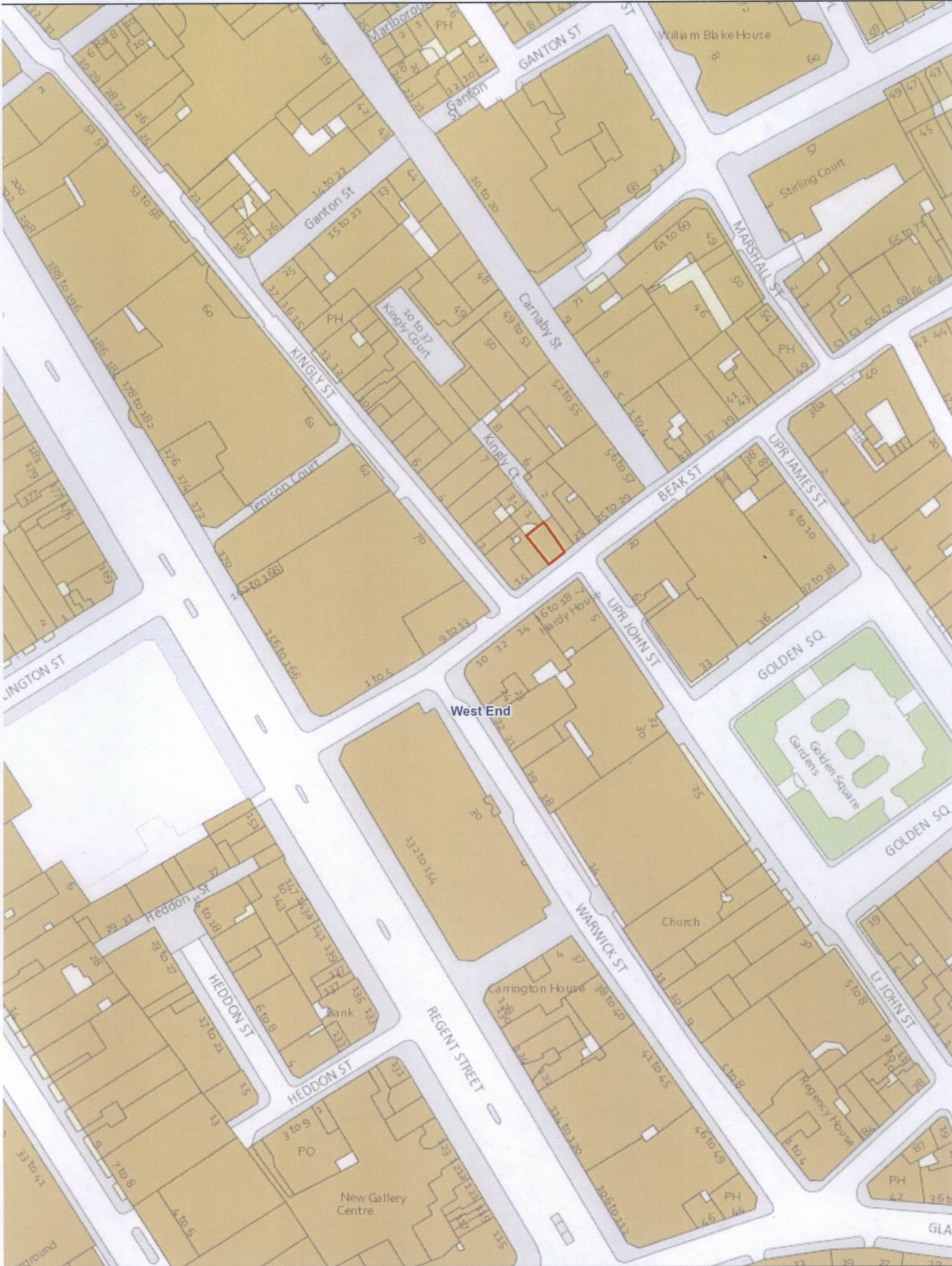


CITY OF WESTMINSTER			
PLANNING APPLICATIONS COMMITTEE	Date 23 June 2015	Classification For General Release	
Report of Director of Planning		Wards involved West End	
Subject of Report	19 Beak Street, London, W1F 9RP		
Proposal	Continued use of basement and ground floor as a mixed use coffee shop and a cocktail bar (sui generis).		
Agent	Freeths LLP		
On behalf of	Grind & Co Ltd		
Registered Number	15/02935/FULL	TP / PP No	TP/1389
Date of Application	02.04.2015	Date amended/ completed	13.04.2015
Category of Application	Other		
Historic Building Grade	Grade II Listed Building		
Conservation Area	Soho		
Development Plan Context - London Plan July 2011 - Westminster's City Plan: Strategic Policies 2013 - Unitary Development Plan (UDP) January 2007	Within London Plan Central Activities Zone Within Core Central Activities Zone		
Stress Area	Within West End Stress Area		
Current Licensing Position	Premises Licence granted October 2014		

1. RECOMMENDATION

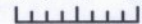
Grant conditional permission.



West End



N





19 BEAK STREET, W1

2. SUMMARY

The application relates to a small (62m²) commercial unit occupying the basement and ground floor on the north side of Beak Street, close to the junction with Upper John Street. Located in the West End Stress Area, there are a number of restaurants, bars and public houses along Beak Street and in nearby Kingly Court. There are also important retail areas nearby (Carnaby Street to the east, Regent Street to the west). Residential accommodation is scattered throughout the area, the nearest being diagonally opposite at 6 Upper John Street (approximately 14 flats). On the other corner of Beak Street/Upper John Street is a restaurant (basement and ground floor) with ancillary bar and conditions restricting capacity to 146 covers and opening hours until 23.30 Monday-Thursday, midnight Friday-Saturday and 23.00 on Sundays and Bank Holidays. There are two restaurants to the west of the site and (beyond the pedestrian passage to Kingly Court) there is a retail shop.

Formerly used as a toy shop, the site changed ownership in early 2014, opening in May 2014 as primarily a take-away coffee shop, including the sale of some cold foods as well as hot drinks, and a small amount of seating. In itself, this probably constitutes a lawful retail use (Class A1). However, in the summer of 2014 the premises also started selling alcohol for consumption on the premises (principally in the basement) and led to a complaint to the Planning Enforcement Team, subsequently leading to this application. No external alterations are proposed. The sole issue, therefore, is the acceptability of the proposed mixed use.

Given the partial use as a bar and size below the 150m² threshold for medium sized entertainment uses, Policy TACE 9 of the UDP is applicable. This states that such entertainment uses will only be granted where the City Council is satisfied that the proposed development has no adverse effect (nor, taking into account the number and distribution of entertainment uses in the vicinity, any cumulatively adverse effect) upon residential amenity or local environmental quality as a result of noise, vibration, smells, increased late night activity, or increased parking and traffic. Nor should there be any adverse effect on the character and function of the area. In reaching a decision on such applications, the Council will take account of such factors as number of customers, opening hours, arrangements for handling and disposal of waste, etc. Policy S24 of 'Westminster's City Plan: Strategic Policies' is very similar.

UDP Policy SS 5 seeks to protect retail use at ground and basement level, only allowing non-A1 uses if they are not detrimental to the character and function of an area, nor leading to a concentration of three or more consecutive non-A1 uses nor increasing an overconcentration of entertainment uses in a street or area. The more recent strategic Policy S7 seeks to maintain and enhance the retail character and function of the area (which is within the West End Special Retail Policy Area), including entertainment uses where appropriate in terms of scale and location, to support the main retail area.

Planning permission has previously been refused for the use of the basement as an extension to an adjoining nightclub, accessed from 4 Kingly Court, a decision subsequently upheld at appeal. However, in that case Policy TACE 10 was applicable (because of the size of the enlarged unit), namely that the proposal would only be acceptable in exceptional circumstances. The relevant policies are therefore different.

It is noted that the City Council has already granted a Premises Licence, in October 2014, notwithstanding objections from local residents. This is subject to a number of restrictions, including the total capacity (excluding staff) of 50 persons (with no more than 30 persons on the ground floor and no more than 20 persons in the basement), closing times set at 23.30 Mondays to Thursdays, midnight Fridays and Saturdays and 22.30 on Sundays, and no alcohol to be dispensed from the ground floor.

The use is an unusual one in that it has a strong retail element, particularly during the day, with the bar use being more predominant at night. Whilst acknowledging objectors' concerns, it is not considered that there are reasonable grounds for refusing the application. The unit, and capacity, are small and subject to conditions controlling the capacity and opening hours (to the same as the approved licence), it is considered unlikely that there would be no demonstrable harm arising from the proposal. It is considered important to maintain the retail element and a condition is proposed requiring the ground floor to be used only as a retail coffee bar during the day (until 17.00 hours). This, and the small size of the premises, would help ensure that the mixed use has a negligible cumulative effect on the amenity of the area. Subject to these restrictions, the objections are not considered to be sustainable. The proposal is considered to be acceptable and approval is recommended.

With regard to the objection that it is wrong to grant permission for an unauthorised use, whilst it is unfortunate that the use has already commenced, this in itself does not constitute grounds for refusing the application.

3. CONSULTATIONS

COUNCILLOR ROBERTS

Request that the case is reported to the Planning Applications Committee.

SOHO SOCIETY

Objection to addition of a Class A4 drinking establishment in the West End Stress Area. No objection to continued A1 retail use.

ENVIRONMENTAL HEALTH

No objection. Comment that the premises have no suitable extract ventilation and should not be permitted to provide substantial hot food.

ADJOINING OWNERS/OCCUPIERS AND OTHER REPRESENTATIONS

No. Consulted: 52; Total No. of Replies: 4.

Four representations raising objections on some or all of the following grounds:

- Adverse impact on residential amenity, particularly from increased problems of noise, anti-social/rowdy behaviour, on-street drinking, illegally parked minicabs.
- Cumulative impact of entertainment uses in the West End Stress Area.
- Loss of retail.
- Wrong to grant permission for an unauthorised use.

ADVERTISEMENT/SITE NOTICE: Yes

BACKGROUND PAPERS

1. Application form
2. Email from Cllr Glenys Roberts dated 5.5.15
3. Representation from the Soho Society dated 11.5.15
4. Memorandum from Premises Management Environmental Services dated 20.4.15
5. Representation from the occupier, Flat 1, 6 Upper John Street dated 23.4.15
6. Representation from the occupier, Flat 2, 6 Upper John Street dated 29.4.15
7. Representation from Mr D Jobbins (on behalf of the owners, Penthouse Apartment and No. 5, 6 Upper John Street) dated 29.4.15
8. Representation from an occupier, 6 Upper John Street dated 1.5.15

IF YOU HAVE ANY QUERIES ABOUT THIS REPORT OR WISH TO INSPECT ANY OF THE BACKGROUND PAPERS PLEASE CONTACT JOSEPHINE PALMER ON 020 7641 2723 OR BY E-MAIL – jpalme@westminster.gov.uk

DRAFT DECISION LETTER

Address: 19 Beak Street, London, W1F 9RP

Proposal: Continued use of basement and ground floor as a mixed use coffee shop and a cocktail bar (sui generis).

Plan Nos: R1 P011 and R1 P012.

Case Officer: Paul Quayle **Direct Tel. No.** 020 7641 2547

Recommended Condition(s) and Reason(s):

- 1 The development hereby permitted shall be carried out in accordance with the drawings and other documents listed on this decision letter, and any drawings approved subsequently by the City Council as local planning authority pursuant to any conditions on this decision letter.

Reason:

For the avoidance of doubt and in the interests of proper planning.

- 2 Customers shall not be permitted within the premises before 07.30 or after 23.30 on Mondays to Thursdays (not including bank holidays and public holidays), before 07.30 or after 00.00 (midnight) on Fridays and Saturdays (not including bank holidays and public holidays) and before 08.00 or after 23.00 on Sundays and bank holidays.

Reason:

To protect the environment of people in neighbouring properties as set out in S24, S29 and S32 of Westminster's City Plan: Strategic Policies adopted November 2013 and ENV 6, ENV 7 and TACE 9 of our Unitary Development Plan that we adopted in January 2007. (R12AC)

- 3 You must not allow more than 50 customers into the property at any one time. (C05HA)

Reason:

To protect the environment of people in neighbouring properties as set out in S24, S29 and S32 of Westminster's City Plan: Strategic Policies adopted November 2013 and ENV 6, ENV 7 and TACE 9 of our Unitary Development Plan that we adopted in January 2007. (R12AC)

- 4 You must use the ground floor of the premises only as a Class A1 retail coffee shop between the opening time in the morning and 17.00 hours and not sell nor allow consumption of any alcoholic drinks on the ground floor during these hours.

Reason:

Given the special circumstances of the cases (namely the unique use of the premises), to maintain the retail character of the premises throughout the day, and to prevent a use that would be unacceptable because of the character and function of this part of the Soho Conservation Area. This is in line with S7 and S24 of Westminster's City Plan: Strategic Policies adopted November 2013 and TACE 9 and DES 9 of our Unitary Development Plan that we adopted in January 2007.

- 5 You must not cook raw or fresh food on the premises. (C05DA)

Reason:

The plans do not include any kitchen extractor equipment. For this reason we cannot agree to

unrestricted use as people using neighbouring properties would suffer from cooking smells. This is as set out in S24 and S29 of Westminster's City Plan: Strategic Policies adopted November 2013 and ENV 5 of our Unitary Development Plan that we adopted in January 2007. (R05EC)

- 6 No music shall be played (live or electronic) that is audible in any adjoining premises.

Reason:

To protect the privacy and environment of people in neighbouring properties. This is as set out in S29 and S32 of Westminster's City Plan: Strategic Policies adopted November 2013 and TACE 9, ENV 6 and ENV 13 of our Unitary Development Plan that we adopted in January 2007. (R21BC)

Informative(s):

- 1 In dealing with this application the City Council has implemented the requirement in the National Planning Policy Framework to work with the applicant in a positive and proactive way. We have made available detailed advice in the form of our statutory policies in Westminster's City Plan: Strategic Policies adopted November 2013, Unitary Development Plan, Supplementary Planning documents, planning briefs and other informal written guidance, as well as offering a full pre application advice service, in order to ensure that applicant has been given every opportunity to submit an application which is likely to be considered favourably. In addition, where appropriate, further guidance was offered to the applicant at the validation stage.

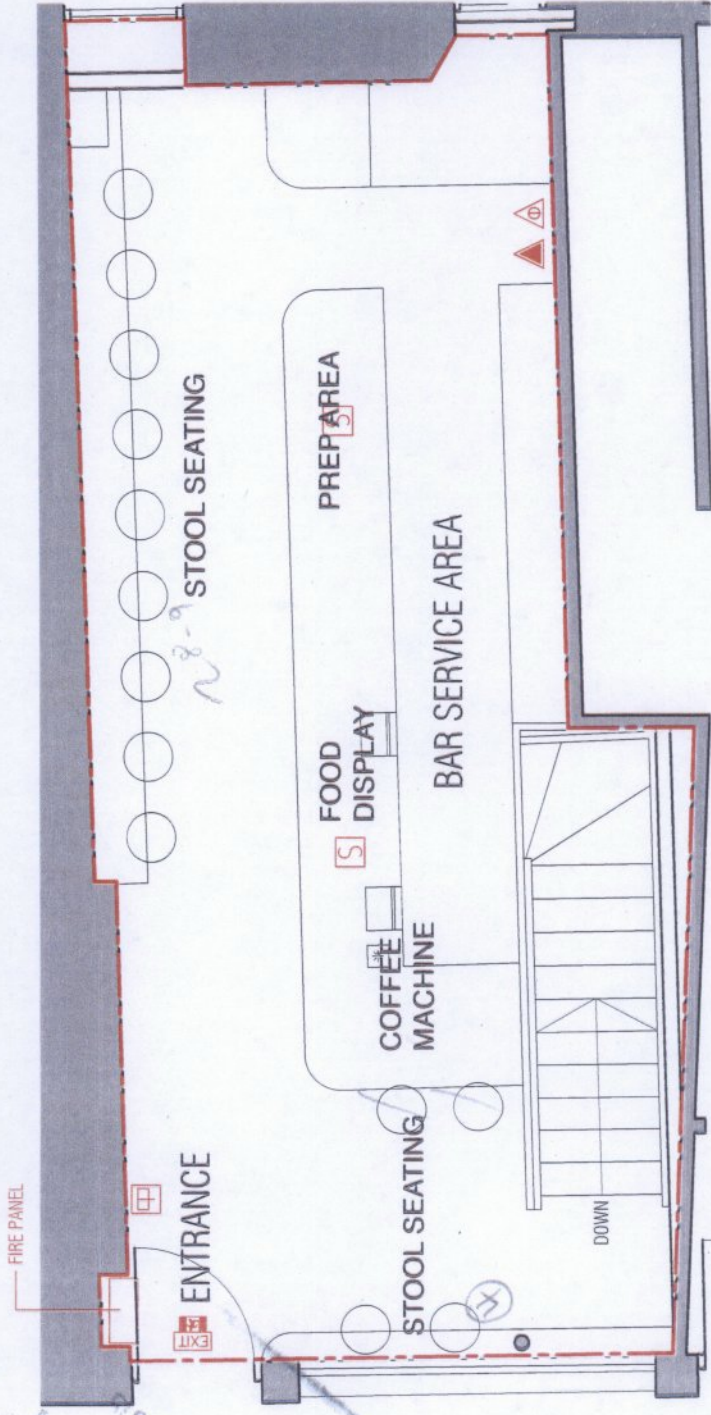
- 2 Under condition 5 you must not cook food in any way which is likely to cause a nuisance by smell. You must not, for example, grill, fry, toast, braise, boil, bake, hot smoke or roast food. But you can reheat food by microwave or convection oven as long as you do not need extractor equipment.

If you want to remove this condition you will need to send us full details of all the extractor equipment needed to get rid of cooking fumes. We will also consider the design and effect on neighbouring properties of any new ducts. (I72AA)

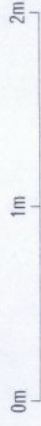
- 3 It is noted that separate licence approval has already been granted for the sale of alcohol on the premises. Your approved licensing hours may differ from those given above but you must not have any customers on the premises outside the hours set out in this planning permission. (I61AB)

- 4 It is noted that it is a requirement of your licence that food is served with alcohol. You must make sure that any provision of food for consumption on the premises is so minor that it does not alter the unique mixed use as a retail coffee shop and cocktail bar. If the scale of food provision on site is more substantial than this, it is likely that a material (significant) change of use will have taken place, which will need a new planning permission (for example, if it becomes more of a restaurant). However, you are allowed to sell cold foods, primarily for consumption off the premises, within Class A1 (retail) of the Use Classes Order; small amounts of reheated food (see Informative 2 above) and some on-site consumption are also acceptable, subject to these being ancillary to the main use of the premises.

CHOF CURT
- 2 APR 2014



	FIRE ALARM CALL POINT
	CARBON DIOXIDE FIRE EXTINGUISHER
	WATER FIRE EXTINGUISHER
	SMOKE ALARM
	EXIT SIGN



FROM THE DESK OF:

Blasol Design Studio

PO Box 327
Preston Vic 3181
Australia

T: +61 3 9838 3951
M: +61 422 773 773
Info@blasol.com.au

PROJECT:

Licensing Plan - Ground Floor
H043 Sono Grand: London

Kaz James
David Abratamovitch

19 Beak Street
London

DRAWING:

R1 P011
19.06.2014

Drawn By: TN /
Checked By: JP / -
Authorised By:

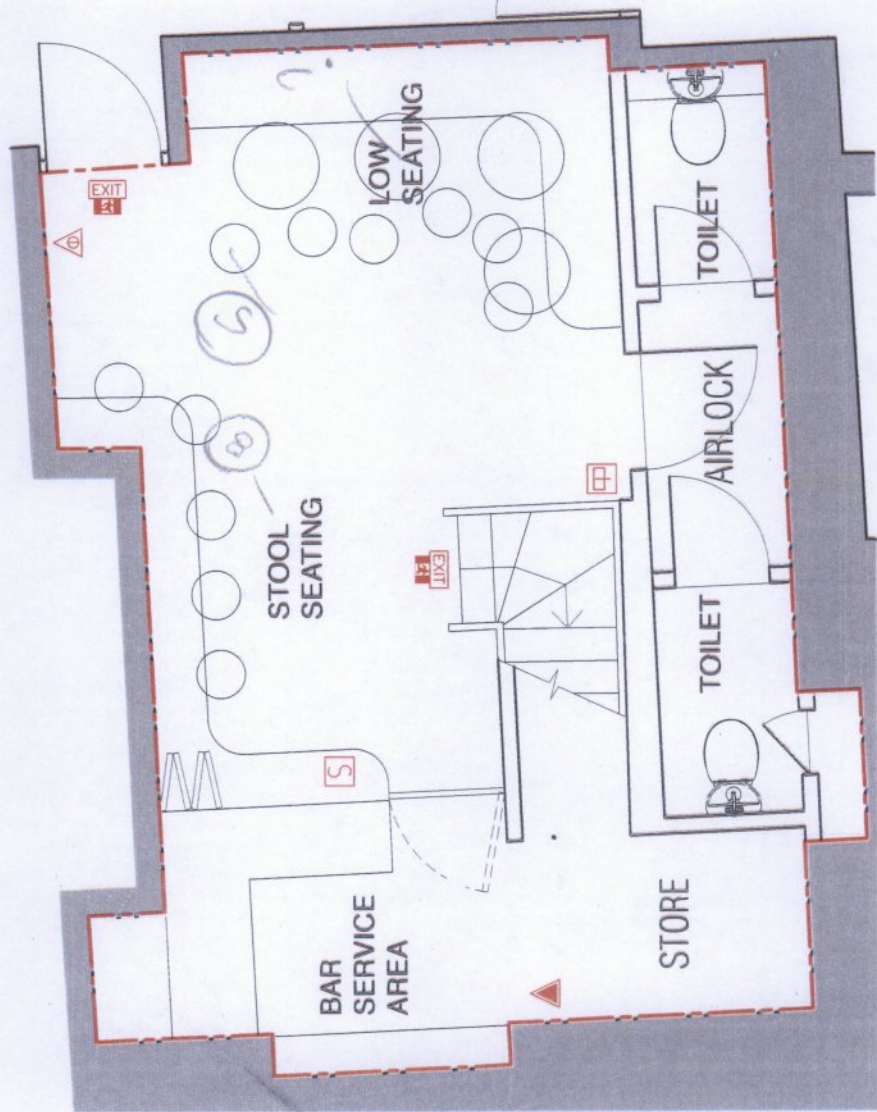
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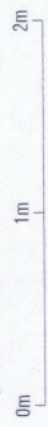
REVISION: DESCRIPTION:

DATE: BY:

CASE COPY
 2 APR 2013



	FIRE ALARM CALL POINT
	CARBON DIOXIDE FIRE EXTINGUISHER
	WATER FIRE EXTINGUISHER
	SMOKE ALARM
	EXIT SIGN



FROM THE DESK OF: **Biasol: Design Studio**
 biasol.com.au

PROJECT: **Licensing Plan - Basement**
 H043 Soho Grind: London

DRAWING: **R1 P012**
 19.06.2014

Scale: 1:50
Print Size: A4
Orientation: N

Drawn By: TN /
Checked By: JP / -
Authorised By:

PROJECT: Kaz James
 David Abrahamovitch
 19 Beak Street
 London

T: +61 3 9636 3951
M: +61 422 773 773
info@biasol.com.au

NOTES:
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