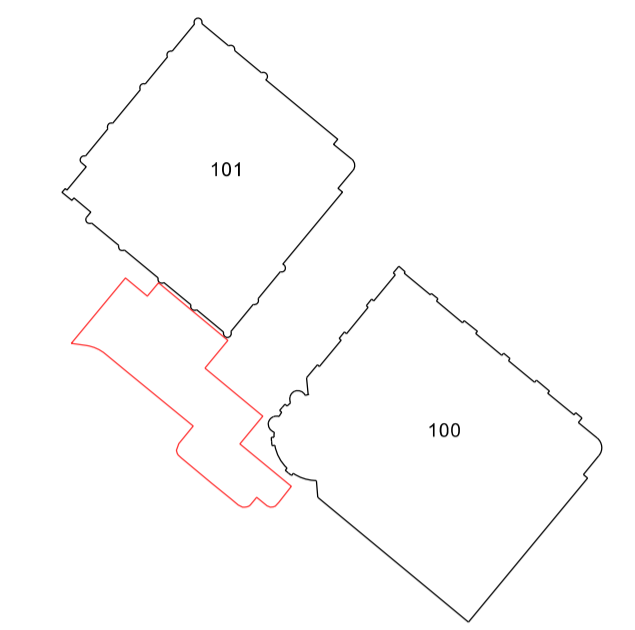
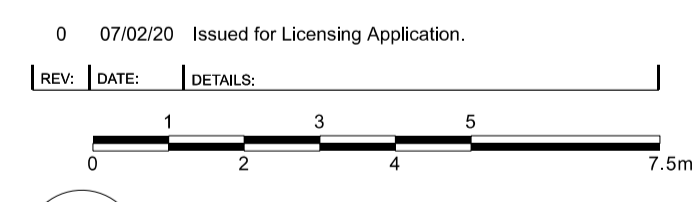


Copyright of this drawing is held by 5plus Architects and it must not be copied or reproduced without written consent. Fixed dimensions only are to be taken from this drawing. Do not scale from this drawing.
 All Contractors must refer to the site and are responsible for setting and checking all dimensions to their work. 5plus Architects are to be advised of any variation between drawings and site conditions.
 Structural steel drawings based on their only and should not be interpreted for measurements. All dimensions and notes should be read only from those values stated in text, on the drawings.
 CONSTRUCTION - It is considered that the proposed works are within the scope of a competent Contractor and as such no structural supports have been identified, refer to relevant prior Structural Designers Risk Assessment.

Site Boundary
 Structure Above
 Note:
 Information based on topographical and building survey received on 28.09.18 by Site Scan.
 Subsequent strip-out works have removed internal fit-out but no further survey has been undertaken. Extents of remaining shall assumed.
 Grid dimensioned to known design intent of original construction. Grid dimensions to be confirmed on site by Contractor. 5plus to be advised of any variation between drawings and site conditions.

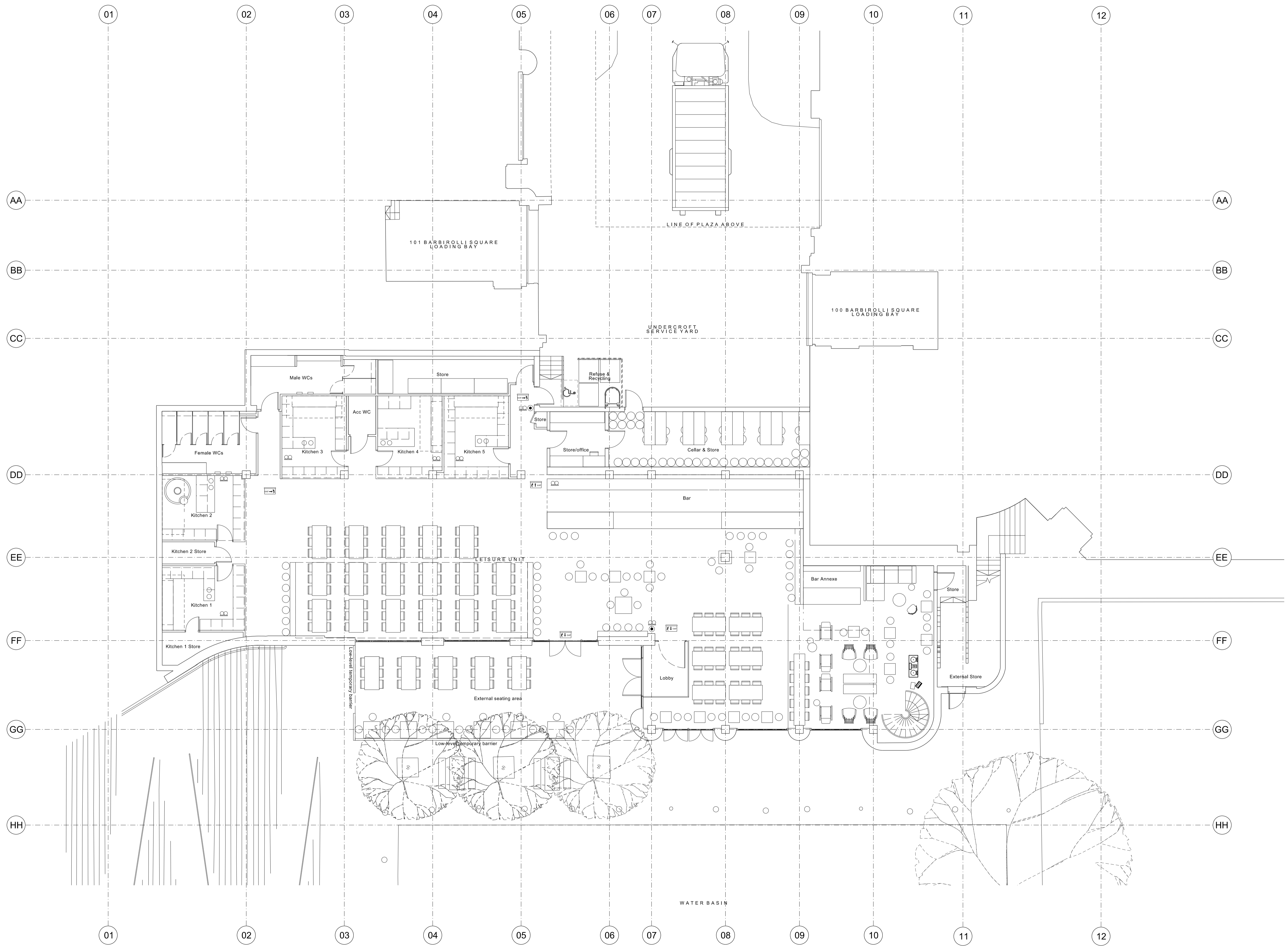


- Illuminated Emergency Exit Directional Signage
- Refuge Point
- Fire Extinguisher Point - First-aid fire-fighting equipment will be provided in accordance with BS 5306-5. The plans provide indicative locations which will be reviewed as the design develops
- Break-glass point



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 Third Floor, 25 Chart Street, London N1 6FA
 5plusarchitects.com

PROJECT:
 Barbirolli Square Leisure Unit
 Barbirolli Square, Manchester
 TITLE:
 Leisure Unit
 Proposed Licensing Plan - Entrance Level
 SCALE: 1:100@A1
 ORIGIN DATE: 02/07/20
 DRAWN: EMcA
 CHECKED: AJ
 STATUS:
 Information
 PROJECT DRAWING NO: 05855 B1_22_2199
 REV: 0





**LICENSING ACT 2003
PREMISES LICENCE**

Premises licence number	050271
Granted	19/09/2005 (Transfer 131832 Granted 29/10/2010)

Part 1 - Premises details

Name and address of premises		
Barbirolli 31-33 Lower Mosley Street		
Post town	Post code	Telephone number
Manchester	M2 3WS	

Licensable activities authorised by the licence
<ol style="list-style-type: none"> 1. The sale by retail of alcohol*. 2. The provision of regulated entertainment, limited to: <ul style="list-style-type: none"> Exhibition of films; Live music; Recorded music; Provision of facilities for making music; Provision of facilities for dancing; 3. The provision of late night refreshment. <p>* All references in this licence to "sale of alcohol" are to sale by retail.</p>

The times the licence authorises the carrying out of licensable activities

Sale by retail of alcohol							
Standard timings							
Day	Mon	Tue	Wed	Thu	Fri	Sat	Sun
Start	1100	1100	1100	1100	1100	1100	1100
Finish	0000	0000	0000	0000	0100	0100	0000
The sale of alcohol is licensed for consumption both on and off the premises.							
Seasonal variations and Non standard Timings:							
New Year: From the start time on New Year's Eve to the terminal hour for New Year's Day							
On Sundays preceding a Bank Holiday Monday: Start 1100 Finish 0100							

Exhibition of films; Live music; Recorded music; Provision of facilities for making music; Provision of facilities for dancing							
Standard timings							
Day	Mon	Tue	Wed	Thu	Fri	Sat	Sun
Start	1100	1100	1100	1100	1100	1100	1100
Finish	0000	0000	0000	0000	0100	0100	0000
Licensed to take place indoors only.							
Seasonal variations and Non standard Timings:							
On Sundays preceding a Bank Holiday Monday: Start 1100 Finish 0100							

Provision of late night refreshment							
Standard timings							
Day	Mon	Tue	Wed	Thu	Fri	Sat	Sun
Start	2300	2300	2300	2300	2300	2300	2300
Finish	0000	0000	0000	0000	0100	0100	0000
Licensed to take place indoors only.							
Seasonal variations and Non standard Timings:							
On Sundays preceding a Bank Holiday Monday: Start 1100 Finish 0100							
New Year's Eve: Start 2300 Finish 0500							

Hours premises are open to the public							
Standard timings							
Day	Mon	Tue	Wed	Thu	Fri	Sat	Sun
Start	1100	1100	1100	1100	1100	1100	1100
Finish	0030	0030	0030	0030	0130	0130	0030
Seasonal variations and Non standard Timings:							
New Year: From the start time on New Year's Eve to the terminal hour for New Year's Day							
On Sundays preceding a Bank Holiday Monday: Start 1100 Finish 0130							

Part 2

Name, (registered) address, telephone number and email (where relevant) of holder of premises licence	
Marston's PLC Marston's House, Wolverhampton, WV1 4JT	01902 711300

Registered number of holder, for example company number, charity number (where applicable)
31461

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

Personal licence number and issuing authority of personal licence held by designated premises supervisor where the premises licence authorises for the supply of alcohol
Personal Licence number: MBC/PE0432 Issuing Authority: Macclesfield Borough Council

Annex 1 – Mandatory conditions
<p>Door Supervisors Only individuals licensed by the Security Industry Authority shall be used at the premises to undertake security activities, which include guarding against: -</p> <ol style="list-style-type: none"> Unauthorized access or occupation (e.g. through door supervision), Outbreaks of disorder, or Damage <p>Supply of alcohol</p> <ol style="list-style-type: none"> No supply of alcohol may be made under this premises licence: <ol style="list-style-type: none"> At a time when there is no designated premises supervisor in respect of the premises licence or, At a time when the designated premises supervisor does not hold a personal licence or his personal licence is suspended Every retail sale or supply of alcohol made under this licence must be made or authorised by a person who holds a personal licence. <ol style="list-style-type: none"> (1) The responsible person shall take all reasonable steps to 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 in a manner which carries a significant risk of leading or contributing to crime and disorder, prejudice to public safety, public nuisance, or harm to children–

- 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 (other than any promotion or discount available to an individual in respect of alcohol for consumption at a table meal, as defined in section 159 of the Act);
 - 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;
 - d) provision of free or discounted alcohol in relation to the viewing on the premises of a sporting event, where that provision is dependent on–
 - i) the outcome of a race, competition or other event or process, or
 - ii) the likelihood of anything occurring or not occurring;
 - e) 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.
- 4 The responsible person shall ensure that no alcohol is dispensed directly by one person into the mouth of another (other than where that other person is unable to drink without assistance by reason of a disability).
- 5 The responsible person shall ensure that free tap water is provided on request to customers where it is reasonably available.
- 6 (1) The premises licence holder or club premises certificate holder shall ensure that an age verification policy applies to the premises in relation to the sale or supply of alcohol.
- (2) 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 a holographic mark.
- 7 The responsible person shall 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; and
 - b) customers are made aware of the availability of these measures.

Exhibition of films

The admission of children under the age of 18 to film exhibitions permitted under the terms of this certificate shall be restricted in accordance with any recommendations made:

- a) by the British Board of Film Classification (BBFC) where the film has been classified by that Board, or
- b) by the Licensing Authority where no classification certificate has been granted by the BBFC, or where the licensing authority has notified the club which holds the certificate that section 20 (3) (b) (74 (3)(b) for clubs) of the Licensing Act 2003 applies to the film.

Annex 2 – Conditions consistent with the operating schedule

1. A CCTV system will be installed and maintained at the premises and will be operational at all times the premises are open to the public. Recordings from the system will be kept for a minimum period of 31 days and be available to the police on request.
2. The license or a member of staff is required to attend at least 6 local pub watch meetings annually.
3. The use of SIA registered door staff shall be assessed by the management with regard to various matters including:
 - i. whether regulated entertainment is taking place
 - ii. anticipated closing time
 - iii. events in the Manchester area (including sporting fixtures)
 - iv. seasonal factors
 - v. expected occupancy.

4. Staff shall be trained on the requirements of the Licensing Act 2003 with regards to the Licensing Objectives.
5. There will be notices displayed near the exits of the premises requesting customers to leave quietly.
6. The supply of telephone numbers for taxi companies and provision of facilities for customers to order taxis
7. Any noise emanating from the premises shall be kept at such a level so as not to cause a noise nuisance to any nearby noise sensitive premises.
8. The management will assist in the orderly dispersal of customers when leaving the premises.
9. The DPS shall meet with local residents, if required at six monthly intervals.
10. The premises shall operate a Challenge 21 policy.

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

1. A minimum of 2 x SIA registered door supervisors to be employed from 2100 hours on a Thursday, Friday and Saturday until the premises close in order to control the entry of persons to the premises and for the keeping of order in the premises when they are used for a licensable activity.
2. A written record shall be kept on the premises by the Designated Premises Supervisor of every person employed on the premises as a door supervisor in a register kept for that purpose. That record shall contain the following details:-
 - i. the door supervisor's name, date of birth and home address;
 - ii. his/her Security Industry Authority licence number;
 - iii. the time and date he/she starts and finishes duty;
 - iv. the time of any breaks taken whilst on duty;
 - v. each entry shall be signed by the door supervisor.

That register shall be available for inspection on demand by an Authorised Officer of the Council, the Security Industry Authority or a Police Constable.
3. All door staff when working at the premises to wear a clear plastic armband containing the SIA card.
4. The applicant mentions that all staff will undergo training. The police request that all staff training is documented and given to all staff concerned in the sale of alcohol in relation to underage sales and drunkenness. The training should take place every 4-6 months.
5. When premises are being used for external promoted events then the City Safe and events office at Bootle Street Police Station must be notified at least 28 days prior to the event taking place in order that a risk assessment be carried out in relation to any such event.
6. The external seating area will be clearly defined with a physical structure to ensure customers do not stray beyond the permitted area with alcohol.
7. A member of staff will be designated to monitor the outside drinking area when it is in use.
8. Limit smokers to a maximum of 12 outside at any one time with no alcohol being taken outside after 2300 hrs.
9. All amplified music to go through an acoustic noise limiter installed at the premises which will be set at a level agreed with the Environmental Health Officer of Manchester City Council.
10. The DPS or other member of management will attend meetings with local residents every 3 months if necessary.
11. All outside area to be clear of furniture by 2300 hrs and the area close to Chepstow House, as marked on attached plan to be cleared by 2200 hrs.
12. Except for access and egress, all doors and windows to remain closed after 2300 hrs and those marked B on the attached plan to be closed after 2200 hrs.
13. On any night where a private function is held at the premises after 2100 hrs sufficient numbers of SIA registered doorstaff shall be engaged at the premises from 2100 hrs until all patrons have left the premises. The doorstaff shall assist in ensuring that all external areas are cleared and doors and windows are kept closed in accordance with conditions and shall actively encourage the quiet and orderly dispersal of patrons from the premises and its immediate vicinity.
14. All recommendations contained in the attached acoustic report to be implemented.

Annex 4 – Plans

See attached.

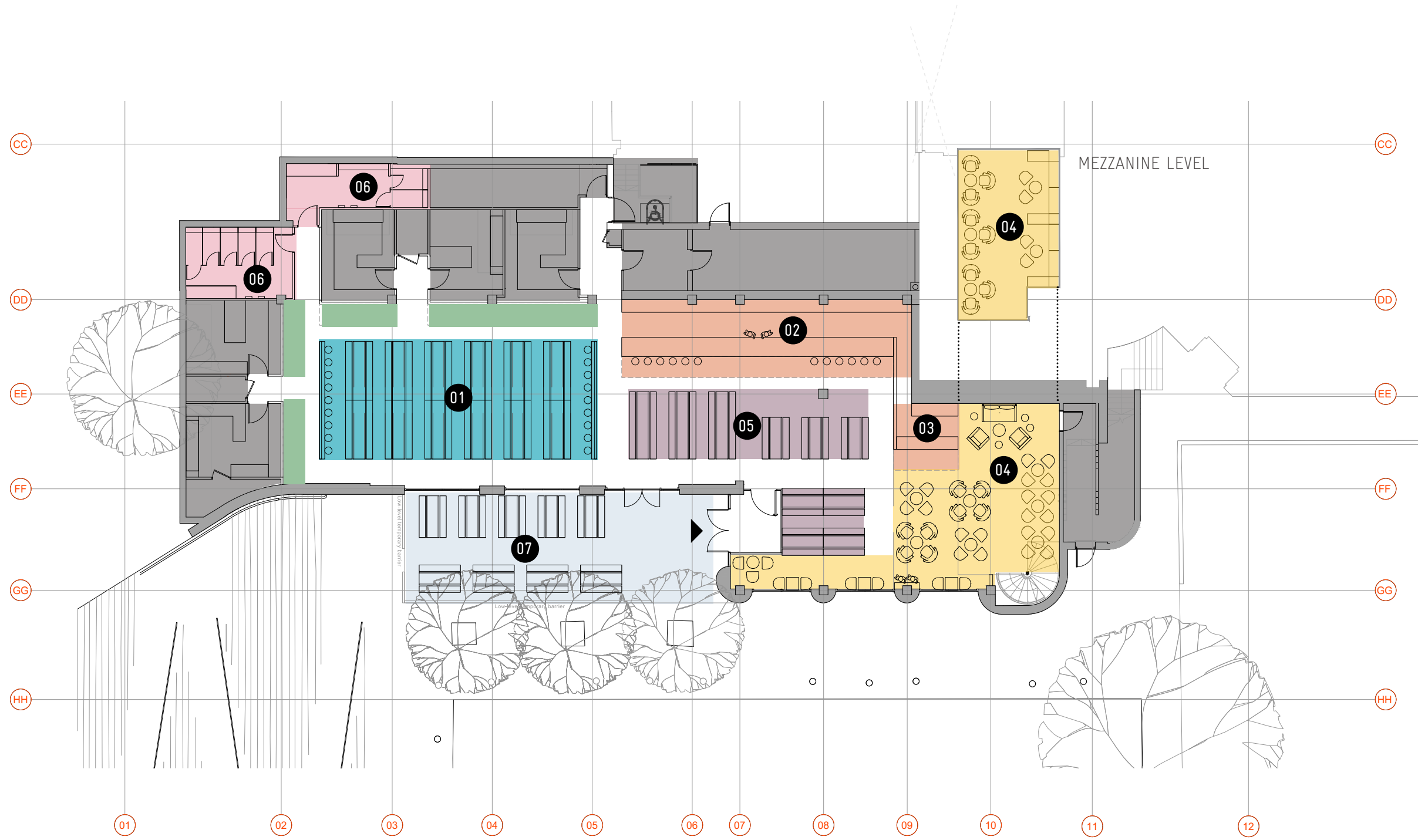
JUMP STUDIOS

ARCHITECTS / DESIGNERS / THINKERS / MAKERS

SOCIETY MANCHESTER STAGE 2 "PLUS"
31 MARCH 2020

POPULOUS®

GA // PROPOSED LAYOUT



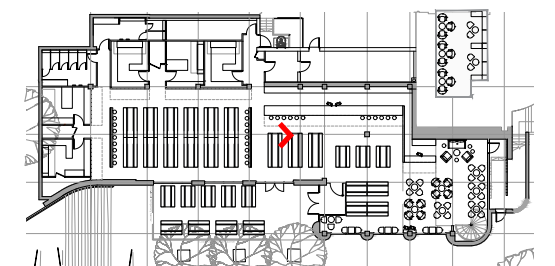
- BARS
- SEATING AREA - LOUNGE + MEZZANINE
- SEATING AREA - FOOD MARKET
- SEATING AREA - BAR
- CONCESSIONS
- TOILETS
- TERRACE

- 01 FOOD MARKET + SEATING AREA
- 02 MAIN BAR
- 03 COCKTAIL BAR
- 04 LOUNGE AREA + DJ BOOTH + MEZZANINE
- 05 BAR SEATING AREA
- 06 TOILETS
- 07 TERRACE

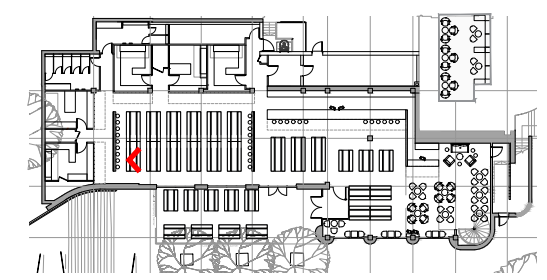
CAPACITY:

- Indoor seating: 389 seats.
- Terrace seating: 90 seats.
- Total: 479 seats.

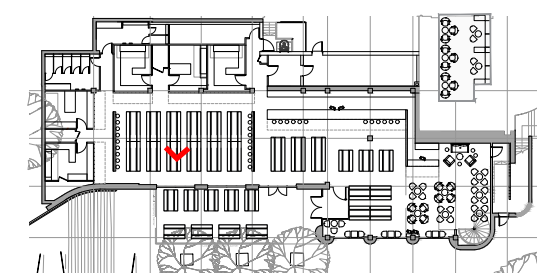
01. FOOD MARKET + SEATING AREA //



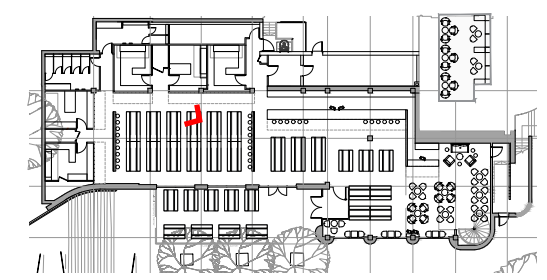
01. FOOD MARKET + SEATING AREA //



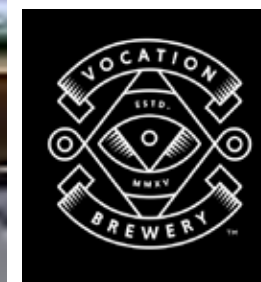
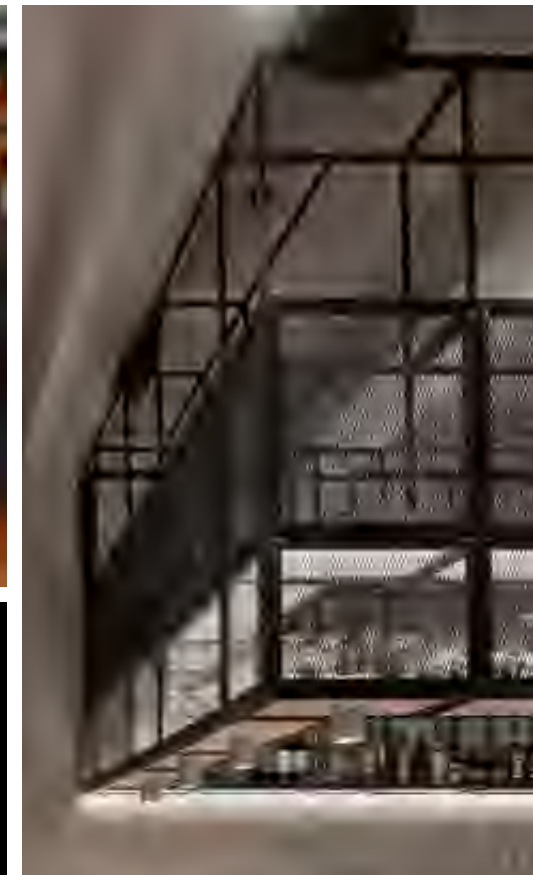
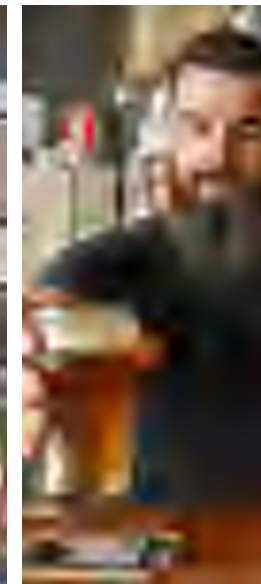
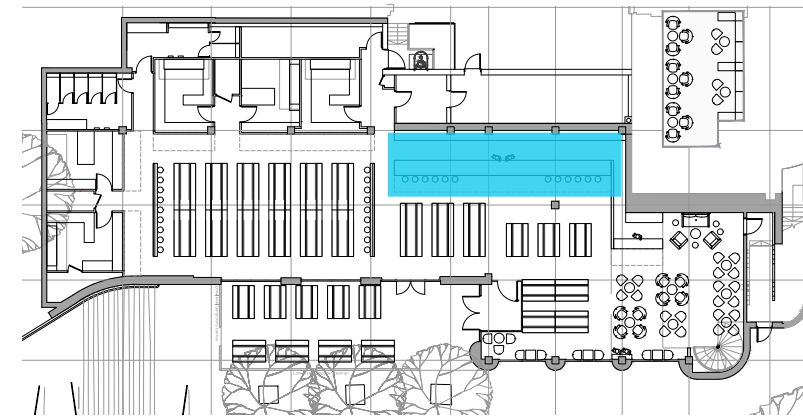
01. FOOD MARKET + SEATING AREA //



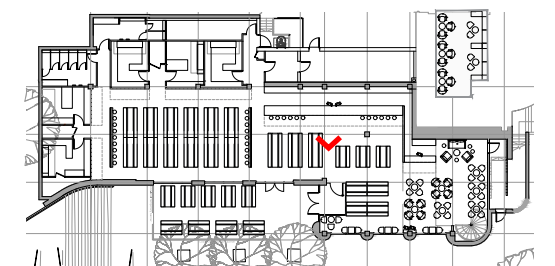
01. FOOD MARKET + SEATING AREA //



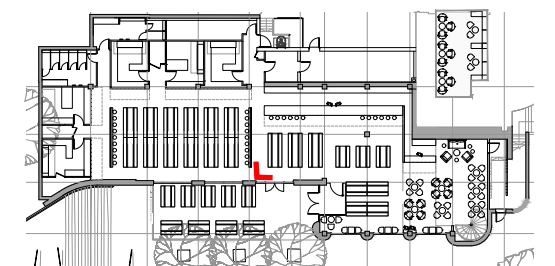
02. MAIN BAR // LOOK & FEEL



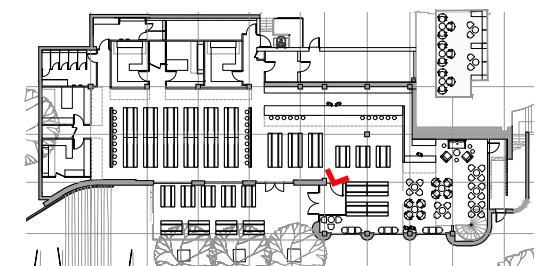
02. MAIN BAR //



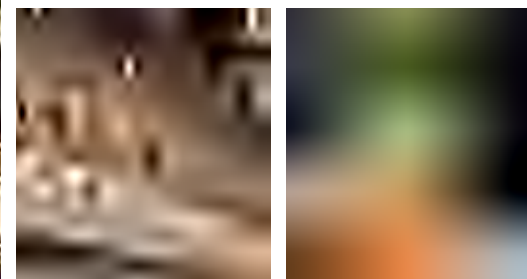
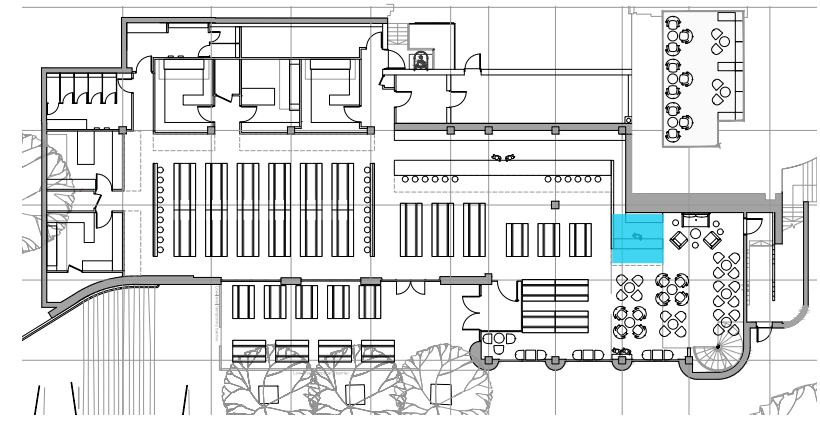
02. MAIN BAR //



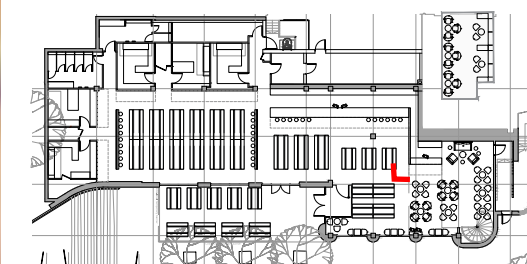
02. MAIN BAR //



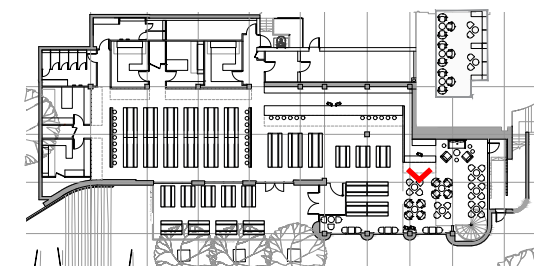
03. COCKTAIL BAR // LOOK & FEEL



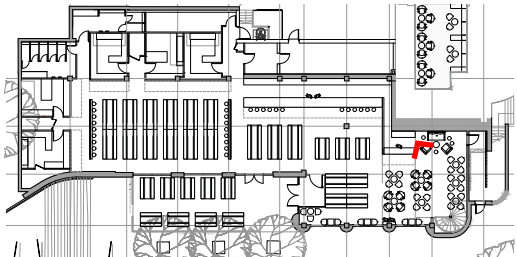
03. COCKTAIL BAR //



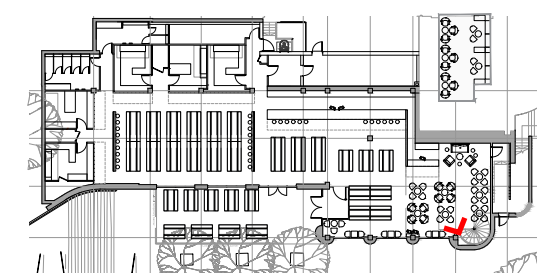
03. COCKTAIL BAR //



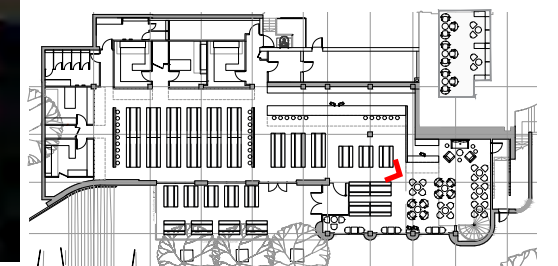
04. LOUNGE AREA + MEZZANINE //



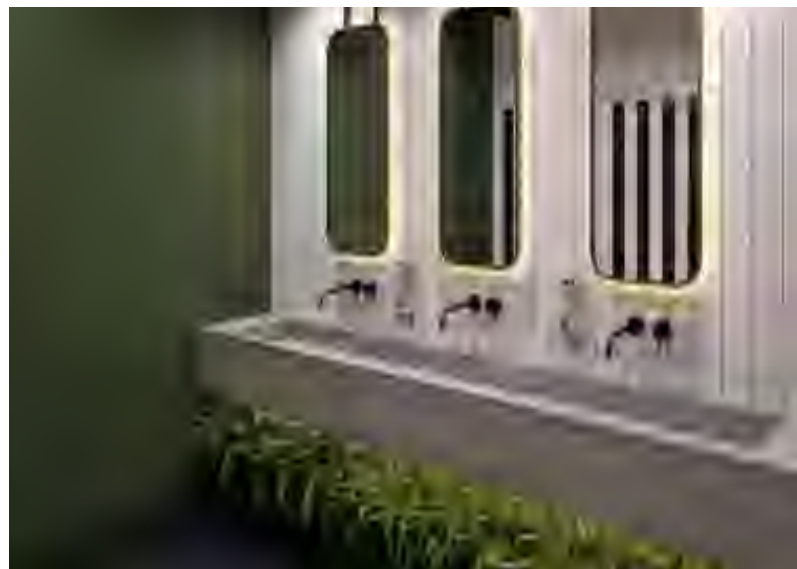
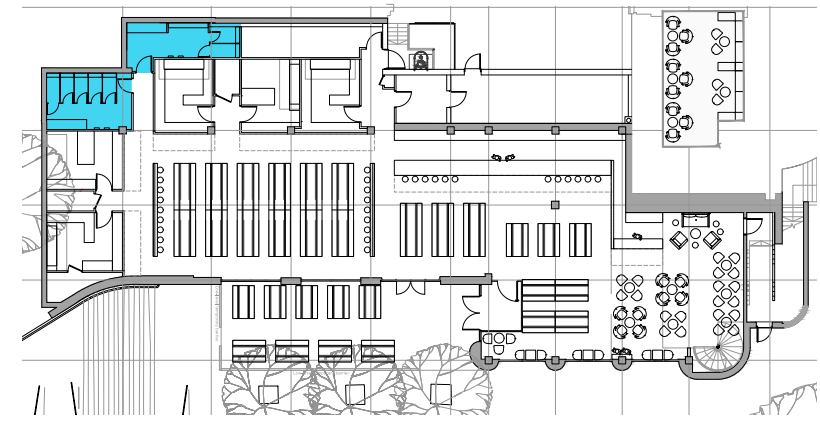
04. LOUNGE AREA + MEZZANINE //



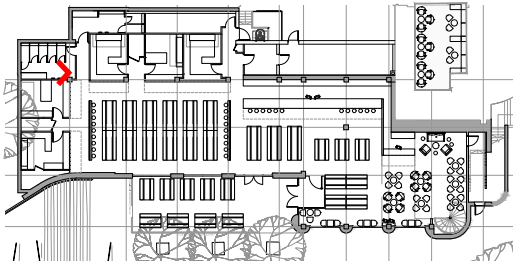
05. BAR SEATING AREA //



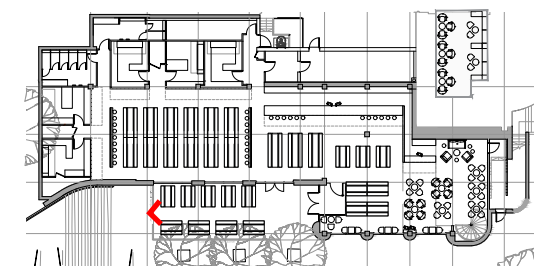
06. TOILETS // LOOK & FEEL



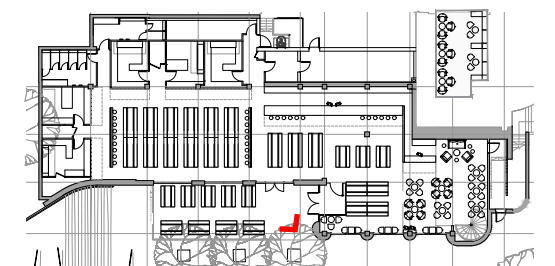
06. TOILETS //



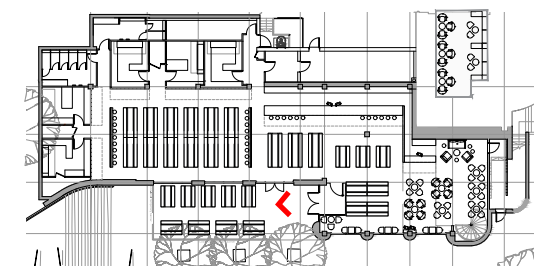
07. TERRACE // PAVED FLOOR FINISH



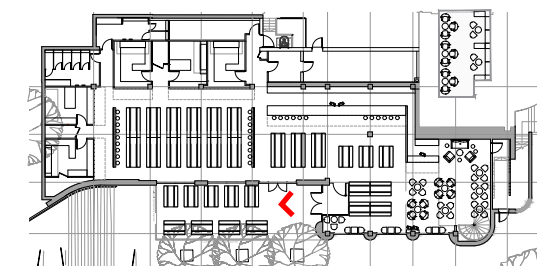
07. TERRACE // PAVED FLOOR FINISH



07. TERRACE // DAY TIME



07. TERRACE // NIGHT TIME



THANK YOU

100 Barbirolli Square Bar and Restaurant

PopCity and Vocation Seating Area Management Strategy

Background

PopCity is a company formed by Nick Gregory and Richard Sweet. We aim to re-invigorate existing spaces into a food and drink led community hubs. The aim is to provide a platform for small, independent businesses that can provide a high quality and diverse range of food and drink offers. We believe that our model enables those small businesses to trade and thrive in environments where costs would usually be prohibitive. For the customer, we believe we offer a dynamic and eclectic mix of offers at a price that cannot be matched by more traditional and corporate 'high street' food offers. An important aspect of what we do is to reflect the local community and to provide an interesting cultural mix of film, art, events and music.

Vocation Brewery is the bar partner, a responsible and mature operation. It has two outlets at present, in Hebden Bridge and one in Leeds and is an experienced bar and pub operator. They also have a brewery that supplies directly to some major supermarket chains. The DPS for the site will be Richard Stenson who is one of the directors of Vocation Brewery.

Strategy

1. Hours of opening for the outside seating area:

Day	Mon	Tue	Wed	Thu	Fri	Sat	Sun
Start	11.00	11.00	11.00	11.00	11.00	11.00	11.00
Finish	22.00	22.00	22.00	22.00	22.00	22.00	22.00

2. Measures to keep noise and disturbance low

There will be signage for customers to show consideration to neighbours;

We will be constantly monitoring the flow of customers and any noise issues at busy times and will make sure that management are constantly monitoring the outside either in person or via CCTV monitored internally;

We will not tolerate any anti-social behaviour in relation to the water area and will ban any customers abusing this area;

We will keep all people away from Chepstow House side of the building. Any customers here will be asked to move;

We will monitor any external loud noise emanating from within on an ongoing basis by the managers and control the sound levels accordingly;

Signage directing customers to stay in the seating area and to leave via steps when leaving the premises.

3. What security measures will be in place e.g. CCTV/ door staff

CCTV covering the inside and outside;

We will review any noise or disturbance issues at busy times and will employ door staff if this is deemed to be necessary - all door staff will have a SIA License and comply with any local council directives.

100 Barbirolli Square Bar and Restaurant PopCity and Vocation Seating Area Management Strategy

4. How will the outside area be serviced?

All orders will be made internally;

There may be some food delivered externally on a number tabled system but predominantly orders for food and drink will be picked up internally;

At busy times we will have the appropriate number of staff to ensure that all food and drink items are cleared away promptly and efficiently.

5. What measures will ensure that litter is appropriately managed?

Litter picking carried out by the wider estate management, though during service we will ensure that the area is monitored and kept clean.

6. How will the furniture be stored when not in use? Where, if in the building, will it be stored? At what times will the furniture be put into storage and when will it be put out?

Furniture will be put out by 11.00 and stored internally each night by 22.00 at the end of the building where there is a storage area - planters may be stored externally in place.

7. Is the area accessible for disabled persons?

Yes it is by ramps and a lift.

Summary

We are extremely conscious that our street food concept is situated in close proximity to residents and as a result need to take particular care and attention in regard to noise and disturbance issues. To this end will be constantly reviewing all of our processes so the site can operate as a harmonious addition to the area. We wish to work with the residents to this end and will actively seek ongoing constructive dialogue so that any issues are solved and we become an intrinsic and great addition to the community. We see this as a long term relationship with local residents and businesses that will ultimately be beneficial to all parties.

FALAFEL GUYS

COME HUNGRY, LEAVE HAPPY

VEGAN

Menu

HALAL

CHOOSE BETWEEN

WRAP

OR

SALAD BOWL

(ALL WRAPS & BOWLS ARE SERVED WITH HOMEMADE HUMMUS, FRESH SALAD & SAUCES)

CLASSICS

FALAFEL 6
(DEEP FRIED BALLS OF CHICKPEAS AND SPICES) **V** **VE**

CHICKEN SHAWARMA 6.5
(CHICKEN MARINATED IN ARABIC HERBS AND SPICES)

HALLOUMI 6.5
(GRILLED MEDITERRANEAN CHEESE) **V**

Compo Deal ANY WRAP OR SALAD BOWL WITH HALLOUMI
FRIES OR SWEET POTATO CHIPS FOR *only* 12.50

BEST SELLERS

FALAFEL & HALLOUMI CHEESE **V** 7

CHICKEN SHAWARMA & HALLOUMI CHEESE 7.5

FALAFEL & CHICKEN SHAWARMA 7.5

TRIPLE DECKER 8
(CHICKEN SHAWARMA, FALAFEL AND HALLOUMI CHEESE)

SIDES

FALAFEL BALLS.....(3.5)

GRILLED HALLOUMI..(3.5)

HALLOUMI FRIES.....(7)

EXTRAS

HUMMUS BOWL

HOMEMADE HUMMUS THAT IS SERVED WITH ARABIC BREAD & ADDITIONAL OPTIONS. (6)

DRINKS

WATER.....(1.5)

J20.....(2)

COKE ZERO.....(2)

FOOD ALLERGIES OR INTOLERANCES?

PLEASE SPEAK TO OUR STAFF ABOUT INGREDIENTS IN YOUR MEAL WHEN ORDERING

V FALAFELGUYSLEEDS **V** FALAFELGUYSUK **V** FALAFELGUYSLEEDS



EVERYTHING ON OUR MENU IS AVAILABLE
MEATY, **VEGGIE** OR **VEGAN** - PLEASE SPECIFY.

/*BURGERS*

ALL DRESSED WITH LETTUCE, PICKLES & S&P BURGER SAUCE
Our smash patties are made with a signature blend of
40-day dry-aged, grass-fed chuck & short rib Yorkshire beef.
Veggies & vegans - feel free to ask how we do our magic.

HAN SOLO	6.5
<i>Single 3oz patty - for kids and amateurs only</i>	
MOO TIMES TWO	8
<i>Double burger (6oz) with no cheese in sight</i>	
PERSONAL CHEESE-US	8.5
<i>Slap & Pickle's signature double cheeseburger (6oz)</i>	
THE BACONATOR	9.5
<i>Double cheeseburger (6oz) topped with smoked bacon</i>	
TRIPLE THREAT	12
<i>Three patties (9oz) with lots of cheese & bacon</i>	
DOUBLE DOUBLE TROUBLE	13
<i>Four patties (12 oz) with tons of cheese & bacon</i>	

/*FRIES & LOADED FRIES*

	SMALL	REG	SHARER
NAKED FRIES	3	3.5	6
CHEESY FRIES		4.5	7.5
CHEESE & BACON FRIES		6.5	11
CHILLI CHEESE FRIES		7.5	13
BIG MICK FRIES (Burger crumble, cheese sauce, burger sauce, lettuce & pickles)		7.5	13

B

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(Fries on their own £3)

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Special of the Day Seafood & Vegan Dragon Rolls

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**LICENSING ACT 2003
PREMISES LICENCE**

Premises licence number	049080
Granted	30/08/2005
Latest version	Variation 243364 granted 22/02/2020

Part 1 - Premises details

Name and address of premises
The Bridgewater Hall Bridgewater Hall, Lower Mosley Street, Manchester, M2 3WS
Telephone number
0161 950 0000

Licensable activities authorised by the licence				
<ol style="list-style-type: none"> 1. The sale by retail of alcohol*. 2. The provision of regulated entertainment, limited to: Exhibition of films; Live music; Recorded music; Performances of dance; Anything similar to live music, recorded music or the performance of dance; 3. The provision of late night refreshment. <p>Permitted Occupancy:</p> <table style="margin-left: 40px;"> <tr> <td>Auditorium</td> <td>2397 Persons</td> </tr> <tr> <td>Stalls Café Bar</td> <td>350 Persons</td> </tr> </table> <p>* All references in this licence to "sale of alcohol" are to sale by retail.</p>	Auditorium	2397 Persons	Stalls Café Bar	350 Persons
Auditorium	2397 Persons			
Stalls Café Bar	350 Persons			

The times the licence authorises the carrying out of licensable activities

Sale by retail of alcohol							
Standard timings							
Day	Mon	Tue	Wed	Thu	Fri	Sat	Sun
Start	0800	0800	0800	0800	0800	0800	1200
Finish	0130	0130	0130	0130	0130	0130	0130
The sale of alcohol is licensed for consumption both on and off the premises.							
Seasonal variations and Non-standard Timings:							
New Year: From the start time on New Year's Eve to the terminal hour for New Year's Day							

Exhibition of films
Standard timings

Day	Mon	Tue	Wed	Thu	Fri	Sat	Sun
Start	1000	1000	1000	1000	1000	1000	1000
Finish	0000	0000	0000	0000	0000	0000	0000
Licensed to take place indoors only.							
Seasonal variations and Non-standard Timings:							
New Year: From the start time on New Year's Eve to the terminal hour for New Year's Day							

Live music; Anything similar to live music, recorded music or the performance of dance							
Standard timings							
Day	Mon	Tue	Wed	Thu	Fri	Sat	Sun
Start	0900	0900	0900	0900	0900	0900	0900
Finish	0200	0200	0200	0200	0200	0200	0200
Licensed to take place indoors only.							
Seasonal variations and Non-standard Timings:							
New Year: From the start time on New Year's Eve to the terminal hour for New Year's Day							

Recorded music							
Standard timings							
Day	Mon	Tue	Wed	Thu	Fri	Sat	Sun
Start	0001	0001	0001	0001	0001	0001	0001
Finish	0000	0000	0000	0000	0000	0000	0000
Licensed to take place indoors only.							
Seasonal variations and Non-standard Timings:							
None							

Performances of dance							
Standard timings							
Day	Mon	Tue	Wed	Thu	Fri	Sat	Sun
Start	0900	0900	0900	0900	0900	0900	0900
Finish	0200	0200	0200	0200	0200	0200	0200
Licensed to take place indoors only.							
Seasonal variations and Non-standard Timings:							
New Year: From the start time on New Year's Eve to the terminal hour for New Year's Day							

Provision of late night refreshment							
Standard timings							
Day	Mon	Tue	Wed	Thu	Fri	Sat	Sun
Start	2300	2300	2300	2300	2300	2300	2300
Finish	0130	0130	0130	0130	0130	0130	0130
Licensed to take place indoors only.							
Seasonal variations and Non-standard Timings:							
New Year: Start 2300 Finish 0500							

Hours premises are open to the public							
Standard timings							
Day	Mon	Tue	Wed	Thu	Fri	Sat	Sun
Start	0730	0730	0730	0730	0730	0730	1200
Finish	0230	0230	0230	0230	0230	0230	0230
Seasonal variations and Non-standard Timings:							
New Year: From the start time on New Year's Eve to the terminal hour for New Year's Day							

Part 2

Details of premises licence holder

Name: SMG Europe Holdings Limited
Address: Manchester Arena, 21 Hunts Bank Approach, Manchester, M3 1AR **Registered number:**
5558259

Details of designated premises supervisor where the premises licence authorises for the supply of alcohol

Name: Armelle Paule Endree Rainjonneau
Address:
Personal Licence number:
Issuing Authority:

Annex 1 – Mandatory conditions

Door Supervisors

1. Only individuals licensed by the Security Industry Authority shall be used at the premises to undertake security activities, which include guarding against: -
 - (a) Unauthorised access or occupation (e.g. through door supervision), (b) Outbreaks of disorder, or
 - (c) Damage,unless otherwise entitled by virtue of section 4 of the Private Security Industry Act 2001 to carry out such activities.

Supply of alcohol

2. No supply of alcohol may be made under this premises licence:
 - (a) At a time when there is no designated premises supervisor in respect of the premises licence or,
 - (b) At a time when the designated premises supervisor does not hold a personal licence or his personal licence is suspended.
3. Every retail sale or supply of alcohol made under this licence must be made or authorised by a person who holds a personal licence.
4.
 - (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.
5.
 - (1) 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 (1) above–
 - (a) “duty” is to be construed in accordance with the Alcoholic Liquor Duties Act 1979
 - (b) “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 amount 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; and
 - (e) “value added tax” means value added tax charged in accordance with the Value Added Tax Act 1994.
- (3) Where the permitted price given by paragraph (2)(b) 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) (a) Sub-paragraph (4)(b) applies where the permitted price given by paragraph (2)(b) 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.
- (b) 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.
6. (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).
7. The responsible person must ensure that free potable water is provided on request to customers where it is reasonably available.
8. 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.

For the purposes of conditions 6, 7 and 8 above, a responsible person in relation to a licensed premises means the holder of the premise licence in respect of the premises, the designated premises supervisor (if any) or any individual aged 18 or over who is authorised by either the licence holder or designated premises supervisor. For premises with a club premises certificate, any member or officer of the club present on the premises in a capacity that which enables him to prevent the supply of alcohol.

Exhibition of films

9. The admission of children under the age of 18 to film exhibitions permitted under the terms of this certificate shall be restricted in accordance with any recommendations made:
- (a) by the British Board of Film Classification (BBFC) where the film has been classified by that Board, or
 - (b) by the Licensing Authority where no classification certificate has been granted by the BBFC, or where the licensing authority has notified the club which holds the certificate that section 20 (3) (b) (74 (3)(b) for clubs) of the Licensing Act 2003 applies to the film.

Annex 2 – Conditions consistent with the operating schedule

1. The sale of alcohol must be ancillary to the use of the premises for music and dancing and substantial refreshment;
2. On any day where music and dancing is not provided after midnight the sale of alcohol shall end at midnight
3. On any day where music and dancing end between midnight and the terminal hour for the sale of alcohol, the sale of alcohol shall end when the music and dancing end

CHARGE OF THE PREMISES

4. The Licensee, or some responsible person over the age of 21 years, nominated by the Licensee in writing, shall be in charge and be present upon the licensed premises during the whole of the time that they are open for the purpose of this licence.
5. The Licensee shall ensure that a notice is conspicuously displayed at the entrance of the premises indicating the maximum number of persons allowed entry under the conditions of the licence.

ATTENDANTS

6. All employees and attendants shall have allotted to them specific duties in the event of emergency and particulars of such duties shall be notified to them in writing.
7. The fire fighting equipment shall be in the charge of a person who has been trained in its use, and that person, or some other suitable person deputised to be in charge of the fire fighting equipment, shall be present whenever the premises are in use for the purpose of this licence, and also for such period before and after the use of the premises, as may be necessary to check that the fire fighting equipment is in order.
8. The staff should be instructed and trained in fire routines including evacuation procedures.
9. Fire routines and evacuation procedures should be exercised at least once every calendar month and the holding of such event shall be recorded in a log book kept solely for that purpose and signed by the Licensee. The log book must be kept available at all times for inspection by a duly authorised Officer of the Council.

CONDUCT OF THE PREMISES

10. The Licensee shall maintain good order in the premises.

11. The Licence holder shall ensure that noise shall not emanate from the licensed premises such as to cause persons in the neighbourhood to be unreasonably disturbed. Any form of amplification shall be so controlled by the licensee so as to prevent such a disturbance.
12. The Licence holder shall at all times ensure that persons on or leaving the licensed premises conduct themselves in an orderly manner and do not in any way cause annoyance to residents and/or persons passing by.
13. The licence holder shall take all reasonable steps to ensure that persons leaving licensed premises and using adjacent car parks and highways do not conduct themselves in a manner so as to cause annoyance to residents and/or persons passing by.
14. Whilst the premises are being used for public entertainment, drunkenness or other disorderly conduct shall not be permitted. In case any disorderly conduct should occur, the Licensee shall assist in the capture, expulsion and conviction of the offender.
15. In circumstances deemed appropriate the Council may impose a condition that the licence holder shall not permit any person to be admitted to the premises after a specific hour on various days of the week.
16. Nothing shall be done, recited, sung exhibited, or performed, and no dancing shall be permitted which is licentious, indecent, profane, improper or of a suggestive nature, or is likely to cause a breach of the peace (for the avoidance of doubt this condition prohibits the performance of strip-tease or similar dancing).
17. Drunkenness or other disorderly conduct shall not be permitted nor shall reputed prostitutes, thieves or other persons of notoriously bad character be knowingly allowed to fgather and assemble on the said licensed premises.
18. No unlawful gaming or betting shall be allowed on the said licensed premises.
19. No exhibition, demonstration or performance of hypnotism shall be given on any person at the premises except with the express consent of the City Council and in accordance with any conditions attached to such consent.
20. For any exhibition demonstration or performance of hypnotism an application for consent shall be made, and a detailed description of the proposed exhibition furnished, to the Chief Executive's Licensing Unit. Not less than twenty-one days before the day on which the exhibition is to be given and notice of such an application shall immediately be given to the Chief Officer of Police.
21. No person shall be refused admission to the premises on the grounds of sex, sexual orientation, colour, race, religion or ethnic or national origin.
22. No glassware in the form of open bottles or glassware must be taken in or off the premises.
23. Licensees, when doorstaff are in attendance, must ensure that all glassware is removed from patrons entering or leaving the licensed area and subsequently safely disposed of.
24. Licensees, when doorstaff are not in attendance, must ensure that secure receptacles are provided at all entrances and exits for glassware to be deposited by patrons entering or leaving the licensed area.
25. Licensees must display prominent notices advising patrons of this condition.

DOOR SUPERVISORS

26. Where the licensee engages any person in the capacity of security staff the licensee shall maintain a log to include the following information:
 - a) Full name of that person;
 - b) The time at which each member of security staff start, with a signed acknowledgement by that person;
 - c) The time at which each member of security staff finish, with a signed acknowledgement by that person;
 - d) SIA badge number.
27. The log shall be so kept that it can be readily inspected at any reasonable time by an authorised Officer of the Council or a Police Officer and, once a log has been completed, it must be retained on the premises for at least 12 months.
28. The Licensee shall ensure all security staff are given adequate oral and written instruction.

Change of Name of Premises

29. If the name of the premises or establishment is changed, the Licensee shall, within seven days of such a change, give notice thereof to the City Council in writing. Special Conditions
30. Overcrowding in such a manner as to endanger the safety of persons present or to cause undue interference with their comfort must not be allowed in any part of the premises. No persons other than official stewards or other staff on duty at the premises shall be permitted to stand in any passage, gangway or staircase leading to an exit from the premises so as to obstruct means of egress.
31. No glassware in the form of open bottles or glassware must be taken in or off the premises. Licensees, when doorstaff are in attendance, must ensure that all glassware is removed from patrons entering or leaving the licensed area and subsequently safely disposed of.
32. Licensees, when doorstaff are not in attendance, must ensure that secure receptacles are provided at all entrances and exits for glassware to be deposited by patrons entering or leaving the licensed area. Licensee must display prominent notices advising patrons of this condition.
33. Any entertainment that is likely to present special risks, ie pyrotechnics, will be risk assessed prior to any event taking place. The risk assessment will be retained for 12 months and will be available upon request.
34. CCTV will be installed and maintained at the premises. Cameras will cover as a minimum the entrances and exits. The CCTV system will record images from the cameras for a minimum of 28 days and those images will be capable of being downloaded onto a removable memory device. Any requests made by the police for the viewing or provision of CCTV in relation to the investigation of a criminal offence will be complied with in agreement with the police and in line with GDPR requirements.

Annex 3 – Conditions attached after hearing by the licensing authority

1. Windows shall be kept closed in areas where there is playing of music outside of the main auditorium.
2. All windows and doors shall be kept closed, except for access and egress, when regulated entertainment is being provided.
3. Bar staff shall be trained to recognise and deal with patrons who they consider have had too much to drink by refusing further alcohol sales.
4. Door personnel shall be SIA trained and badged. They shall discourage patrons from lingering or making excessive noise in the area of the Hall after they have left the building.
5. Facilities for patrons to call taxis from the Hall shall be provided and there are arrangements in place with two taxi companies to give patrons of the Hall priority service.
6. Signage shall be displayed at all exits reminding patrons to respect neighbours and to leave quietly, and not to linger in the area of the Hall on exit.
7. All concert hall doors will be closed during any performance.
8. Monitoring shall be carried out in the area of Chepstow house when there are rehearsals and during regulated entertainment to ensure that noise is inaudible.
9. There shall be no facility provided for patrons to consume alcohol outside of the Hall.
10. There shall be no waste deposited in external bins or the internal bottle store between the hours of 2300 and 0800.
11. There shall be no collections of waste bins after 1900 or before 1000 hours.
12. The residents of Chepstow House will be provided with a contact number for the entertainment premises, which will be monitored during events.

Annex 4 – Plans

See attached

CASE NOTES

pany had failed properly to train the relief manager. Accordingly, if the justices' finding related to a head office failure in implementing training policy, then that finding was not supported under the evidence before them. In these circumstances, while, as I have said, I have great sympathy for the justices in the circumstances in which the case was put before them, I would, for my part, having answered the questions along the lines that I have suggested, and set aside the conviction.

MR JUSTICE SEDLEY: I agree that this appeal must be allowed and the conviction set aside, for the reasons given by my Lord. I wish, however, to add two observations. One is that I found disturbing the repeated submission by Mr Philpott, for the Appellant, that it was a material fact that people, including the complainant, could, but did not always, ask for a top-up if they felt that the head on their beer was excessive. The person who orders a pint is entitled to a pint. If a pint (including, if legally proper, a head) is not supplied, there is no onus on the customer to demand full measure before an offence is committed. My second reservation I express briefly and tentatively. We have heard very little argument upon it because Mr Gioserano has had to live with the concession made below that the Appellant could be liable, if at all, only by way of vicarious liability or an "other person" under section 32, namely the relief manageress. I simply wish to put on record my doubts about what appears to be the accepted approach to Part IV of the Weights and Measures Act 1985. The primary offence of giving short measure created by section 28 is committed by any person who sells beer by the pint. The concession made before the justices reflected the conventional view that the decision of this Court in *Goodfellow v Johnson* [1966] 1 QB 83, precludes any prosecution of the owners whose beer the licensee is selling on the ground that it is the licensee alone who may sell beer. I have been concerned whether it follows from the proposition that only a licensee may sell beer that the company which owns the premises, provides the beer and employs the licensee to sell it is not equally selling beer. I have also asked myself whether the decision in *Hotchin v*

Hindmarsh [1891] 2 KB 181, on which the Divisional Court founded in *Goodfellow v Johnson* and which holds that the forbidden act in this context is the parting with possession and not with title, truly negatives this possibility. If the true position were that a company in the Appellant's position is selling beer through the licensee, then the only relevant question would be under section 34 whether each had exercised due diligence in order to prevent the bartender giving short measure. If this were the statutory scheme, then absent a defence of due diligence neither the brewer nor the licensee could escape liability by blaming the bartender. Indeed section 32 makes it clear that the bartender may also be prosecuted. There would then be no need for the artificiality of trying, as Mr Gioserano has skilfully but unsuccessfully tried, to bring in the Appellant by the device of common-law vicarious liability, a doctrine which distributes civil liability on grounds of legal policy without regard to fault, pinning such liability on the default of someone not (so far as we know) before the Court as a Defendant. The problem of slotting a due diligence defence into a vicarious liability case is evident. The defence either exonerates the licensee or fails altogether, but cannot help the owner. This cannot be right. These considerations, however, cannot directly arise here because the conceded basis on which the case proceeded below makes them immaterial. Given this, I agree that the appeal has to succeed upon the single ground explained by my Lord, Brooke LJ.

R v Liverpool Crown Court, ex parte Luxury Leisure

COURT OF APPEAL

9 October 1998

Lord Justice Simon Brown, Lord Justice Aldous and Lord Justice Clarke

Section 34 Gaming Act 1968 and section 16, Lotteries and Amusements Act 1976 — permits for amusement machine premises — local authority refused application — whether

social conditions and nature of community relevant considerations in refusing permit — whether opposition to project should be taken into account

Decision: local authority entitled to take social conditions into account — nature of community, prevalence of young people and possible effects of amusement arcade on the area were relevant — Crown Court entitled to take extensive evidence as justifying refusal

John Saunders QC, instructed by Hay & Kilner, Newcastle, for the appellants
Stephen Sauvain QC, instructed by Liverpool Legal Services, for the respondents

LORD JUSTICE SIMON BROWN: The appellants are part of the Noble Organisation Group, the largest privately owned group of companies in the leisure field, whose operations include something over 70 amusement centres. They wish to open a further such centre at 72 Broadway, Norris Green in Liverpool. For that purpose they require permits respectively under s.34 and schedule 9 to the Gaming Act 1968, and under s.16 and sch.3 to the Lotteries and Amusements Act 1976.

On 15 August 1995 the second respondents, Liverpool City Council, refused the appellant's application for such permits. On 12 January 1996 the first respondent, the Liverpool Crown Court, dismissed the appellant's appeal against that refusal. On 17 October 1997 Owe J dismissed the appellant's judicial review challenge to the crown court's decision. Before us now is the appellant's appeal from Owen J's order, brought with the leave of the single Lord Justice.

The statutory context in which this appeal arises can be shortly stated. Paragraph 8(1)(a) of sch.9 to the Gaming Act provides that:

The grant of a permit [a permit under section 34 of the Act in a case like the present one] shall be at the discretion of the appropriate authority.

That authority here was the Liverpool City Council. An appeal from the refusal of the necessary permit lies by way of rehearing to the crown court, and on such an appeal the crown court has a precisely similar discretion. The Lotter-

CASE NOTES

ies and Amusements Act 1976 contains similar provisions, which I need not consider separately.

The reasons given by the second respondents for their refusal of the permits were these:

After very careful consideration the sub-committee is agreed that in view of the social conditions prevailing in the area and the nature of the community, the granting of this licence would have a negative effect on the area (which is frequented by children and young people in significant numbers). Furthermore, the Sub-Committee also notes that facilities for gaming are already available in the area for the client who is most likely, according to the applicant, to make use of the facilities, and for those reasons the sub-committee considers that, on balance, this is the wrong location for this facility and therefore refuses the application.

The appeal to the crown court was heard by Judge Crompton and four justices, judgement being given extempore after a retirement of some two or three hours at the conclusion of a three-day hearing. The crown court accepted that the appellants were a fit and proper applicant for a permit of this kind, and the premises (for which indeed the applicants had already obtained the necessary planning permission in March 1995 for change of use) were physically suitable for the purpose. The crown court further accepted that the appellants would endeavour to enforce an undertaking which they were prepared to give to the court not to allow admittance to the premises of persons under the age of 21. They had, I may note, in their original application given an undertaking in relation to persons under 18, an undertaking which would not, as it happens, be necessary today; a recent amendment to the 1968 Act has now introduced a statutory condition restricting entry to such premises to those over 18.

One area of concern had been the risk of young people congregating outside the premises, were a permit to be granted. Having regard to the evidence given on that issue, however, the crown court concluded that that was simply not to be regarded as a problem at all.

What then was it that decided the

crown court to reject the appeal? The critical passages in Judge Crompton's judgement, the reasoning in which was agreed unanimously by all four of the justices with whom he was sitting, are these:

I move on next to the question of the social problems in the area. *[One of the specific issues identified by counsel for the crown court's determination was the second respondent's assertion 'that because of the social conditions in this area persons over 21 must be protected from the provision of AWP machines']*. We have, of course, heard statistical evidence about the very high rate of unemployment and the number of single parent families. We have also heard evidence from witnesses who have many years experience of actually living in the area, and who have evidence not simply of their own views, but also on behalf of a very large number of groups and organisations operating in the Norris Green area.

The quantity of the groups and organisations was itself indicative of the perceived problems in this area. In assessing that evidence we had no hesitation in coming to the conclusion that Norris Green is a very deprived area with wide social problems.

Furthermore, we had the advantage yesterday of going to the area and viewing it for ourselves. We have to say that confirmed our assessment of the evidence presented to us.

Then, a little later:

... we are satisfied there has been very wide consultation amongst the community. Furthermore, there has been careful explanation made of what is involved and therefore the views expressed are informed and not simply a gut reaction.

We consider that in those circumstances the view of the majority should be considered as an important factor, and not be lightly cast aside. The voice of the people in this context is important. We were urged to listen to it and we have. We have no doubt on the evidence that there is strong opposition to this application, and by a substantial majority of the community ...

Ultimately we came to this conclusion: that those who wish to play

machines can do so at the bingo hall which is no more than a few yards from the premises [which are] the subject of this appeal.

Overall we take the view that, having regard to the social conditions prevailing in the area, the very strongly expressed view of the community and facilities for gaming already available in what is a relatively small shopping area, the location of these premises is, on balance, unsuitable and we are therefore dismissing the appeals for the reasons I have endeavoured to express.

Before turning to consider the grounds upon which the applicants sought to challenge that decision, initially before Owen J and now again before us, let me finally summarise the contents of certain petitions which were put in evidence before the crown court, two in opposition to the proposal, two in support. Those in support were, first, what was described as a demand survey of 300 members of the public conducted by a polling organisation on a particular day within the vicinity of the premises. In answer to the question 'If such an amusement centre existed would you use it?' some 25 per cent answered yes. The second petition in support, carrying just over a thousand names, was in these terms:

We, the undersigned agree that there is a demand for a Nobles Amusement Centre (restricted to adults - those over eighteen) with fruit machines and prize bingo and should be available in Norris Green Shopping Centre.

The first of the two petitions in opposition had been conducted by the Morningside & Area Residents Association and contained 500 signatures under this rubric:

We, the undersigned object most strongly to the proposal to open an amusement arcade in Broadway shopping centre, Liverpool 11, on the grounds that in an already impoverished area with a high percentage of unemployment young people especially will be tempted to waste their money on the machines and some may resort to petty thieving in order to finance their gambling.

The other was a petition organised by local churches signed by some 650 peo-

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ple in support of the proposition that:

We, the undersigned, do not want an amusement arcade in Broadway.

Thirty three of the signatories to that petition had added short comments of their own, amongst which were included 'Harmful to the community', 'Very bad for our youth' and 'Encouraging the young to spend money they do not have.'

I turn to the grounds upon which it is sought to impugn the crown court's decision. These are conveniently summarised in the appellant's skeleton argument as follows:

(a) Taking into account the strength of the local opposition per se rather than considering whether the grounds for that opposition were valid.

(b) Failing to deal adequately with the question of demand

(c) Failing in its judgement to set out clearly why the appeal had been rejected.

Ground (b) is no longer persisted in. Ground (c) is pursued, but essentially as an alternative to ground (a), i.e. on the footing that if the strength of local opposition was taken into account permissibly and for reasons other than merely the strength of numbers involved, the crown court failed to make that plain in their judgement.

Let me turn at once, therefore, to the critical issue as to the relevance, if any, of the strength of opposition to the proposal

That there was strong local opposition cannot be doubted. What Mr Saunders QC submits, however, is that this is frankly irrelevant unless only, first, the reasoning underlying that opposition is plain and secondly, the court itself agrees with that reasoning.

That submission is said to be supported by a line of Scottish authorities, most importantly *The Noble Organisation Limited v City of Glasgow District Council (No.3)*, (1991) SLT 3 March, 213, and *Kilmarnock and Loudon District Council v The Noble Organisation Limited* [1992] unreported, transcript 25 June 1992.

In the first of those cases, which I shall call *Noble*, these same appellants succeeded in the second division of the Court of Session, as indeed they had done before the sheriff below. Under the legislation there in play, the licens-

ing authority were entitled to refuse the licence on certain specified grounds or for 'other good reason'. (Here I would observe that although under the English legislation the discretion afforded to the licensing authorities is on its face wholly untrammelled, I accept that in England too a permit could only be refused for some good reasons.) The 'other good reason' relied upon by the licensing authority in *Noble* was the strength of local opposition to the proposal. As their decision letter made plain, this was

evidenced by the receipt of objectors from Dennistoun Community Council, local churches, business interests and some 94 local residents whose names and addresses are attached hereto. While the committee accepted the submission that these objectors came from only a small proportion of the total population, it took the view that the objection by the Community Council could be regarded as representing the feelings of the local community and it was impressed by the fact that some 94 persons were prepared to sign individual letters objecting to your clients' application. The Committee concluded that such a substantial body of local opinion could not be ignored and the fact that the local community did not wish an amusement centre to be located at 523/525 Duke Street, Glasgow, was good reason for refusing the application.

In upholding the sheriff's decision that the licensing authority 'erred in law in considering the mere number of objectors to be a good reason for refusal', the Lord Justice Clerk, Lord Ross, at page 216 said this:

Counsel for the defenders made it plain that it was no longer being contended on behalf of the defenders that any of these grounds had in fact been made out. The consequence accordingly is that the grounds of objection relied on by the objectors have been rejected and, if that is so, I agree with counsel for the pursuers that there is nothing left in any of the objections. The fact that there were 94 objections is therefore of no consequence. As counsel for the pursuers put it, 94 times nothing still equals nothing ... I am not persuaded that an 'other good reason for refus-

ing the application' would be the number of objections which contained grounds which had been rejected ...

It is unnecessary to determine whether the number of objections could ever be relevant, but I am certainly satisfied that the mere number of objections irrespective of their content could never be a good reason for refusing an application. I am accordingly persuaded that the committee erred in law in considering that the strength of local opposition per se justified their decision to refuse the application. I am also of the opinion that the sheriff was well founded in his conclusion that the defenders' discretion was not reasonably exercised by counting objections, regardless of their content. Indeed, the case is stronger than that because the defenders were not merely regardless of the content of the objections but attached weight to the number of the objections despite the fact that these were all objections which had been rejected so far as their content was concerned.

Lord Murray's supporting judgement concluded, at page 217

It might even be open to a licensing authority in an appropriate case, where the quality and quantity of opposition is adequately vouched by written objections and evidence led before the committee for a licensing authority to take account, say, of overwhelming local opposition against an application, but I would prefer to reserve judgement upon that matter. It is perfectly clear in this case not only that the licensing authority erred in law in taking into account as a separate factor the mere number of objections but also that there is no rational basis upon the undisputed facts here on which the licensing authority could hold that an 'other good reason' for refusal was constituted by the number of these objections alone.

The second case, *Kilmarnock*, perhaps carried that decision a little further forward. The petition of objection there consisted solely of a substantial number of signatures in support of the proposition that 'Kilmarnock does not need a bigger arcade' (that being the proposal

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in question).

As to that the Lord President, Lord Hope, having referred to Noble, at page 13 said this:

The mere number of objections irrespective of their content can never be good reason for refusing an application. What matters are the grounds on which the objection is based. This makes it all the more important, when numerous signatures have been obtained to indicate the weight of opinion on the point, for the grounds of the objection to be clearly specified. Unless this is done it cannot be assumed that the signatories are all objecting for the same reason. Lack of precision in the reason given in the petition may indicate that they themselves were not clear in their own minds about the content of the objections with which they wished to be associated. An objection is not to be treated more leniently in this regard simply because it takes the form of a petition for public signature. On the contrary, it is important that the requirement that the grounds of objection must be specified should be applied as strictly in these cases as it must be in the case of an objection by an individual. If this is not done, the licensing authority may be tempted to attach weight to the objection because of the number of persons associated with it regardless of its content, which is something they are not entitled to do.

As to the terms of the petition in that case, the Lord President said:

The question is whether the grounds for the objection have been specified in the seven words which remain. Although the point is a narrow one, we have reached the opinion without much difficulty that the sheriff was entitled to hold that this test was not satisfied. It seems to use that these words contain a proposition which simply invites the question, why not? It is in the unspoken answer to that question that the grounds for the objection are concealed, not in the proposition which invites it.

Whereas, therefore, *Noble* can be explained on the footing that the reasons underlying the weight of public opposition there had been plainly demonstrated to be invalid, *Kilmarnock*

appears rather to suggest that the burden lies on those seeking to rely on public opposition to show that the reasons underlying it are in fact demonstrably sound.

Let me at this stage turn briefly to the one other authority on this central aspect of the appeal which seems to me of some relevance: the judgement of Brooke J in *R v Chichester Crown Court ex parte Forte* [1995] JPR 285. In common with Owen J, I find in this some broad support for the view that strong local opposition may in certain circumstances indeed be relevant.

True it is, as Mr Saunders submits, that the *Chichester* case was concerned principally with the question whether the extent of the demand is a relevant consideration in all these cases. As to that, Brooke J held, at page 291:

Issues involving gaming machines often gave rise to strong and passionate feelings in 1968, as they still do in Chichester today, and if there has never been an amusement centre in an authority area and its proposed introduction awakens strong opposition I can see no reason why the authority may not lawfully consider the extent to which a demand for the centre exists before deciding whether to grant or refuse a permit.

A little later he said, at page 292:

... I am concerned with the 1968 Gaming Act, when Parliament must be taken to have known that in some areas of the country there would be strong opposition to the introduction of amusement centres. Parliament left these matters for local decision, with an appeal to the local Crown Court, and I do not see any reason why the introduction of a criterion by which the likely demand for a new centre, against a background where none existed before, required any special justification in that context.

Those passages in Brooke J's judgement to my mind reflect the fact that in this context opposition and demand are to some extent related concepts. If a lot of people for perfectly good reason want the facility of a new amusement centre, then that is relevant, but so too is it relevant if a lot of people, again for acceptable reasons, object to it. That is local decision making in action, something which Parliament plainly intended in

this area. Judge Crompton to my mind expressed it well in the present case:

The view of the majority should be considered as an important factor, and not be lightly cast aside. The voice of the people in this context is important.

If of course the objections of the public are founded on a demonstrable misunderstanding of the true factual position, or otherwise indicate no more than an uninformed gut reaction to a proposal, then I would accept that they can carry no weight whatever and must be ignored. Take this very case as an example. Insofar as the objections here were based on the anticipated problem as to youths congregating outside the premises, those objections would fall once the court concluded, as it did, that in fact no such problem was going to arise.

That, however, was by no means the only, or indeed the main, objection here. Take the terms of the Morningside petition itself. The objections expressed there were to introducing this temptation to further gambling into an 'already impoverished area with a high percentage of unemployment', against the fear, entirely understandable, that young people (an expression I would take to include those in their 20s) would be tempted to waste their money on the machines and some might resort to petty thieving to finance their gambling.

Perhaps more important still was the crown court's finding that there had been 'very wide consultation amongst the community', 'careful explanation ... of what is involved' and, in the result, their conclusion that 'the views expressed are informed and not simply a gut reaction.'

I would reject the appellant's central contention here that the crown court relied on what the Scottish cases forbid, namely the mere weight of local opposition. Still less did it rely on opposition based on demonstrably unsound reasoning. Rather, it is plain that the crown court (having listened to very extensive evidence and benefited from their own view of the area) were in agreement with the weight of objection that this was an undesirable proposal. They effectively say that when they state that their view 'confirmed our assessment of the evidence presented to us.'

As to their final overall conclusion,

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that seems to me wholly unexceptionable. They have regard to three, plainly interlocking, considerations: (a) the social conditions prevailing in the area, (b) the very strongly expressed views of the community and (c) the fact that there are already available facilities for gaming in this area. The very strongly expressed views of the community there being referred to are those objecting to this proposal in the light of the social conditions prevailing, objections which the court does not regard as outweighed by the demand for the facility given the alternative opportunities for gaming provided elsewhere in the area.

That conclusion effectively disposes of the other limb of the challenge too, the reasons ground. All I need to say as to that is that I regard the reasons given here as more than sufficient to satisfy the requirement that decisions of this nature be properly reasoned, a requirement analysed and explained in Kennedy J's decision in *R v Warwick Crown Court ex parte Patel* [1991] 8 LR 22. I would accordingly dismiss this appeal.

LORD JUSTICE ALDOUS: I agree. His Honour Judge Crompton gave on 12 January 1996 an extempore judgement which set out the reasons why he and the bench of justices who sat with him dismissed the appeal of Luxury Leisure Ltd. As has been pointed out by Brown LJ, the substantive attack upon that judgement which was made before us was that the crown court had erred in taking into account the strength of local opposition per se, rather than considering whether the grounds for that opposition were valid.

I do not believe that the crown court took into account merely the strength of local opposition. In his judgement, the judge said:

We have, of course, heard statistical evidence about the very high rate of unemployment and the number of single parent families. We have also heard evidence from witnesses who have many years experience of actually living in the area, and who gave evidence not simply of their own views, but also on behalf of a very large number of groups and organisations operating in the Norris Green area.

He went on to conclude that the Norris Green area was a very deprived area

with wide social problems, and pointed out that he and the bench of justices had had the advantage of going to the area and viewing it from themselves. He concluded that they were satisfied that there had been wide consultation amongst the community, there had been careful explanation made of what was involved and that 'the views expressed are informed and not simply a gut reaction.

The discretion given in the legislation is unfettered. That means that the council and the crown court must act judicially and found their decision upon a rational basis. However, it is for the local court and council to decide the matter. To adopt a sentence from the judgement of Lord Scarman in *Westminster City Council v Great Portland Estates plc* [1985] 1 AC 661 at 670:

It would be inhuman pedantry to exclude from the control of our environment the human factor.

That, of course, was a planning case. However, informed views of the community can be a factor which can be taken into account by both the crown court and the council. It will only be one factor which a council, exercising the discretion given to it, will take into account.

As I have said, the council and the court must act judicially when exercising their discretion. It follows that opposition which is misinformed is of no weight, and remains of no weight even if held by many people. However, that is not this case. As I have pointed out, the court heard evidence. It held that there had been wide consultation, careful explanation and that the views expressed by the witnesses were informed. It was implicit in that conclusion that the views were not unreasonable. I believe that the court was right to conclude that the views expressed, being informed views, were one of the factors to consider.

It was also submitted that the reasons which were given by the court were not sufficient. It is sometimes possible to attack a judgement on the basis that the reasons are not sufficient. The attack in this case was made with hindsight. It was not suggested to the judge when he gave his judgement that further reasons were necessary. Like my Lord, I believe the reasons are more than adequate. I

would dismiss this appeal.

LORD JUSTICE CLARK: I agree that for the reasons given in both judgements, this appeal should be dismissed.

Etridge v Leeds Licensing Justices

CROWN COURT, LEEDS
7 September 1998

Adams J and justices

Licensing Act 1964, section 1 — refusal of grant of new on-licence — condition on existing licence prohibiting off sales — applicant wished to place tables on pavement outside premises — condition inhibited service to tables — whether condition valid under terms of Act

Decision: Justices cannot lawfully exclude off sales from an on-licence by condition — statement of intent by applicant on method of operation might offer a solution

John Saunders QC appeared for the applicant;
Martin Walsh for the respondent justices

JUDGE ADAMS: This is the second day of an appeal which began on 24 April 1998 and it began by a notice of appeal dated 28 July 1997 when the applicant, the licensee of the All Bar One, situated at the corner of East Parade and Greek Street in Leeds, appealed against the refusal of the licensing justices on 18 July 1997 to grant a new on-licence for the premises.

The applicant already held a licence, granted on 17 March 1995, which was subject inter alia to a condition which forbade off sales; and the purpose of the application was to obtain an on-licence without this condition.

There was no desire on the part of the applicant to promote off sales, but permission had been obtained, or perhaps the position is it was hoped to obtain it, for the local authority to place seven tables on part of the adjacent pavement and the existing licence would not allow the customers seated there to be served with drinks; hence the application for a new licence.

Society, Barbirolli Square

Background

PopCity is a company formed by Nick Gregory and Richard Sweet. We aim to re-invigorate existing spaces into a food and drink led community hubs.

Richard has a background in the restaurant trade having founded and owned a restaurant in London for 15 years and has also been involved in several street food developments for British Land in Teesside and London.

Nick is a commercial property entrepreneur who developed pop up and street food concepts for large corporates, such as Hammerson, before setting up PopCity with Richard Sweet.

The aim is to provide a platform for small, independent businesses that can provide a high quality and diverse range of food and drink offers. We believe that our model enables those small businesses to trade and thrive in environments where costs would usually be prohibitive. For the customer, we believe we offer a dynamic and eclectic mix of offers at a price that cannot be matched by more traditional and corporate 'high street' food offers. An important aspect of what we do is to reflect the local community and to provide an interesting cultural mix of film, art, events and music.

Vocation Brewery is the bar partner, a responsible and mature operation. It has two outlets at present, in Hebden Bridge and one in Leeds and is an experienced bar and pub operator. They also have a brewery that supplies directly to some major supermarket chains. The DPS for the site will be Richard Stenson who is one of the directors of Vocation Brewery.

Vocation brewery was established in 2015 and has gained an excellent reputation for producing hop forward craft beer. With distribution in most of the leading retailers the brewery has gone from strength to strength and opened its first tap room in 2017 at the heart of its local community, in Hebden Bridge. The bar is haven for customers with an interest in craft beer, wine and gin enthusiasts and those looking to sample its authentic tacos. More recently the brewery ventured into Leeds where it boasts one of (if not the) largest selection of craft beer in the country. Now the brewery wants to spread its wings a little further by using the same successful model to open in Manchester. The aim of the bars is to create a relaxed environment that fits with the ethos of the business. Somewhere welcoming to all that puts good beer into the hands of new customers.

Confirmed offers in Society, Barbirolli Square

The Falafel Guys

Slap and Pickle Burgers

Manzoku Ramen

Vocation Brewery

Please see separate attachments of their menus.

The line up will be completed with two more food offers and we are in discussions with several local high quality food operators.

Assembly Underground Leeds Trading Information

Our other site is in Leeds and began trading in November 2018. It has proved a popular site since opening and has established itself as relaxed communal dining hall that has attracted a wide range of customers from young professionals, local workers and families at weekends. The turnover split is approximately an equal 50/50 split between food and drink.

We have found that we are perceived to be predominantly a food hall and our busy times are post work during the week to 10pm and all lunchtime to 10pm on Saturdays and lunchtime to 8pm on Sundays.

The site is situated in central Leeds. To date we have had no local complaints or any anti-social behaviour, it is a very relaxed environment.

Working with local residents

We are very conscious that we are in closer proximity to residents (compared to our other site) and must minimise noise pollution. To that end we have already reduced the external seating availability to 10pm and have reduced our opening hours from the previous hours that were permissible to trade onsite.

The landlord is also aware of this commitment to local residents and out of the overall spend of refurbishment of over £1 million pounds has allocated a substantial sum to removing all of the external windows and doors with the highest specification replacements to minimise any noise as much as possible. They have also commissioned an acoustic report. More information on this report and new windows and doors is in a separate attachment.

We also propose an ongoing line of communication with the local community and to establish a long-term working relationship.