design can be incorporated to improve the energy efficiency of development - both new build and conversion. In order to conserve natural resources, minimise waste and encourage recycling, the Council will ensure that new development:

- minimises the use of energy in the scheme by using an appropriate layout, building design and orientation;*
- minimises the emission of pollutants, including noise, water and light pollution, into the wider environment;*
- has no adverse effects on water quality, and helps reduce potential water consumption, for example by the use of water conservation and recycling measures and by minimising off-site water discharge by using methods such as sustainable urban drainage;*
- avoids increasing the risk of, or from, flooding;*
- minimises the energy requirements of construction, for example by using LDF Core Strategy 2007 27 sustainable construction technologies and encouraging the recycling of materials;*
- encourages the use of renewable energy by the incorporation of production facilities within the design of the scheme;*
- incorporates waste management processes, for example for the recycling of water and waste. The waste hierarchy (Reduce-Reuse-Recycle-Recover Dispose) should be applied to all stages of development design, construction and final operation.”*

Acoustic Design Requirements

- 2.6 As this is an entertainment venue it is not considered appropriate nor is it considered to be within the scope of the requirements of British Standard BS 4142:2014. Therefore, the following design requirements are provided.

Music Noise within Residential Properties

- 2.7 Music noise emissions from the bar should be controlled within the residential properties above in general accordance with the recommendations given within the Institute of Acoustics draft “Code of Practice (Good Practice Guide) of Noise from Pubs and Clubs”. On this basis the following requirement is recommended:

- The L_{Aeq} of the entertainment noise should not exceed the representative background noise level L_{A90} (without entertainment noise).

2.8 Music noise levels outside of the residential properties in the opposite building should be controlled in accordance with the recommendations provided in “*The Noise Council Code of Practice on the Control of Noise from Concerts*”. In keeping with the spirit of the Code the following is recommended:

- The L_{Aeq} of the entertainment noise should not exceed the representative background noise level L_{A90} (without entertainment noise) when measured at 1m from the façade of the residential properties.

Low Frequency Noise within Residential Properties

2.9 Whilst controlling music noise levels as described above is an indication that noise pollution from the venue is reduced the properties of the A-Weighting may not adequately control the low frequency content (e.g. bass beat).

2.10 It is recommended that the low frequency noise within the nearby residential properties, those within the same building and those within the building opposite, is controlled such that the levels are below the reference curve identified within the University of Salford report for DEFRA NANR45. This reference curve is reproduced below:

10Hz	12.5Hz	16Hz	20Hz	25Hz	31.5Hz	40Hz	50Hz	63Hz	80Hz	100Hz	125Hz	160Hz
92dB	87dB	83dB	74dB	64dB	56dB	49dB	43dB	42dB	40dB	38dB	36dB	34dB

Table 1921/T2 - Low Frequency Noise Reference Curve (Reproduced from NANR45)

2.11 Please note that compliance with the recommendations contained within this report is not a defence or does not indemnify the operator against any further noise complaint or statutory nuisance claim and does not guarantee inaudibility.

3. ACOUSTIC TESTS

3.1 A series of acoustic tests were undertaken within the commercial unit on Tuesday 25th April 2017. The following tests were undertaken:

- Airborne sound insulation test between the commercial unit and the residential properties above using pink noise and the methodology described in British Standard BS EN ISO 16283-1:2014;
- Measurements of level difference between the commercial unit and the residential properties above using a music noise source;
- Measurements of music noise level at a location representative of the residential properties opposite.

Airborne Sound Insulation Tests using pink noise

3.2 A set of airborne sound insulation tests were undertaken between the commercial unit on the ground floor and the residential units above. Measurements were undertaken within the Living Room of Flat 26 and the Living Room of Flat 27 which are understood to be directly above the commercial unit.

3.3 The construction of the separating floor is understood to be as follows:

- Floor finish;
- Concrete slab of unknown thickness;

3.4 Sound insulation tests were undertaken between the following rooms:

Source Room	Volume m ³	Receive Room	Volume m ³	Test Sample	Area m ²
39 Oaks Square	243.4	Flat 26 Living Room	59.6	Floor	26.0
39 Oaks Square	243.4	Flat 27 Living Room	77.0	Floor	33.5

Table 1921/T3 - Airborne Test Room Physical Details

3.5 The following test equipment was used in undertaking the tests:

Equipment Description	Manufacturer & Type Number	Serial Number	Calibration Last Date	Certificate Number
Integrating sound level meter	Nti XL2-TA	A2A-08401-E0	16/08/2016	U22423
Microphone	NTI MC230	7798	16/08/2016	22422
Preamp	NTI MC230	3376	16/08/2016	22422
Loudspeaker	Mackie Thump	-	-	-
Loudspeaker	Mackie SRM550	-	-	-
Pink Noise Source	NTi Minirator Pro	-	-	-

Table 1921/T4 - Equipment Details

3.6 The results of the tests are summarised below and presented graphically in the indicated figures.

Source Room	Receive Room	Test Sample	Test Figure ref.	Result D _{nT,w}	Result D _{nT,w} +C _{tr}
39 Oaks Square	Flat 26 Living Room	Floor	1921/AB1	56 dB	52 dB
39 Oaks Square	Flat 27 Living Room	Floor	1921/AB2	59 dB	54 dB

Table 1921/T5 - Airborne Sound Insulation Test Results

Airborne Sound Insulation Tests using music noise

3.7 Airborne sound insulation tests were undertaken using music noise with loud speakers in the approximate location of the proposed DJ console. Noise levels within the commercial

unit were measured in the order of 91dB $L_{Aeq,T}$. Noise levels were measured in the residential properties above and are summarised in the Table below.

- 3.8 The measurements of the music noise level within the properties above have been corrected for the ambient noise within the residential property using the methodology detailed in BS EN ISO 16283-1:2014. The results have been presented in the Table below.

Receiving Room	Background Noise Level (No Music)	Music Noise Level	Difference
Flat 26 Living Room	25dB $L_{A90,T}$	39dB $L_{Aeq,T}$	+ 14dB
Flat 27 Living Room	29dB $L_{A90,T}$	37dB $L_{Aeq,T}$	+ 8dB

Table 1921/T6 - Music Noise Sound Insulation Test Results (Music)

- 3.9 Low frequency noise levels have been processed in a similar fashion and the results compared with the reference curve found in NANR45. These results are presented in Figure 1921/AB3 which is appended to this report.

Sound Propagation Tests using music noise

- 3.10 A sound propagation test to the residential properties in the building opposite has been undertaken using a music noise source and loudspeakers in the approximate location of the DJ console. Noise levels within the commercial unit were measured in the order of 91dB $L_{Aeq,T}$. Noise levels were measured at a location external to the residential properties opposite and corrected for the ambient noise levels using the methodology detailed in BS EN ISO 16283-1:2014 and the results presented in the Table below.

Receptor	Background Noise Level (No Music)	Music Noise Level	Difference
Residential property opposite 39 Oaks Square	50dB $L_{A90,T}$	59dB $L_{Aeq,T}$	+ 9dB

Table 1921/T7 - Music Noise Sound Insulation Test Results (Music)

4. ACOUSTIC ASSESSMENT

Discussion of Acoustic Test Results

- 4.1 The acoustic test results show that the separating floor between the commercial unit and the residential units above achieves in excess of the minimum requirements of the building regulations. Therefore, it is anticipated that the depth of the concrete slab is likely in the order of 250mm. However, music noise is audible within the apartments.
- 4.2 Furthermore, the sound propagation tests showed that music noise is audible at the receptor location opposite the entrance to the commercial unit.
- 4.3 Our onsite observations showed that the majority of the noise transfer between the commercial units and the residential properties was flanking around the outside of the building through the acoustically weak front façade.
- 4.4 Therefore, in addition to the proposed improvements to the separating ceiling it is recommended that the front elevation be replaced with a higher performance glazing construction and a lobby is installed to further reduce noise emissions from the unit.

Proposed Improvement Works

- 4.5 It is understood that the separating floor will be upgraded by installing a suspended ceiling constructed from 15mm Fireline with 100mm mineral wool insulation within the cavity. It is predicted that this should improve the acoustic performance of the separating floor by approximately 10dB R_w .
- 4.6 Similarly, it is understood that the front elevation is to be replaced with a double glazed unit formed from 6.4mm lam / air gap / 4mm glass. It is assumed that the air gap should be in the order of 12mm. It is predicted that the acoustic performance of this new elevation should be in the order of 37dB R_w .

Music Noise Level Predictions

- 4.7 Using the measured data and anticipated acoustic performances it is possible to provide a likely indication of the music noise levels within the residential units. The likely indicated levels within the residential properties above are presented in Table 1921/T8 below.

Receptor	Separating Element	Background Noise Level (No Music)	Predicted Music Noise Level	Difference
Flat 26 Living Room	Floor	25dB $L_{A90,T}$	34dB $L_{Aeq,T}$	+ 9dB
Flat 27 Living Room	Floor	29dB $L_{A90,T}$	34dB $L_{Aeq,T}$	+ 5dB
Residential Property opposite 39 Oaks Square	Front Facade	50dB $L_{A90,T}$	45dB $L_{Aeq,T}$	- 5dB

Table 1921/T8 - Likely Music Noise Levels at Receptors

- 4.8 The predictions show that it is likely that music noise levels should comply with the proposed requirements at the residential properties opposite but are likely to exceed the proposed requirements within the residential properties above.
- 4.9 As discussed above, these predicted music noise levels are based upon a level within the commercial unit in excess of 90dB $L_{Aeq,T}$. As this is on the extreme upper limit for the proposed use it is recommended that a limiter be installed within the sound system to limit music noise to 80dB $L_{Aeq,T}$.

- 4.10 The limiter should be installed immediately before the amplifiers and set prior to opening. This limiter may either be an analogue limiter installed within a lockable cupboard or a digital distributed audio system (Allan and Heath iDR or equivalent) which is set using a computer with no controls which may be tampered with.
- 4.11 Consideration should be given to installing an ambient noise limiter (Electric Orange or equivalent) which is fitted to the electrical ring main should it be decided to have live acts playing who bring their own sound system.
- 4.12 Any limiter should be set by a suitable qualified acoustician using a Class 1 Sound Level Meter. Access would be required to the residential properties above for the duration of the limiter setting exercise.
- 4.13 Any loud speakers should be installed on independent column or wall linings. Alternatively speakers should be installed on resilient neoprene rubber speaker brackets.
- 4.14 Following installation of the limiter it is considered likely that the music noise levels should comply with the guidance found within the *Code of Practice (Good Practice Guide) of Noise from Pubs and Clubs* and low frequency noise levels should be below the low frequency noise reference curve as published in DEFRA report NANR45.
- 4.15 Therefore, it is considered that the development should comply with the requirements of the Local Planning Authority as expressed in their Core Strategy Policy CS6 and the requirements of the National Planning Policy Framework.
- 4.16 Please note that compliance with the recommendations contained within this report is not a defence or does not indemnify the operator against any further noise complaint or statutory nuisance claim and does not guarantee inaudibility.

5. CONCLUSION

- 5.1 Adnitt Acoustics were commissioned by Dia y Noche Ltd to undertake an acoustic assessment of the new café bar at 39 Oaks Square, Epsom, Surrey.
- 5.2 The assessment makes use of the results of a series of acoustic tests undertaken between the venue and nearby residential properties above the unit and in the building opposite.
- 5.3 The sound insulation tests of the separating floor showed that the separating floor between the commercial unit and the residential properties above achieved an acoustic performance in excess of the building regulations and is assumed to be constructed from a 250mm thick concrete slab.
- 5.4 Following completion of the proposed remedial works it is predicted that the music noise levels at the residential properties within the building opposite are likely to comply with the proposed design criteria.
- 5.5 However, the music noise levels are likely to exceed the proposed design requirements within the residential properties above even with the proposed remedial works.
- 5.6 Therefore, it is recommended that a limiter is installed within the sound system in a tamperproof cabinet and set to level of 80dB $L_{Aeq,T}$.
- 5.7 Consideration should be given to installing an ambient noise limiter (Electric Orange or equivalent) which is fitted to the electrical ring main should it be decided to have live acts playing who bring their own sound system and any house loudspeakers should be installed on independent column or wall linings. Alternatively speakers should be installed on resilient neoprene rubber speaker brackets.
- 5.8 Therefore, it is considered that the development should comply with the requirements of the Local Planning Authority as expressed in their Core Strategy Policy CS6 and the requirements of the National Planning Policy Framework.
- 5.9 Note, compliance with the recommendations contained within this report is not a defence or does not indemnify the operator against any further noise complaint or statutory nuisance claim.

Chris Turner BSc(Hons) MSc MIOA MInstP

for ADNITT ACOUSTICS

APPENDIX A: GLOSSARY OF ACOUSTIC TERMS

Ambient Noise	The noise climate heard over a period of time due to all normal sources, in the absence of extraneous or atypical sounds. Used to describe noise in the absence of the introduced sound, generally.	
Ambient Noise Level	Describes the average noise level of the ambient noise over a stated period of time, e.g. hourly noise	
	Parameter: A-weighted Continuous Equivalent Sound Pressure Level determined over the time period T. Expressed in decibels / A-weighted decibels	$L_{eq,T}$ or $L_{Aeq,T}$ dB(A) or dB
Decibel scale dB	A linear numbering scale used to define a logarithmic amplitude scale, thereby compressing a wide range of amplitude values to a small set of numbers	
dB(A)	An electronic filter in a sound level meter, which approximates under defined conditions the frequency response of the human ear.	
$L_{Aeq,T}$	The equivalent continuous sound level. The steady dB(A) level which would produce the same A-weighted sound energy over a stated period of time as the measured sound pressure level.	
L_{Amax}	The maximum dB(A) level measured during a survey period.	
L_{A10}	The dB(A) level exceeded for 10% of the survey period, often used as a quantifier of traffic noise level.	
L_{A90}	The dB(A) level exceeded for 90% of the survey period. Used in BS 4142:2014 as being representative of the background noise level.	
Acoustic screening	Physical barrier to sound formed by fence, wall, building or other structure, which has the effect of reducing the sound transmitted.	
Individual Event Noise	The noise of a distinctive event with the varying noise climate, usually a transient activity, such as a vehicle pass-by, aircraft flyover or similar, rather than an isolated impulsive noise.	
Individual Event Noise Level	Describes the highest noise level during the event as measured under particular conditions of time-weighting	
	Parameter: A-weighted Maximum Sound Pressure Level with FAST or SLOW time weighting	$L_{Amax,FAST}$ or $L_{Amax,F}$ $L_{Amax,SLOW}$ or $L_{Amax,S}$
	Expressed in decibels / A-weighted decibels	dB(A) or dB
Sound Reduction Index R_w	Single number rating used to describe the sound insulation of building elements as defined in BS EN ISO 717-1:2013.	
Weighted element-normalized level difference $D_{n,e,w}$	Single number rating used to describe the sound insulation of building elements as defined in BS EN ISO 717-1:2013.	

APPENDIX B: SOUND INSULATION TEST RESULT FIGURES

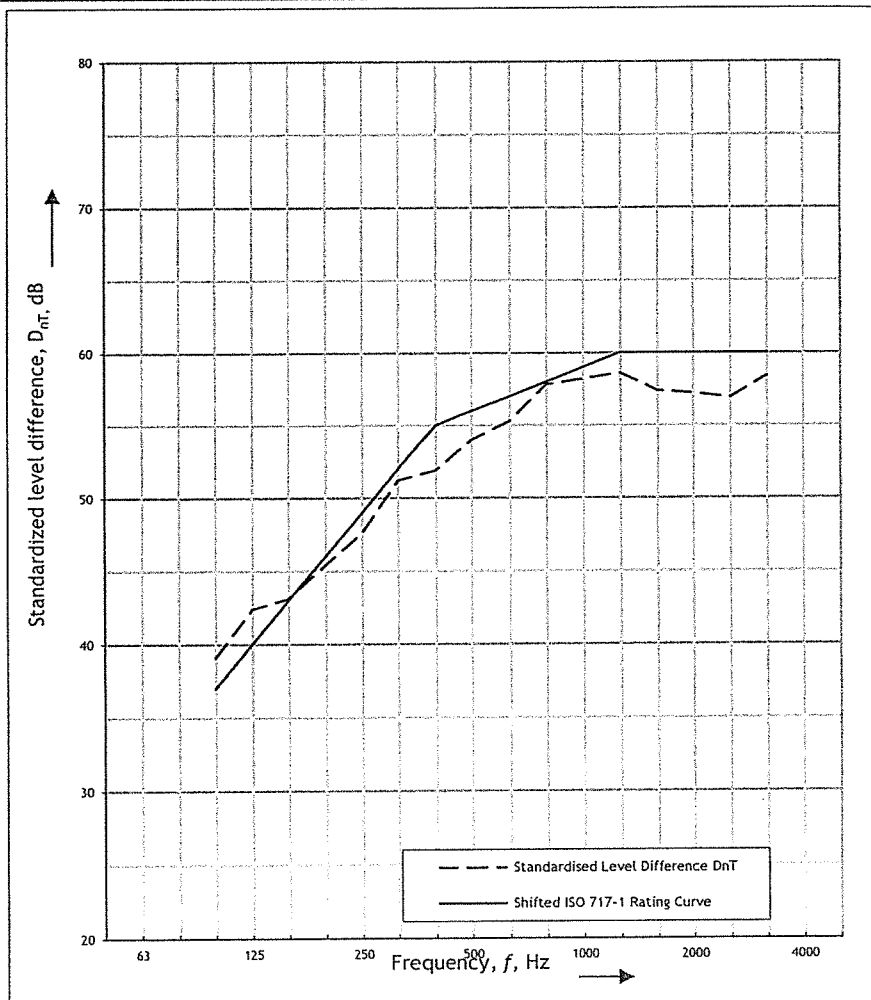
Standardised level difference according to ISO 140-4:1998
Field measurement of airborne sound insulation between rooms

Project Number:	1921	Description	
Property:	39 The Oaks Square	Source Room:	39 The Oaks Square 243.4 m ³
	Epsom	Receive Room:	Flat 26 Living Room 59.6 m ³
	KT19 8AS	Test Element:	Floor Area: 26.0 m ²
Client:	Dia y Noche Ltd	Dwelling Type:	Purpose Built Flat(s)
		Construction:	Floor finish on concrete slab of unknown thickness

Tester: 12 Chris Turner
Checker: 13 Graham Shaw
Date of Test: 25-Apr-17

$D_{nT,w} + C_{tr}$
52 dB

Frequency f Hz	D_{nT} (one-third octave) dB
50	
63	
80	
100	39.1
125	42.4
160	43.1
200	45.4
250	47.6
315	51.2
400	51.9
500	54.0
630	55.3
800	≥ 57.8
1 000	58.2
1 250	58.6
1 600	57.4
2 000	57.2
2 500	56.9
3 150	≥ 58.4
4 000	
5 000	



Rating according to ISO 717-1

$D_{nT,w}(C;C_{tr}) = 56$ (-1 ; -4) dB; $C_{50-3150} =$ dB; $C_{50-5000} =$ dB; $C_{100-5000} =$ dB

Evaluation based on field measurement results obtained by engineering method
 $C_{tr,50-3150} =$ dB; $C_{tr,50-5000} =$ dB; $C_{tr,100-5000} =$ dB

Test figure reference: 1921/AB1
Adnitt Acoustic Services Ltd.
Signature: Chris Turner
Issue Date: 11-May-17

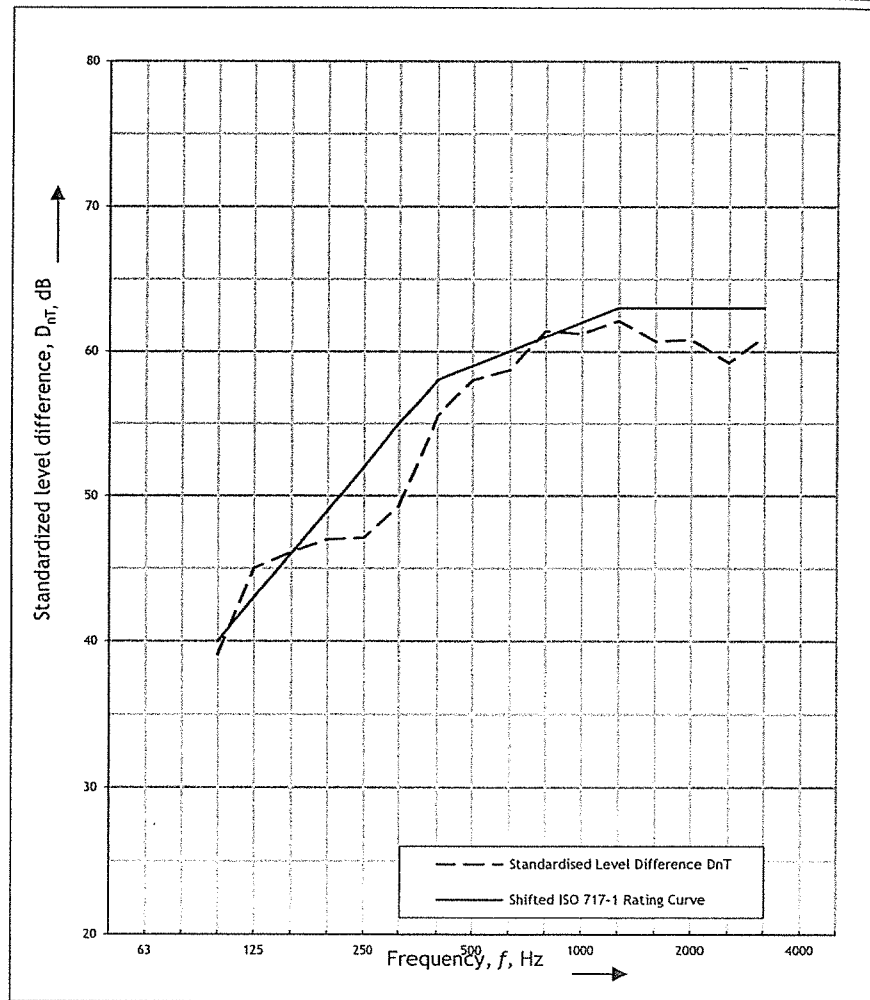
Standardised level difference according to ISO 140-4:1998
Field measurement of airborne sound insulation between rooms

Project Number: 1921
Property: 39 The Oaks Square
Epsom
KT19 8AS
Client: Dia y Noche Ltd
Description
Source Room: 39 The Oaks Square 243.4 m³
Receive Room: Flat 27 Living Room 77.0 m³
Test Element: Floor Area: 33.5 m²
Dwelling Type: Purpose Built Flat(s)
Construction: Floor finish on concrete slab of unknown thickness

Tester: 12 Chris Turner
Checker: 13 Graham Shaw
Date of Test: 25-Apr-17

$D_{nT,w} + C_{tr}$
54 dB

Frequency f Hz	D_{nT} (one-third octave) dB
50	
63	
80	
100	39.1
125	45.0
160	46.1
200	47.0
250	47.1
315	49.3
400	55.5
500	58.0
630	58.7
800	≥ 61.4
1 000	≥ 61.2
1 250	≥ 62.1
1 600	≥ 60.7
2 000	≥ 60.8
2 500	59.2
3 150	≥ 61.0
4 000	
5 000	



Rating according to ISO 717-1

$D_{nT,w}(C; C_{tr}) = 59 (-2; -5)$ dB;

$C_{50-3150} =$ dB; $C_{50-5000} =$ dB; $C_{100-5000} =$ dB

Evaluation based on field measurement
results obtained by engineering method

$C_{tr,50-3150} =$ dB; $C_{tr,50-5000} =$ dB; $C_{tr,100-5000} =$ dB

Test figure reference: 1921/AB2

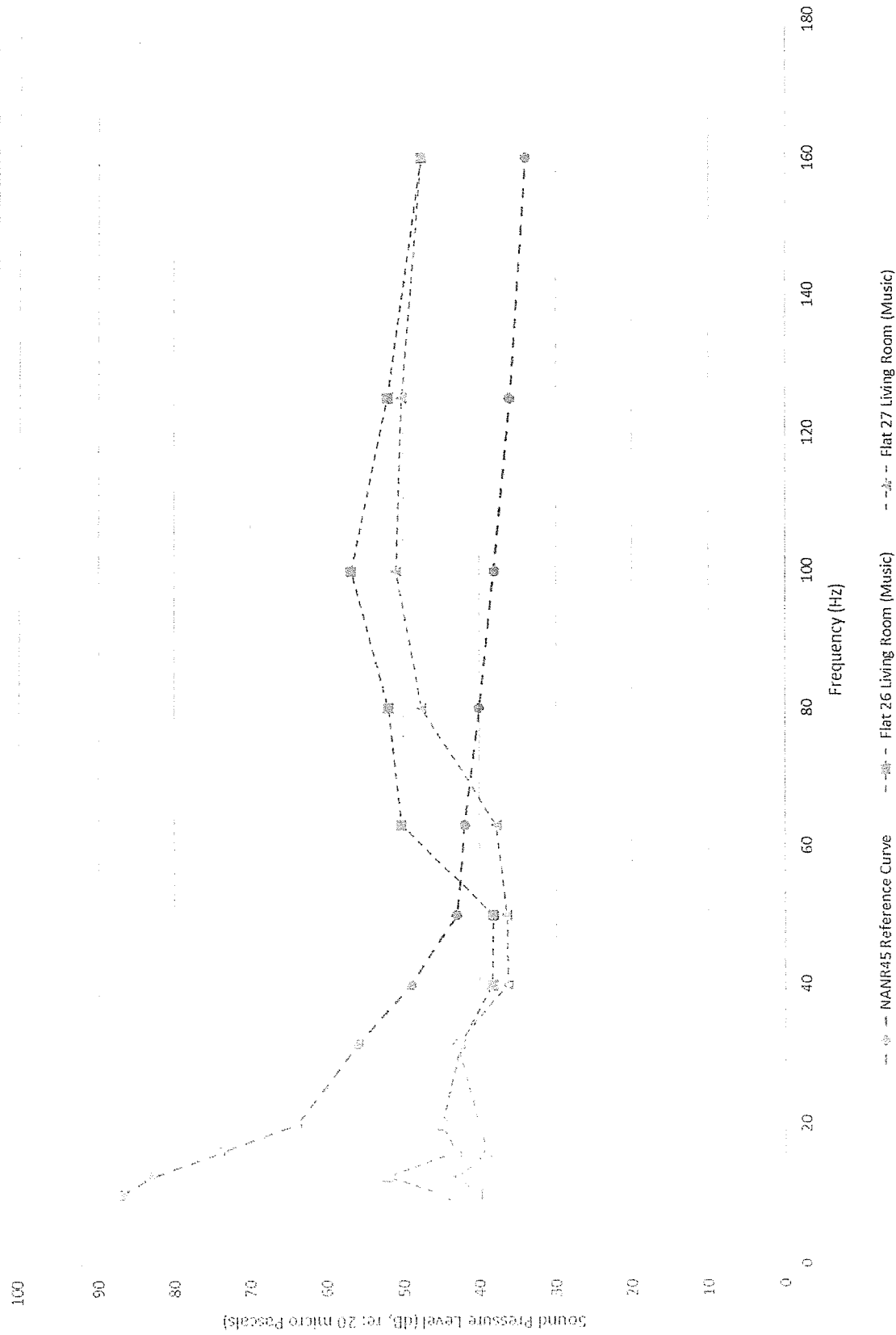
Adnitt Acoustic Services Ltd.

Signature:

Chris Turner

Issue Date: 11-May-17

Figure 1921/ AB 3 : Comparison of Noise Levels with NANR Reference Curve



Complainant Details



Carlos Felipe Tarazona
carlosfeli.tarazona@gmail.com
10 The Oaks Square, Epsom, KT19 8AP
07534252444



Last updated 26 Apr 2019 09:16am

Source Address

Dai Y Noche, The Oaks Square,, Epsom, KT19 8AS



Reports

Date	Source	Location	Intensity Rating	Duration
20 Apr 2019 20:15pm	 Music	 Dining Room	9/10	05:00:00
Comments	"			
Officer Notes	-			

Date	Source	Location	Intensity Rating	Duration
20 Apr 2019 20:13pm	 Music	 Dining Room	9/10	05:00:00
Comments	"			
Officer Notes	doors wide open and music extremely loud. When is someone going to do something about this place? speakers outside, music loud and 2 doors fully opened.			

[REDACTED]



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Date	Source	Location	Intensity Rating	Duration
20 Apr 2019 19:57pm	 Music	 Dining Room	9/10	05:00:00

Comments

” all day again with music outloud and both door fully opened at all times.


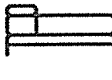
Officer Notes

Date	Source	Location	Intensity Rating	Duration
19 Apr 2019 20:40pm	 Music	 Dining Room	9/10	03:00:00

Comments

” they have a speaker outside the premises and then they always keep the door open and very high and loud music with no carecor respectbfor neighbours. why is the noise so loud?

Officer Notes

Date	Source	Location	Intensity Rating	Duration
25 Oct 2018 06:56am	 Other	 Bedroom	9/10	00:15:00

Comments

” ~~Delivery truck from Nandos with the engine on since 6.15 and started unloading at 6.50 am.~~



**INCORRECTLY
LOGGED
AGAINST THIS
PREMISES**

Date	Source	Location	Intensity Rating	Duration
20 Oct 2018 00:35am	 Music	 Bedroom	9/10	01:00:00

Comments

”

Officer Notes



Date	Source	Location	Intensity Rating	Duration
08 Sep 2018 20:44pm	 Music	 Dining Room	8/10	02:00:00

Comments

”

Keep using a speaker outside the place and doors wide open.

Officer Notes

Date	Source	Location	Intensity Rating	Duration
27 Jul 2018 21:23pm	 Music	 Dining Room	9/10	04:00:00

Comments

”

Everyday the same. We allowed it during the world cup but this is too much.All afternoon with very loud music from Dia y Noche.

Officer Notes

21 Jul 2018
21:19pm



Music



Dining Room

9/10

01:15:00

Agenda Item 4
Annex 4

Comments

”

No body at the pub but they have the music extremley loud with doors open. Is this a club ?

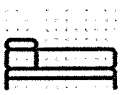
Officer Notes

Date	Source	Location	Intensity Rating	Duration
------	--------	----------	------------------	----------

20 Jul 2018
21:46pm



Music



Bedroom

8/10

00:45:00

Comments

”

Very loud music with pubs doors fully opened

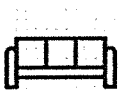
Officer Notes

Date	Source	Location	Intensity Rating	Duration
------	--------	----------	------------------	----------

07 Jul 2018
23:14pm



Music



Living Room

8/10

01:15:00

Comments

”

-

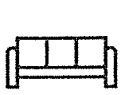
Officer Notes

Date	Source	Location	Intensity Rating	Duration
------	--------	----------	------------------	----------

07 Jul 2018
22:49pm



Music



Living Room

8/10

01:00:00

”

This it's becoming more a more common. Ending very late, no closing the door and loud music.

Complainant Details


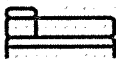
Alex Hallinger
alex.hallinger@gmail.com
39 The Oaks Square, Epsom, Surrey, Middlesex
02033706679

Last updated 04 May 2019 22:46pm

Source Address

Dia Y Noche Lounge, 39 The Oaks Square, EPSOM, KT19 8AS

Reports


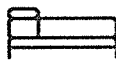
Date	Source	Location	Intensity Rating	Duration
04 May 2019 22:45pm	 Music	 Bedroom	7/10	02:00:00

Comments

”

Unable to sleep


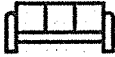
Officer Notes

Date	Source	Location	Intensity Rating	Duration
19 Apr 2019 23:32pm	 Music	 Bedroom	8/10	02:00:00


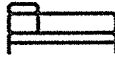
02033706679

”

Unable to sleep

Date	Source	Location	Intensity Rating	Duration
29 Mar 2019 22:54pm	 Music	 Living Room	9/10	02:00:00
Comments				
” The bass is vibrating the furniture				
Officer Notes				

Date	Source	Location	Intensity Rating	Duration
29 Mar 2019 22:10pm	 Music	 Living Room	7/10	01:00:00
Comments				
” Can't hear television				
Officer Notes				

Date	Source	Location	Intensity Rating	Duration
23 Mar 2019 23:24pm	 Music	 Bedroom	10/10	02:00:00
Comments				
” Unable to sleep				
Officer Notes				

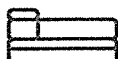
15 Mar 2019	02:11:00	10/10	02:00:00
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15 Mar 2019

21:38pm



Music



Bedroom

9/10


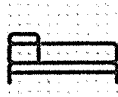
01:00:00

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Comments

” Unable to hear tele and relax

Officer Notes

Date	Source	Location	Intensity Rating	Duration
02 Mar 2019 00:55am	 Music	 Bedroom	10/10	04:00:00

Comments

” Now 1.00 am and music is still playing at unreasonable level

Officer Notes

Date	Source	Location	Intensity Rating	Duration
02 Mar 2019 00:28am	 Music	 Bedroom	10/10	03:00:00

Comments

” Now 12.30 this is unbearable and causing me distress

Officer Notes

Date	Source	Location	Intensity Rating	Duration
02 Mar 2019 00:15am	 Music	 Bedroom	10/10	03:00:00

”

12.15 now the is getting ridiculous!!! When are you going to do something? This has been going on for months and you have done NOTHING!!!!

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Officer Notes

Date	Source	Location	Intensity Rating	Duration
02 Mar 2019 00:11am	 Music	 Bedroom	9/10	03:00:00

Comments

”

Unable to sleep!!!!!!

Officer Notes

Date	Source	Location	Intensity Rating	Duration
01 Mar 2019 22:41pm	 Music	 Living Room	9/10	02:00:00

Comments

”

I can feel the base through the furniture in living room

Officer Notes

Date	Source	Location	Intensity Rating	Duration
01 Mar 2019 21:46pm	 Music	 Living Room	7/10	01:00:00

Comments

”

Unable to hear television clearly

Complainant Details

Andy Dyer

andydyer2009@hotmail.co.uk

5 The Oaks Square, Epsom, Epsom, KT198A


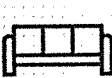
07737147018

Last updated 10 May 2019 23:01pm

Source Address

Dai Y Noche , Epsom, KT198AS

Reports

Date	Source	Location	Intensity Rating	Duration
10 May 2019 22:49pm	 Loud Voices	 Living Room	4/10	03:00:00

Comments

”

Further to my earlier submission, this is what can be heard in my lounge, with a small window ajar, generated by people outside, smoking and talking, at Dai y Noche. I have been careful to ensure this recording does not include people passing by, heading to one of the nightclubs, as this would be unfair. As I mentioned before, it is 10.40pm and I expect noise, but if this was later, circa 00.30 to 1.00am, I don't feel this is acceptable, and as Dai Y Noche's smoking area is out the front in Oaks Sq., I can only imagine this would become an issue in relation to future disturbances. I hope this additional recording is of help going forward. As always, I am more than happy to discuss.

Regards Andy Dyer

Officer Notes

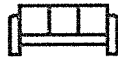
03 May 2019 10:00 AM 10:00 AM 10:00 AM

03 May 2019

22:02pm



Loud Voices



Living Room

5/10

04:00:00


Agenda Item 4
Annex 4

Comments

”

This is the noise that I hear, and a lot worse when people are lugging or swearing, when the tables outside are cleared away, but because patrons are coming outside to smoke. This continues until midnight, and I hear that they want to extend this until 1pm on Friday and Saturdays in future, hence the reason I have decided to submit this recording.

Officer Notes


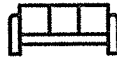
Date	Source	Location	Intensity Rating	Duration
21 Apr 2019 15:28pm	 Music	 Living Room	5/10	03:30:00

Comments

”

-

Officer Notes

Date	Source	Location	Intensity Rating	Duration
21 Apr 2019 14:04pm	 Music	 Living Room	5/10	02:00:00

Comments

”

This was recorded whilst sitting in my lounge. The music is from an outside speaker playing continual music by Dai Y Noche whilst people are drinking outside the front of their premises. It was like this Saturday too. I really do not want this for the rest of the summer, especially on Sundays. Please could someone call me as to if this is acceptable, and if not, what can be done. Thank you. **9778747018**

Calculation to determine the basis for number of people permitted in the smoking area.

$100 \text{ (Capacity of premises)} / 14\% \text{ (Percentage of smokers over 18 in Surrey)} = 7.14$

$7 \text{ people} / 3 \text{ (Number of peak hours of operation for premises)} = 2 \text{ people}$

Rounded up to 5 people.

Across Surrey 14.7% of people aged 18 and over are smokers (Joint Strategic Needs Assessment (2015)). A copy of the relevant section of the Joint Strategic Needs Assessment has been provided in the hearing report.

CONDITION 12

Current condition

The use of the outside designated smoking area will be monitored during licensing hours and the number of smokers permitted in the outside area will be limited to 10 at any one time from:

21:00 hours Sunday to Thursday

22:00 Friday and Saturday and on non- standard timings.

No liquid refreshment to be taken into this area.

Proposed condition

A dedicated smoking area for the sole use of patrons from the premises, to be used only by individuals smoking, shall be provided at the front of the premises. The number of people in this area shall be restricted to a maximum of 5 people at any one time from:

21:00 hours Sunday to Thursday

22:00 Friday and Saturday and on non- standard timings.

Whilst the business is trading, this area will be monitored every Friday and Saturday and non – standard days from 20:00 hours until the premises closes. No liquid refreshment shall be taken into this area.

ADDITIONAL CONDITION – NOISE MONITORING

Proposed new condition

Throughout the normal opening hours of the premises, half an hour patrols of the area outside the premises shall be carried out by staff, especially areas closest to residential accommodation. During these patrols observations of noise and disturbance shall be made and documented and shall be kept in a written log together with any resultative action taken. Documents shall be made available for inspection by an authorised officer of any responsible authority

ADDITION CONDITION – PROVISION OF EXTERNAL SOURCES OF AMPLIFICATION

Proposed new condition

No external speakers or means of amplifying noise shall be permitted or used in relation to licensable activities.

SCHEDULE 12 PART A (Regulation 33,34)
Premises licence number EEBC/17/00058/LAPRE
Part 1 - Premises Details

Postal address of premise, or if none, ordnance survey map reference or description DIA Y NOCHE 39 THE OAKS SQUARE	
Post town EPSOM	Post code KT19 8AS
Telephone number 07768 194491	
Where the licence is time limited the dates NONE	
Licensable activities authorised by the licence SALE OF ALCOHOL BY RETAIL PROVISION OF REGULATED ENTERTAINMENT;- LIVE MUSIC (E); RECORDED MUSIC (F); DANCING (G); ANYTHING OF A SIMILAR DESCRIPTION TO THAT FALLING WITHIN (E), (F) AND (G); LATE NIGHT REFRESHMENT	

<p>The times the licence authorises the carrying out of licensable activities</p> <p><u>SALE OF ALCOHOL BY RETAIL</u> MONDAY TO THURSDAY 09.00 HOURS UNTIL 23.00 HOURS FRIDAY TO SATURDAY 09.00 HOURS UNTIL MIDNIGHT SUNDAY 10.00 HOURS UNTIL 23.00 HOURS CHRISTMAS EVE 09.00 HOURS UNTIL 01.00 HOURS NEW YEARS EVE 09.00 HOURS UNTIL 01.30 HOURS HALLOWEEN, ST PATRICKS DAY; ST GEORGES DAY; 09.00 HOURS UNTIL MIDNIGHT.</p> <p><u>PROVISION OF REGULATED ENTERTAINMENT</u></p> <p><u>LIVE MUSIC</u> THURSDAY 18.00 HOURS UNTIL 23.00 HOURS FRIDAY AND SATURDAY 18.00 HOURS UNTIL MIDNIGHT SUNDAY 17.00 HOURS UNTIL 22.00 HOURS CHRISTMAS EVE 18.00 HOURS UNTIL 01.00 HOURS NEW YEARS EVE 18.00 HOURS UNTIL 01.30 HOURS HALLOWEEN, ST PATRICKS DAY; ST GEORGES DAY; 18.00 HOURS UNTIL MIDNIGHT.</p> <p><u>RECORDED MUSIC</u> MONDAY TO THURSDAY 08.00 HOURS UNTIL 23.00 HOURS FRIDAY TO SATURDAY 08.00 HOURS UNTIL MIDNIGHT SUNDAY 09.00 HOURS UNTIL 23.00 HOURS CHRISTMAS EVE 08.00 HOURS UNTIL 01.00 HOURS NEW YEARS EVE 08.00 HOURS UNTIL 01.30 HOURS HALLOWEEN, ST PATRICKS DAY; ST GEORGES DAY; 08.00 HOURS UNTIL MIDNIGHT.</p> <p><u>PERFORMANCE OF DANCE</u> MONDAY TO THURSDAY 08.00 HOURS UNTIL 23.00 HOURS FRIDAY TO SATURDAY 08.00 HOURS UNTIL MIDNIGHT SUNDAY 09.00 HOURS UNTIL 23.00 HOURS CHRISTMAS EVE 08.00 HOURS UNTIL 01.00 HOURS NEW YEARS EVE 08.00 HOURS UNTIL 01.30 HOURS HALLOWEEN, ST PATRICKS DAY; ST GEORGES DAY; 08.00 HOURS UNTIL MIDNIGHT.</p> <p><u>ANYTHING OF A SIMILAR DESCRIPTION TO THAT FALLING WITHIN (E), (F) AND (G);</u> MONDAY TO THURSDAY 18.00 HOURS UNTIL 23.00 HOURS FRIDAY TO SATURDAY 18.00 HOURS UNTIL MIDNIGHT SUNDAY 18.00 HOURS UNTIL 23.00 HOURS CHRISTMAS EVE 18.00 HOURS UNTIL 01.00 HOURS NEW YEARS EVE 18.00 HOURS UNTIL 01.30 HOURS HALLOWEEN, ST PATRICKS DAY; ST GEORGES DAY; 18.00 HOURS UNTIL MIDNIGHT.</p> <p><u>LATE NIGHT REFRESHMENT</u> FRIDAY TO SATURDAY 23.00 HOURS UNTIL MIDNIGHT CHRISTMAS EVE 23.00 HOURS UNTIL 01.00 HOURS NEW YEARS EVE 23.00 HOURS UNTIL 01.30 HOURS</p>

The opening hours of the premises

SUNDAY TO THURSDAY 08.00 HOURS UNTIL 23.00 HOURS
 FRIDAY TO SATURDAY 08.00 HOURS UNTIL MIDNIGHT
 SUNDAY 09.00 HOURS UNTIL 23.00 HOURS
 CHRISTMAS EVE 08.00 HOURS UNTIL 01.30 HOURS
 NEW YEARS EVE 08.00 HOURS UNTIL 02.00 HOURS
 HALLOWEEN, ST PATRICKS DAY; ST GEORGES DAY; 08.00 HOURS UNTIL MIDNIGHT.

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

FOR CONSUMPTION ON THE PREMISES

Part 2

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

DIA Y NOCHE LIMITED
 71-75 SHELTON STREET
 LONDON
 WC2H 9JQ TELEPHONE 07768 194491

Registered number of holder, for example company number, charity number 10585204

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

DEAN KIRBY
 THE RIDGE
 51 ST CLAIR DRIVE
 WORCESTER PARK
 SURREY
 KT4 8UG

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

LONDON BOROUGH OF SUTTON 5870/16/00735/LAPERS

Dated this 21st day of June 2017

For The Licensing Authority

Annex 1 – Mandatory conditions

Mandatory Condition: where licence authorities supply of alcohol

Where a premise licence authorises the supply of alcohol, the licence must include the following conditions

1. No supply of alcohol may be made under the premises licence
 - (a) at a time when there is not 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.

Mandatory Condition: exhibition of films

1. Where a premises licence authorises the exhibition of films, the licence must include a condition requiring the admission of children to the exhibition of any film to be restricted in accordance with this section.
2. Where the film classification body is specified in the licence, unless subsection 3(b) applies, admission of children must be restricted in accordance with any recommendation made by that body.
3. Where:
 - (a) The film classification body is not specified in the licence, or
 - (b) The relevant licensing authority has notified the holder of the licence that this subsection applies to the film in question,
 Admission of children must be restricted in accordance with any recommendation made by that licensing authority.

Children means persons aged under 18; and Film classification body means the person or persons designated as the authority under section 4 of the Video Recordings Act 1984 (c.39) (authority to determine suitability of video works for classification)

Mandatory Condition: door supervision

1. Where a premises licence includes a condition that at specified times one or more individuals must be at the premises to carry out a security activity, the licence must include a condition that each such individual must be licensed by the Security Industry Authority.
2. But nothing requires a condition to be imposed in respect of:
 - (a) paragraph 8(3)(a) of Schedule 2 to the Private Security Industry Act 2001 (c.12) (premises with premises licences authorising plays or films), or
 - (b) any occasion mentioned in paragraph 8(b) or (c) of that Schedule (premises being used exclusively by club with club premises certificate, under a temporary event notice authorising plays or films or under a gaming licence), any occasion within paragraph 8(3)(d) of that Schedule (occasions prescribed by regulations under that Act).

Security activity means an activity to which paragraph 2(1)(a) of that Schedule applies, and Paragraph 8(5) of that Schedule (interpretation of references to an occasion) applies as it applies in relation to paragraph 8 of that Schedule.

Conditions 1, 2 and 3 below came into force on 6th April 2010, and 4 and 5 came into force on 1st October 2010 (as amended 1 October 2014).

1. (1) The responsible person must ensure that staff on relevant premises do not carry out, arrange or participate in any irresponsible promotions in relation to the premises.

(2) In this paragraph, an irresponsible promotion means any one or more of the following activities, or substantially similar activities, carried on for the purpose of encouraging the sale or supply of alcohol for consumption on the premises—

- (a) games or other activities which require or encourage, or are designed to require or encourage, individuals to—
 - (i) drink a quantity of alcohol within a time limit (other than to drink alcohol sold or supplied on the premises before the cessation of the period in which the responsible person is authorised to sell or supply alcohol), or
 - (ii) drink as much alcohol as possible (whether within a time limit or otherwise);
- (b) provision of unlimited or unspecified quantities of alcohol free or for a fixed or discounted fee to the public or to a group defined by a particular characteristic in a manner which carries a significant risk of undermining a licensing objective;
- (c) provision of free or discounted alcohol or any other thing as a prize to encourage or reward the purchase and consumption of alcohol over a period of 24 hours or less in a manner which carries a significant risk of undermining a licensing objective;
- (d) selling or supplying alcohol in association with promotional posters or flyers on, or in the vicinity of, the premises which can reasonably be considered to condone, encourage or glamorise anti-social behaviour or to refer to the effects of drunkenness in any favourable manner;
- (e) dispensing alcohol directly by one person into the mouth of another (other than where that other person is unable to drink without assistance by reason of disability).

2. The responsible person must ensure that free potable water is provided on request to customers where it is reasonably available.

3. (1) The premises licence holder or club premises certificate holder must ensure that an age verification policy is adopted in respect of the premises in relation to the sale or supply of alcohol.

(2) The designated premises supervisor in relation to the premises licence must ensure that the supply of alcohol at the premises is carried on in accordance with the age verification policy.

(3) The policy must require individuals who appear to the responsible person to be under 18 years of age (or such older age as may be specified in the policy) to

produce on request, before being served alcohol, identification bearing their photograph, date of birth and either—

(a) a holographic mark, or (b) an ultraviolet feature.

4. The responsible person must ensure that—

(a) where any of the following alcoholic drinks is sold or supplied for consumption on the premises (other than alcoholic drinks sold or supplied having been made up in advance ready for sale or supply in a securely closed container) it is available to customers in the following measures—

(i) beer or cider: ½ pint;

(ii) gin, rum, vodka or whisky: 25 ml or 35 ml; and

(iii) still wine in a glass: 125 ml;

(b) these measures are displayed in a menu, price list or other printed material which is available to customers on the premises; and

(c) where a customer does not in relation to a sale of alcohol specify the quantity of alcohol to be sold, the customer is made aware that these measures are available.”

The Licensing Act 2003 (Mandatory Conditions) Order 2014 came into force on May 2014.

A relevant person shall ensure that no alcohol is sold or supplied for consumption on or off the premises for a price which is less than the permitted price.

2. For the purposes of the condition set out in paragraph 1—

“permitted price” is the price found by applying the formula—

$$P = D + (D \times V)$$

where—

(i) P is the permitted price,

(ii) D is the rate of duty chargeable in relation to the alcohol as if the duty were charged on the date of the sale or supply of the alcohol, and

(iii) V is the rate of value added tax chargeable in relation to the alcohol as if the value added tax were charged on the date of the sale or supply of the alcohol;

(c) “relevant person” means, in relation to premises in respect of which there is in force a premises licence—

(i) the holder of the premises licence,

(ii) the designated premises supervisor (if any) in respect of such a licence,

or

(iii) the personal licence holder who makes or authorises a supply of alcohol under such a licence;

(d) "relevant person" means, in relation to premises in respect of which there is in force a club premises certificate, any member or officer of the club present on the premises in a capacity which enables the member or officer to prevent the supply in question;

3. Where the permitted price given by Paragraph (b) of paragraph 2 would (apart from this paragraph)

not be a whole number of pennies, the price given by that sub-paragraph shall be taken to be the

price actually given by that sub-paragraph rounded up to the nearest penny.

4. (1) Sub-paragraph (2) applies where the permitted price given by Paragraph (b) of paragraph 2 on a day ("the first day") would be different from the permitted price on the next day ("the second day") as a result of a change to the rate of duty or value added tax.

(2) The permitted price which would apply on the first day applies to sales or supplies of alcohol which take place before the expiry of the period of 14 days beginning on the second day.

Annex 2 – Conditions consistent with the operating schedule

NONE

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

Prevention of Crime and Disorder

1. A fully operating CCTV system approved by Surrey Police shall be installed and operated. In addition, an internal camera should achieve clear evidential images of all persons leaving and entering the premises. The recordings shall be retained for a period of at least 31 days, and will be made available on requested to an authorised officer of the Council or Police, and operational before carrying out any licensable activities.
2. Toilets shall be checked hourly each day during opening hours and records maintained of checks.
3. Two SIA Registered door supervisors will be on duty each Friday and Saturday and non-standard days from 20.00 hours. A risk assessment conducted as to the need for door supervisors at all other times, or as directed by the Licensing Authority or Surrey Police.
4. The licence holder shall ensure that an incident log is kept on the premises and that it documents any incident involving the premise, this log shall be immediately available upon request of an authorised Council Officer or Police Officer.

5. There shall be a record of any refused sale of alcohol. The refusal register shall be inspected on a regular (at least weekly) basis by the DPS and signed by the DPS that they have checked the register, and copies made available upon request by Police or Licensing Authority.
6. All members of staff shall be trained on using the refusal and incident logs.

Public Safety

7. A member of staff who is first aid trained will always be present on the premises during opening hours.
8. Signs shall be clearly displayed at the entrance/exit to the premises requesting patrons to respect neighbours and to be quiet when leaving the area.
9. A zero drugs policy shall be enforced, and signs indicating this shall be prominently displayed within the premises.

The Prevention of Public Nuisance

10. No customers to use outside seating area after 22.00 hours and all furniture to be removed by 22.30 hours.
11. No customers will be allowed to take drinks to the outside area after 22.00 hours. All furniture removed by 22.30 hours.
12. The use of the outside designated smoking area will be monitored during licensing hours, and the numbers of smokers permitted in the outside area will be limited to 10 at any one time from;

21.00 hours Sunday to Thursday

22.00 hours Friday and Saturday and on non-standard timings.

No liquid refreshment to be taken into this area.

13. There shall be no new admittance to the premises after 23.00 hours on Friday and Saturday and non-standard timings.
14. A double door entrance lobby shall be installed, with doors closed from 22.00 hours, except for egress and access to the premises.
15. Prior to the first licensable activity acoustic treatment to the ceiling and front façade shall be installed and thereafter maintained to comply with the recommendations contained within Adnitt Acoustics report dated 11/5/2017.
16. All loud speakers shall be mounted on resilient neoprene rubber mounts independent columns or wall linings.
17. No amplified live music shall be permitted after 23.00 hours.

Protection from Children from Harm

18. After 19.00 hours children shall only be permitted within a family group attending a private function.
19. All members of staff shall be trained in SCE awareness and a CSE Policy adopted and updated as necessary. The "Say Something if you See Something" campaign poster (or similar) will be displayed within the premises.
20. A Challenge 25 Scheme shall be enforced.
21. All Members of staff shall be trained in CSE awareness and a CSE Policy adopted and updated as necessary. The "say something if you see something" campaign poster (or similar) will be displayed within the premises.

LIGHTING PLAN

DIA Y NOCHE

39 THE OAKS SQUARE

EPSOM KT19 8AS

APPROXIMATE INTERNAL FLOOR AREA

1338 SQ.FT / 124.3 SQ.M.

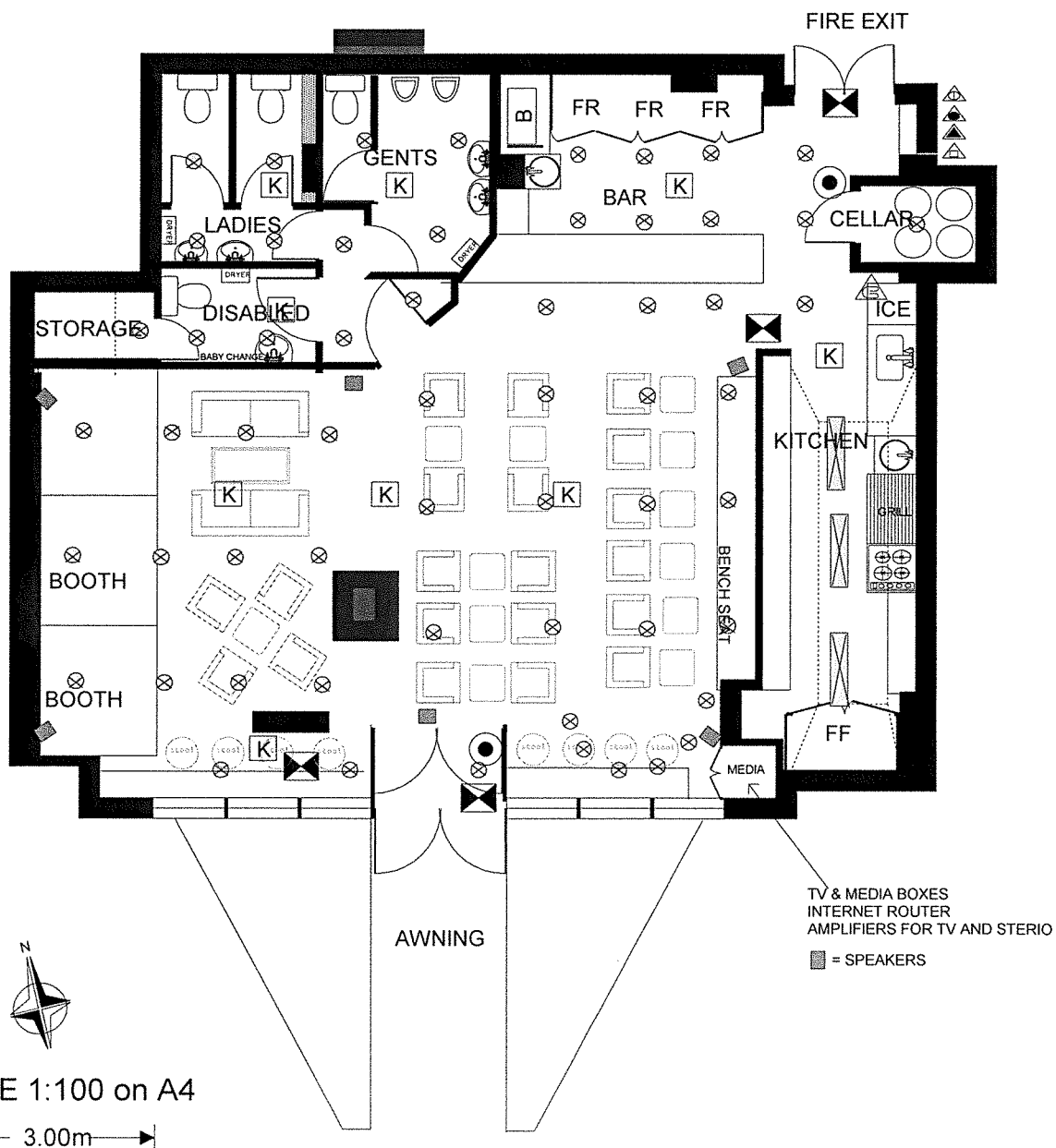
FIRE FIGHTING EQUIPMENT

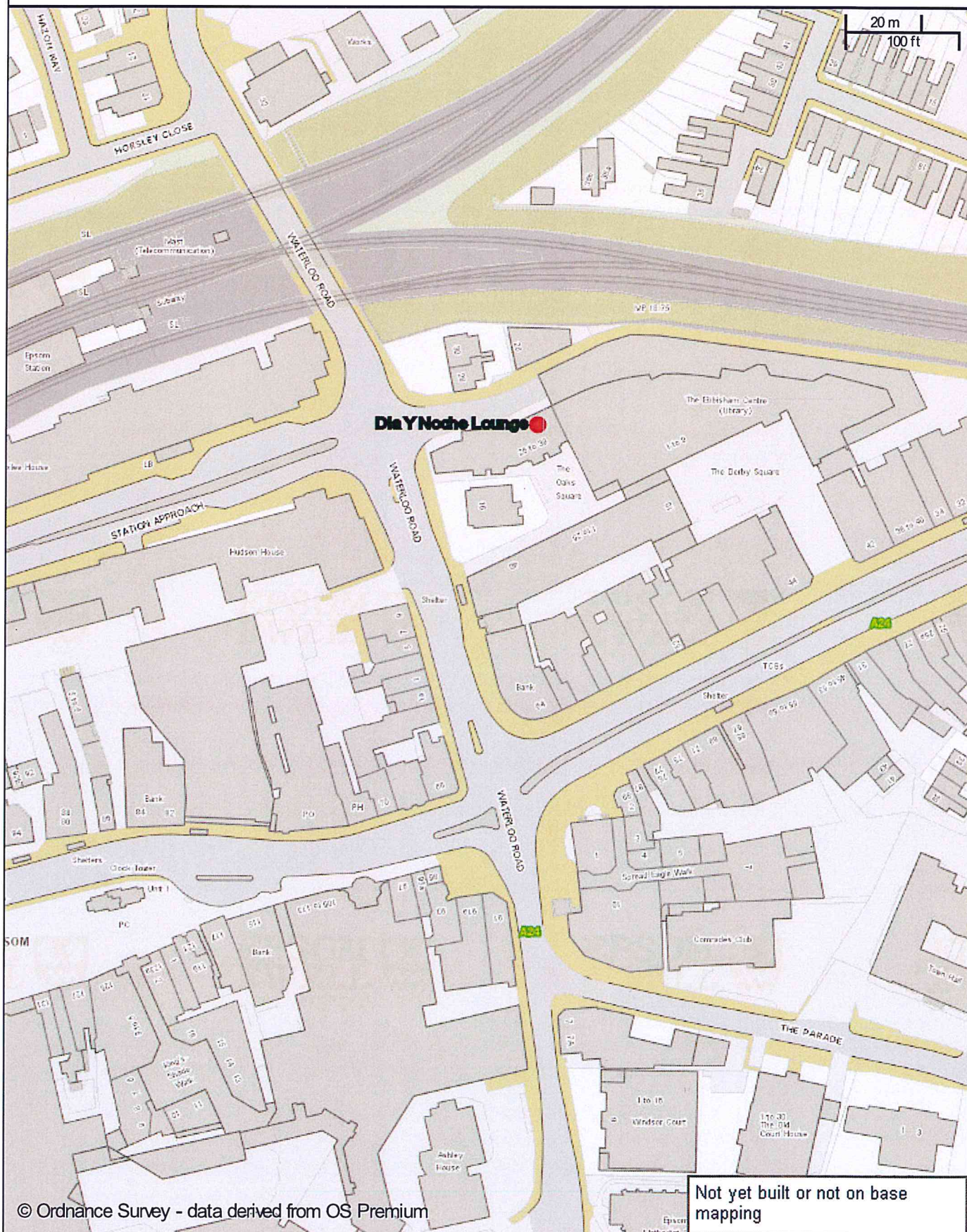
- 1= WATER FIRE EXTINGUISHER
- 2= FOAM FIRE EXTINGUISHER
- 3= FIRE BLANKET IN CONTAINER
- 4= CARBON DIOXIDE EXTINGUISHER
- 5= DRY POWDER EXTINGUISHER
- 6= HOSE REEL (No. indicates Length)
- 7= SAND BUCKET
- 8= AREA COVERED AUTO SPRINKLER SYSTEM
- 9= AREA COVERED BY SMOKE DETECTOR
- 10= AREA COVERED BY HEAT DETECTOR
- 11= AREA COVERED BY ESCAPE LIGHTING
- 12= AREA COVERED BY ILLUMINATED EXIT SIGN
- 13= CONTROL PANEL SOUNDER
- 14= BREAK GLASS CALL POINT
- 15= FIRE ALARM POINT

SHOWING ESCAPE PLAN
AND ACTION PLAN

DOOR CODES

- BF = BREAK FASTENING DOOR
 FFF = DOOR FREE OF ALL FASTENINGS
 SCA = SELF CLOSING AUTOMATIC DOOR
 PB = PANIC BOLT DOOR
 SF = SIMPLE FASTENING DOOR
 SL = SECURITY LOCK
 VP = VISUAL PANEL DOOR
 S = SMOKE RESISTANT DOOR
 S22= EMERGENCY EXIT NOTICE
 S13= FIRE DOOR KEEP SHUT
 S14= FIRE DOOR KEEP LOCKED
 S17= SECURE DOOR OPEN WHEN PREMISES OPEN





www.epsom-ewell.gov.uk

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