



Evidence for the  
Temporary Event Notice objection  
regarding  
East Africa Restaurant,  
136-150 Soho Hill,  
Birmingham, B19 1AF

RESTRICTED DOCUMENT



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POLICE INCIDENTS RECORDED SINCE LICENCE APPLICATION MADE ON 30<sup>TH</sup> OCTOBER 2017

LOG NUMBER	DATE	TIME	INCIDENT DETAILS	OUTCOME
LOG 504, 509, 520 & 522	05/11/2017	04:55	DISORDER AT NIGHTCLUB. 20 PEOPLE FIGHTING... THROWING STONES AND BOTTLES. *4 SEPARATE CALLS WERE MADE REGARDING THIS INCIDENT *	POLICE ATTEND. NO COMPLAINTS MADE AT SCENE, PEOPLE DISPERSED. LICENSING CONCERNS RAISED AS PREMISES WAS CARRYING OUT UNLICENSABLE ACTIVITY.
LOG 1086	17/11/2017	04:00	MALE REPORTING HE WAS ASSAULTED BY A MALE. WHO PUNCHED IP IN HIS MOUTH IP SUSTAINS INJURIES SPLIT LIP AND TOOTH SHAKING. IP UNSURE WHY OFFENDER PUNCHED HIM. INCIDENT HAPPENED OUTSIDE SELAM EAST AFRICA RESTAURANT AT 0400HRS ON 17/11/17.	CRIMED AS SECTION 20 MINOR WOUNDING.
LOG 1417	06/12/2017	15:21	DISPUTE OVER TENANCY. OWNER HAS HAD VERBAL DISAGREEMENT WITH CALLER. OWNER ATTEMPTED TO HIT CALLER TOOK PIECE OF WOOD TO HIT CALLER IN FACE.	CIVIL DISPUTE - NO FURTHER ACTION WAS TAKEN.
LOG 950	28/12/2017	12:53	CALLER IS REPORTING THAT A RESTAURANT CALLED SALEM IS SERVING UNDERAGE CUSTOMERS WITH ALCOHOL AND THEY HAVE A SHISHA LOUNGE WITH NO VENTILATION- THEY HAVE ALSO BEEN ORDERED TO CLOSE THE SHUTTERS AT 2300HRS BUT THEY ARE LETTING PEOPLE IN.	SIGNPOSTED FOR INVESTIGATION.

Delegated Date: 08/05/2017 Application Number: 2017/02551/PA  
Accepted: 30/03/2017 Application Type: Full Planning  
Target Date: 25/05/2017  
Ward: Lozells and East Handsworth

136-150 Soho Hill, Unit 3, Handsworth, Birmingham, B19 1AF

Part change of use of car sales showroom (sui generis) to form restaurant (Class A3) and associated retrospective alterations to shopfront and roller shutter and installation of kitchen extraction equipment.

Applicant: Mr Tesfay Esayas Misgina  
136-150 Soho Hill, Unit 3, Handsworth, Birmingham, B19 1AF  
Agent: Mr Alan Garnett  
Design House, 580 Moseley Road, Moseley, Birmingham, B12 9AA

Recommendation

**Approve Subject To Conditions**

1. Proposal

- 1.1. This application seeks a change of use to form a restaurant in Unit 3. The planning history of this site is complex and the existing lawful use of the premises has been disputed. The applicant describes it as having been a coffee shop (A1) and also a B8 use (storage and distribution), but has since agreed with my interpretation of the planning history explained further below.
- 1.2. The wider premises were historically used as a car showroom up until around 2004 when the premises were then changed to a furniture showroom use. An enforcement notice was served in respect of this use under ENF/1017/04/C which required the cessation of the use of the premises for retail purposes. The Notice was served on 21<sup>st</sup> December 2006 taking effect on 22<sup>nd</sup> January 2007. An enforcement notice appeal was lodged but returned invalid by PINS as the relevant fee was not paid. The appeal did not proceed and the notice remains on the register.
- 1.3. To date, the enforcement notice has not been enforced. The enforcement file indicates that on the basis of the retail use being reduced to 40% of the floorspace it was decided to not proceed with enforcing the notice. Nonetheless, there is no record of a planning application to regularise the unlawful use. The lawful use is therefore considered to be the car showroom use that proceeded this.
- 1.4. At some point, the building have been sub-divided into smaller units. Unit 1 currently comprises a furniture sales business trading as H.I Furniture factory. Unit 2 is a vacant shop which has been sub-divided, unit 3a is a shop selling baby related products. Unit 4 is the yard area to the side of the premises used for fitting tyres and associated storage. A car wash is also advertised as operating to the rear where units 5-7 are situated. The application premises are currently vacant with a shopfront and a roller shutter entrance.

- 1.5. The submitted plans show the installed shopfront and roller shutters to the frontage. Internally the restaurant would be laid out to provide a total of 86 covers in a large dining area to the rear. The frontage of the restaurant would be a lobby area with a drinks service counter and a pool table. The building would also include a kitchen, storage/cold room, staff room, staff changing, management office and toilets. An external extraction system is proposed to be installed.
- 1.6. I therefore consider that a more accurate description would be the part change of use of car showroom to restaurant with associated alterations to the shopfront and roller shutter and installation of kitchen extraction equipment, and have assessed the application on this basis.
- 1.7. The submitted supporting statement sets out that the premises would propose to open to customers between the hours of 07:00-23:00 hours Mondays – Sundays, including Bank Holidays. The development would propose to employ 8 staff.
2. Site & Surroundings
- 2.1. The site is located within the Soho Road Neighbourhood Centre boundary as identified in the Shopping and Local Centres SPD, but is outside of the Primary Shopping Area. They are located within the Lozells and Soho Hill Conservation Area.
- 2.2. The premises comprise commercial premises that previously formed part of a car showroom that was later converted into a furniture showroom and then sub-divided into smaller retail units. The application premises are currently vacant.
- 2.3. The surrounding area includes a mix of uses that include shops, services, offices, education and residential uses. Soho House is situated approximately 200 metres to the west in Soho Avenue.
3. Planning History
- 3.1. 10/05/2007 – 2007/01029/PA – Change of use from furniture showroom to restaurant – Refused. Although the application address relates to 134a-150 Soho Hill, the application red line plan relates to only part of the premises shown as unit 1 and part of unit 2 on the current application plans. The reasons for refusal were that the proposed development was out of centre for which no evidence had been provided to demonstrate that the development could not be located within Soho Road centre, and thereby fails to encourage linked trips and/or safeguard the retail vitality and viability of the existing local centre, contrary to retail policies in the UDP and PPS6, and that insufficient information to demonstrate the adequacy of parking had been provided.
- 3.2. 16/01/2004 – 2003/04034/PA - Change of use to retail warehouse – withdrawn.
- 3.3. 16/01/2004 – 2003/05755/PA – change of use to community centre – withdrawn.
- 3.4. 24/09/2007 - 2004/1017/ENF - Use of former car showroom as a furniture retail warehouse – Enforcement Notice served required cessation of retail use, however ultimately the case was closed.

- 3.5. 04/02/1988 – 10444010 – Erection of replacement car showroom alterations to existing elevations and boundary treatment. Approved subject to conditions.

4. Consultation/PP Responses

- 4.1. Ward members, Residents Associations and neighbouring occupiers notified. 1 objection received from a neighbouring business on the following grounds :
- Adverse effect on residents from noise and disturbance and anti-social behaviour
  - The site is currently in use without planning permission as a restaurant.
  - The external façade is out of character with the Lozells and Soho Hill Conservation Area with bright orange decoration and bright lighting in the windows
  - Parking levels are insufficient as there is only space on the forecourt for 4 cars, yet 86 covers are proposed. The City's car parking guidelines states there should be one space per 6 covers although clearly this level of parking cannot be achieved. The applicant has not provided any evidence to support their assertion that 85% of patronage will walk to the site and there is also no designated parking for staff.
  - The applicant's statement that there is parking available on street is not entirely accurate. Parking is restricted on the A41 in the vicinity of the site.
  - The development will adversely affect highway safety as the site offers no turning facilities for vehicles to exit. The site is currently split into 7 units and many of the users park vehicles on the footpath causing a danger to pedestrians and exiting vehicles.
  - The site is detrimental to other commercial properties in the area due to increase in parking on other frontages and security concerns.
  - The applicant has not resolved the issues raised with application 2007/01029/PA with regards to principle of the use in this location and the proposed level of parking.
  - It is our understanding that the site has never been granted consent for A1 or B8 uses as detailed in the applicants design and access statement. It was a car garage, with car repairs, car wash, tyre repair and storage and car spraying operating from units 4-7. As such, units 1-3 seem to be operating without any planning consent.
  - We consider that the sub-division and change of use has created parking issues that should be investigated further. The forecourt areas which should be used for parking cannot cope with the demand generated, the current occupiers are using the parking forecourt to display goods, and unit 2 is currently under redevelopment to split into 20+ smaller units which is likely to have a further detrimental effect.
- 4.2. Regulatory Services – No objections. Comments that the details of proposed extraction are unacceptable as they show a 'chinese hat' type cowl on the extract system. The system should exhaust vertically with no obstruction. A condition is recommended to agree revised details. Also recommends a condition in respect of the proposed hours of use.
- 4.3. Transportation Development – Raises concern regarding provision of sufficient parking. Advises that a maximum of 9 spaces should be provided in accordance with the car parking guidelines. Comments regarding existing parking restrictions in the locality. Comments that 2 of the forecourt parking spaces could not be accessed



without overriding the footpath. Considers that the levels of parking are deemed insufficient however the site is served with excellent public transport services. Recommends condition to prevent takeaway sales.

5. Policy Context

- 5.1. Adopted UDP (saved policies), BDP, Shopping and Local Centres SPD, A41 (Soho Road) Framework, Car Parking Guidelines SPD, NPPF.

6. Planning Considerations

- 6.1. Policy PG3 of the BDP relates to place making where a positive sense of place through good design is expected. Policy TP21 relates to the network and hierarchy of centres including Soho Road Neighbourhood Centre. The vitality and viability of these centres will be maintained and enhanced. Proposals which make a positive contribution to the diversity of these centres will be encouraged. Policy TP24 further addresses the promotion of diversity of uses within centres. This states that diversity will be encouraged to meet peoples day to day needs, including restaurants, subject to the maintenance of the role of the Primary Shopping Areas as identified in the Shopping and Local Centres SPD.
- 6.2. Paragraphs 8.6 and 8.7 of the UDP are saved policies pending their replacement in the Planning Management DPD. This relates to hot food takeaways and restaurants/cafes. The policy sets out the criteria to be considered in considering such uses including that such uses should normally be confined to shopping or areas of mixed commercial development, the consideration of cumulative impacts on amenity and traffic generation, the impact of evening opening of the amenity of the areas particularly residents, the impact on the vitality and viability of the frontage, the availability of parking, accessibility to public transport and the likelihood of traffic hazards taking place.
- 6.3. The site is located within the boundary of Soho Road Neighbourhood Centre as defined in the Shopping and Local Centres SPD, and is situated outside of the Primary Shopping Area (PSA). As such, there is no policy basis in which to resist the proposed use on the grounds of the loss of the retail role and function in the PSA.
- 6.4. The A41 (Soho Road) Framework identifies the site as part of a wider block of properties between Villa Road and Hamstead Road as the primary development opportunity within the neighbourhood centre. The guidance explains that the site represents one of the few opportunities in the Conservation Area to intervene in a major positive manner to bring about regeneration. The prominent and sensitive location of this site necessitates a development of quality and distinctiveness with creation of a gateway development to Soho Road District Centre. A range of suitable uses are identified including Retail, leisure, residential, offices, health, education and community uses. Whilst the guidance promotes the wider redevelopment of the area, this does not prevent individual sites being developed and should be assessed on their merits.
- 6.5. The Council's car parking guidelines SPD provides guidance on appropriate levels of parking for certain uses, which are expressed as maximum levels. In this case, the site is located within Area 2 being within a centre where the guideline is for 1 car parking space per 9 covers.

- 6.6. The NPPF establishes the principle of the presumption in favour of sustainable development. Paragraph 14 states that for decision-making this means approving development proposals that accord with the development plan without delay. The NPPF provides guidance on ensuring the vitality of town centres which is consistent with the guidance in the BDP with regard to diversity. Restaurants are included within the definition of main town centre uses in the Annex.
- 6.7. The lawful use of the site is considered to be a car showroom use which ceased around 2004. Since then, there have been unauthorised retail uses on the site for which enforcement action was pursued but the case subsequently closed. Notwithstanding this, it is clear that the guidance subsequently adopted in the Shopping and Local Centres SPD, the A41 Framework and the BDP now establishes the site to be within the boundary of the Soho Road centre, and as such the use of the site for retail or for restaurant uses would now be considered to accord with these policies. This represents a significant change in circumstances to those at the time of the previous refusal when the site was located outside of the centre at that time. As such, I consider that the proposed use is acceptable in principle.
- 6.8. Whilst I note the concerns and objections raised by the neighbouring business, principally on traffic and parking grounds, I do not consider that there would be such a harmful impact that would warrant refusal in this case. The fall-back position is a car showroom for which there is no prescribed parking standard, although this use would have required parking for staff and visitors. A retail use would require a maximum of 13-18 spaces (depending on the type of retail use). In comparison to this, the proposed restaurant would generate a lower level of parking when measured against the Council's car parking guidelines. The maximum standard for a restaurant would generate a need for 10 car parking spaces.
- 6.9. The forecourt area in front of the premises has enough space for 3-4 cars, which I consider to be satisfactory taking into account the location of the site within an established centre well served by public transport. To access these spaces some alterations are required to the vehicle crossover which currently only serves 2 spaces and there is a street lighting column that restricts access to one of the spaces. I have recommended a condition to agree appropriate works. Whilst I note the concerns about sub-division causing excessive parking, this is not something that would require consent. Given the limited available parking, I recommend that the sale of food for consumption off the premises is prevented by condition as such activity tends to generate errant parking.
- 6.10. There are no other restaurants or other hot food uses in the locality to raise any issues of cumulative impact. I note the comments of Regulatory Services regarding the details of the extraction system and have recommended a condition to agree revised details. I concur that the proposed opening hours are acceptable in this location.
- 6.11. The Conservation officer advises that they have no objections. The premises do not currently make a positive contribution to the Conservation Area, having a functional appearance with modern cladding materials. The shopfront alterations have had negligible effect. The A41 Framework policy promotes the wider redevelopment of the area, which would present an opportunity to significantly enhance the character and appearance of the Conservation Area, but until then I do not consider that it would be appropriate to resist investment into the premises that will generate some economic activity and create local jobs.



7. Conclusion

- 7.1. The proposed development accords with the relevant policies in the BDP, Shopping and Local Centres SPD and the NPPF regarding the suitability of this location for a proposed restaurant use. Notwithstanding the objections raised, including the concerns regarding traffic and parking, I consider that this will be acceptable.

8. Recommendation

- 8.1. Approval subject to conditions.

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- 1 Limits the hours of use  
The premises shall only be open for customers between the hours of 07:00-23:30 hours Mondays-Sundays.  
Reason: In order to define the permission and safeguard the amenities of occupiers of premises/dwellings in the vicinity in accordance with Policy PG3 of the Birmingham Development Plan 2017 and the National Planning Policy Framework.
- 2 Prevents food to be sold for off-site consumption  
The premises shall not be used for the sale of food for consumption off the premises.  
Reason: In order to define the permission and in the interests of preventing traffic and parking problems in the highway in accordance with Policies TP38 and TP44 of the Birmingham Development Plan 2017 and the National Planning Policy Framework.
- 3 Requires the prior submission of extraction and odour control details  
No development shall take place until revised details of the extract ventilation and odour control equipment, including details of any noise levels, noise control and external ducting has been submitted to and approved in writing by the Local Planning Authority. The development shall be implemented in accordance with the approved details and thereafter maintained.  
Reason: In order to secure the satisfactory development of the application site and safeguard the amenities of occupiers of premises/dwellings in the vicinity in accordance with Policy PG3 of the Birmingham Development Plan 2017 and the NPPF
- 4 Requires the prior submission and completion of works for the S278/TRO Agreement  
The development shall not be occupied until a package of highway measures has been approved by the Local Planning Authority and the approved measures have been substantially completed. The package of measures shall include alterations to existing vehicle crossovers to serve proposed forecourt parking and are to be carried out at the applicants expense to Birmingham City Council specification.  
Reason: In order to secure the satisfactory development of the application site in the interests of highway safety in accordance with Policies PG3 and TP44 of the Birmingham Development Plan 2017 and the National Planning Policy Framework.
- 5 Requires the scheme to be in accordance with the listed approved plans  
The development hereby approved shall be implemented in accordance with the details submitted with the application and shown on drawing numbers 001 (site location and block plan), 002 (existing layout plan), 003 (existing elevation details), 004 (amended proposed elevation), unnumbered proposed floor plan ('the approved
-

plans')

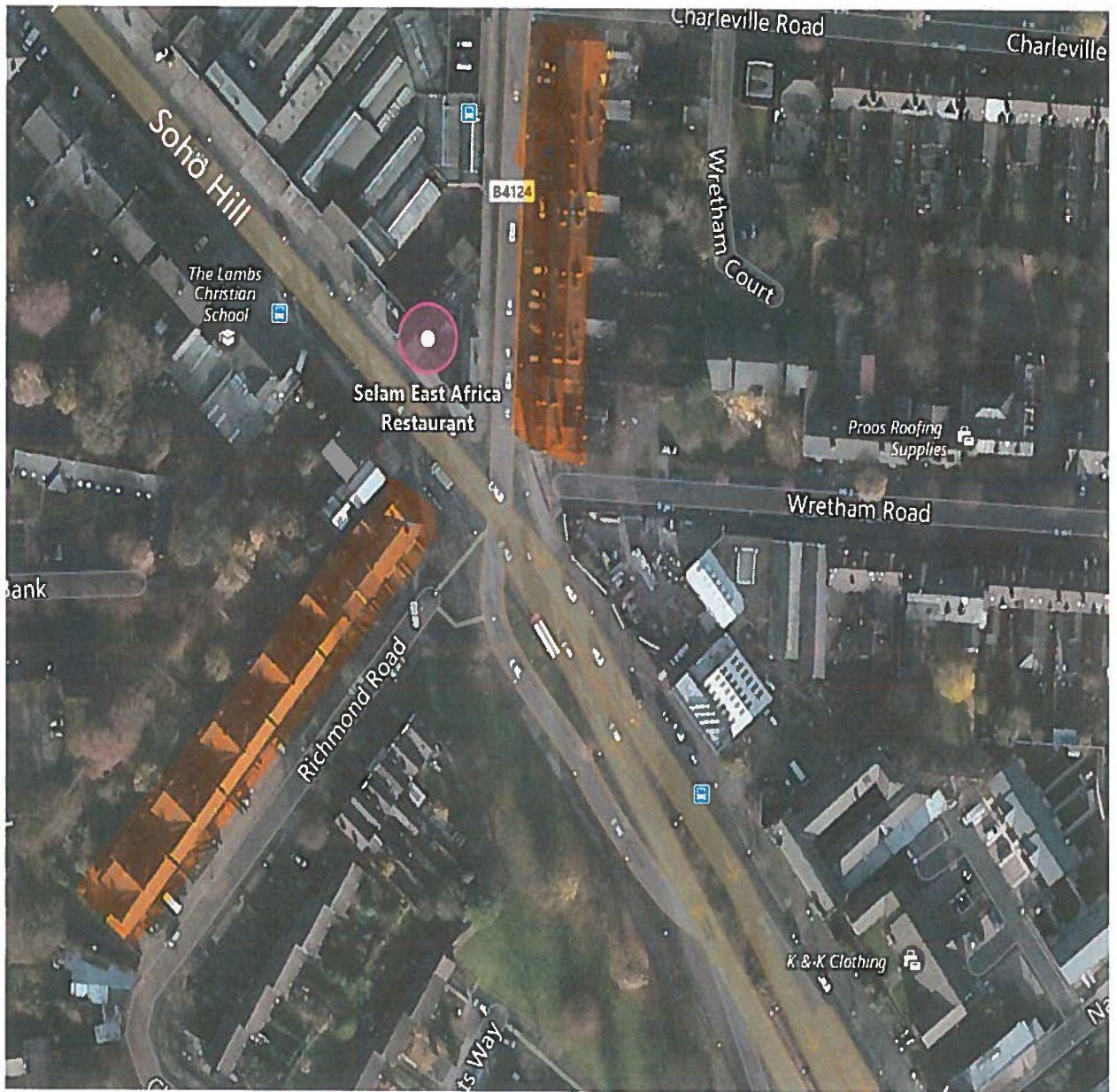
Reason: In order to define the permission in accordance with Policy PG3 of the Birmingham Development Plan 2017 and the National Planning Policy Framework.

6 Implement within 3 years (Full)

The development hereby permitted shall be begun before the expiration of (3) years from the date of this permission.

Reason: In order to comply with Section 91 of the Town and Country Planning Act 1990 (as amended) and the National Planning Policy Framework.

Case Officer: Stuart Morgans



## Vicki Demuth

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**From:** bw licensing  
**Sent:** 06 November 2017 09:22  
**To:** 'Licensing Online'; bw licensing; Alcohol@homeoffice.gsi.gov.uk; TradingStandards; Pollution Team; firesafety.admin@wmfs.net; PlanningandRegenerationEnquiries; Safeguarding Children & Licensing; Birmingham Public Health  
**Subject:** RE: GRANT - SELAM EAST AFRICAN RESTAURANT - 136-150 SOHO HILL, BIRMINGHAM, B19 1AF

Licensing,

With regards to this application. West Midlands Police formally make representation to this application being granted.

The grounds for making representation are –

- Prevention of crime and disorder – Since the applicant and his business partner have taken over the premises there have been several issues of violence and disorder at the premises which have occurred into the early hours of the morning. Also, over the past year there have been unauthorised licensable activity take place at the premises which the owner has admitted to.
- Prevention of public nuisance – Again, over the past year West Midlands Police have received complaints from local residence of noise which has gone on into the early hours.

Due to the above, West Midlands Police are not satisfied that the applicant or those associated with the premises will promote the licensing objectives.

Regards

Deano

PC 1978 Deano Walker  
Birmingham Police Central Licensing Team  
Birmingham Partnerships  
Lloyd House  
Federation Health & Safety Lead.



Direct Dial - 0121-626-6099



Internal Ext - 801-1626



Mobile - 07391 019 369



deano.walker@west-midlands.pnn.police.uk



bw\_licensing@west-midlands.pnn.police.uk

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**From:** Geeta Bangerh [<mailto:Geeta.Bangerh@birmingham.gov.uk>] **On Behalf Of** Licensing Online

**Sent:** 30 October 2017 16:57

**To:** bw licensing; Alcohol@homeoffice.gsi.gov.uk; TradingStandards; Pollution Team; [firesafety.admin@wmfs.net](mailto:firesafety.admin@wmfs.net); PlanningandRegenerationEnquiries; Safeguarding Children & Licensing; Birmingham Public Health

**Subject:** GRANT - SELAM EAST AFRICAN RESTAURANT - 136-150 SOHO HILL, BIRMINGHAM, B19 1AF

Dear Sirs

Please find attached grant application I have received on GOV.UK.

Kind Regards

Geeta Bangerh  
**Licensing Officer**

Birmingham City Council  
Licensing Section  
PO. Box 17013  
Birmingham B6 9ES

General Licensing:  
Telephone: 0121 303 9896

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## Vicki Demuth

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**From:** bw licensing  
**To:** Vicki Demuth  
**Subject:** FW: 152-154 Soho Hill, Birmingham, B19 1AF  
**Attachments:** Home Office advice for local residents - Review Fact Sheet.pdf

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**From:** [REDACTED]  
**Sent:** Sunday, November 05, 2017 10:27 PM  
**To:** [REDACTED]  
**Subject:** Re: 152-154 Soho Hill, Birmingham, B19 1AF

Hi I'm so sorry I haven't been in touch has had a loss in our family.. I'm just writing to u has on 4/11/2017 Salem had one of the most biggest nights ever so many people so many cars loud music untill 5 -6 in the morning.. also live band People smoking in there just has it was a night club. this is not the first time it's happend since been in touch but one of the worse by far. they have a fb page advertising live music and also now have had sky tv fitted which we know they need entertainment licence the noise of last night actually made our windows shake it was that loud I did contact the police on 101 but they told me there is nothing they can do . So I made a noise complaint to the council here is my refence number

> Ref: [REDACTED]

I can't belive that the premise is still open to be honest with how many laws they are breaking I worry it will take somebody to be killed in that place before anything is done about it like [REDACTED].  
many thanks.

[REDACTED]  
My home number [REDACTED]

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