



LICENSING COMMITTEE - LICENSING HEARING
(SUB-GROUP A)

06 July 2011 at 10.00 am

COUNCIL CHAMBER - COUNCIL OFFICE

AGENDA

Membership:

Cllrs: Cllr. C Clark, Cllr. Mrs F Parkin and Cllr. A Pett

IMPORTANT INFORMATION

If an interested party (e.g. a parish or town council) has not made a "relevant representation" (section 18(6) and (7) of the Licensing Act 2003), it will not receive a notice of the hearing (Reg. 6(1) Hearings Regulations). The interested party will not, therefore be "a party to the hearing" (Reg. 2 Hearings Regulations). There will therefore be no right to address the hearing (Reg. 16 Hearings Regulations).

The above also applies to a Member i.e. if s/he does not make a "relevant representation" s/he will not be a "party to the hearing" and has no right to address the hearing unless appointed by "a party to the hearing" to assist or represent that party".

Would you please note that all the reports/information listed on this agenda are available from the Committee Services Team on request (01732 227241). Alternatively you can make an appointment to view the information at the District Council Offices by contacting the Licensing Manager on 01732 227325.

3. El Matador, 49 London Road, Sevenoaks (Pages 1 - 20)

Would Members please note that any further correspondence in relation to this application will be circulated before the meeting or tabled at the meeting.

**PROCEDURE AT HEARINGS OF SUB-COMMITTEES OF THE
LICENSING COMMITTEE ESTABLISHED IN ACCORDANCE WITH
SECTION 9 OF THE LICENSING ACT 2003**

1. In accordance with Section 9 (1) of the Licensing Act 2003, the Licensing Committee has resolved to establish one or more Sub-Committees each consisting of three members of the Committee.
2. The Sub-Committees have delegated authority to determine those functions that are reserved for decision by the Sub-Committees in accordance with Appendix B of the Council's Statement of Licensing Policy dated 7 January 2005.
3. Hearings shall be conducted in accordance with this Procedure Note and The Licensing Act 2003 (Hearings) Regulations 2005 subject to the right of the Sub-Committee to vary that procedure at their absolute discretion if considered in the public interest.
4. The quorum for a hearing of a Sub-Committee shall be three members.
5. At the commencement of each hearing the Sub-Committee shall elect one of its members as Chairman.
6. The order of business at hearings shall be:
 - (a) Election of Chairman
 - (b) Declarations of interests
 - (c) Chairman explains the procedure to be followed at the hearing, including the setting of equal time limits for all parties and the granting of adjournments.
 - (d) Chairman ascertains who is assisting or representing the parties.
 - (e) Applicant (or his/her representative) addresses the Sub-Committee
 - (f) Applicant questioned by members. At the discretion of the Sub-Committee, other parties may be permitted to question the Applicant.
 - (g) Persons who have made representations in respect of the application (or their representative) address the Sub-Committee. No issues other than those relevant to their representations may be raised.
 - (h) Members question each party at the conclusion of their address. At the discretion of the Sub-Committee, the Applicant may be permitted to question other parties.
 - (i) Sub-Committee may offer the parties a short adjournment to discuss in the absence of the Sub-Committee whether a solution acceptable to all the parties can be put to the Sub-Committee.
 - (j) Applicant (or his/her representative) makes closing address.

- (k) Sub-Committee may grant a short adjournment. The parties may not speak to members regarding the application during adjournments.
- (l) The Sub-Committee considers the application and motions put to accept or reject the application in the terms requested or to grant the application subject to specified conditions. Reasons are to be given for motions.
- (m) The parties will be informed of the decision at the hearing or thereafter in accordance with Regulation 26 of the 2005 Regulations.

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LICENSING COMMITTEE (HEARING) – 6 JULY 2011

**APPLICATION FOR A PREMISES LICENCE FROM THE EL MATADOR 49
LONDON ROAD, SEVENOAKS, KENT. TN13 1AR FOR APPLICATION UNDER THE
LICENSING ACT 2003**

APPLICATION REFERENCE NO: 11/00705/LAPRE

Report of the: Community and Planning Services Director

Status: For Decision

Portfolio Holder Cllr. Mrs Bracken

Head of Service Head of Environment & Operational Services – Mr. Richard Wilson

Recommendation: Members' instructions are requested

Background

- 1 The procedure for Hearings of Sub-Committees of the Licensing Committee established in accordance with Section 9 of the Licensing Act 2003 is attached at Appendix A.
- 2 The application is made by El Matador Limited, 49 London Road, Sevenoaks, Kent. TN13 1AR
- 3 The premises is a Spanish-Argentinian restaurant lounge serving tapas, steaks, pasta, pizza
- 4 The application is applying for live and recorded music, performance of dance, facilities for making music and dancing, sale of alcohol and late night refreshment.

The application is to:

Section E	To allow live acoustic music on Monday to Saturday 19:00 to 22:00 hours and Sunday 16:00 to 21:00 hours indoors.
On the Business Anniversary and New Year's Eve until 03:00 hours the following day.	

Item No. 3

Section F	To allow recorded music on Monday to Saturday 20:00 to 00:00 hours and Sunday 20:00 to 23:00 hours indoors.
On the Business Anniversary and New Year's Eve until 03:00 hours the following day.	
Section G	To allow performances of dance for Salsa, Tango, Flamenco show and teaching classes on Monday to Saturday 19:00 to 23:00 hours and Sunday 16:00 to 21:00 hours indoors.
On the Business Anniversary and New Year's Eve until 03:00 hours the following day.	
Section I	To allow the provision of facilities for making music on Monday to Saturday 19:00 to 22:00 hours and Sunday 16:00 to 21:00 hours Indoors.
On the Business Anniversary and New Year's Eve until 03:00 hours the following day.	
Section J	To allow the provision of facilities for dancing on Monday to Saturday 19:00 to 23:00 hours and Sunday 16:00 to 21:00 hours Indoors.
On the Business Anniversary and New Year's Eve until 03:00 hours the following day.	
Section L	To allow late night refreshment everyday from 23:00 to 01:00 hours indoors.
On the Business Anniversary and New Year's Eve until 03:00 hours the following day.	
Section M	To allow sale of alcohol everyday from 11:00 to 01:00 hours for consumption both on and off the premises.
On the Business Anniversary and New Year's Eve until 03:00 hours the following day.	
Section O	Hours premises are open to the public everyday from 08:00 to 01:00 hours.
On the Business Anniversary and New Year's Eve until 03:00 hours the following day.	

Item No. 3

The applicant intends to take the following action in order to promote the four licensing objectives if the proposed application is granted:

General

- 5 We will promote the licensing objectives in order to prevent under age drinking, violent and anti social behaviour, drunkenness on the premises and make provisions regarding irresponsible drinking.

The Prevention of Crime and Disorder

- 6 We will provide security and have a CCTV system indoors and outdoors. There will be an effective and responsible management team.

Public Safety

- 7 We will not exceed the occupancy of the premises. There will be a CCTV system. Suitable risk assessments will be carried out. The nature of the events/classes will be monitored.

The Prevention of Public Nuisance

- 8 We will restrict the hours of the events and music to 22.00hrs. The hours of operation will be limited. Good client management and responsible management of the premises.

The Protection of Children from Harm

- 9 Appropriate staff training will be carried out. A proof of age system will be in operation. Control of the nature of the events.

Representations received from statutory consultees:

Fire Safety	NO OBJECTIONS
Trading Standards	NO ADVERSE COMMENTS
Social Service	NO ADVERSE COMMENTS
Police	NO OBJECTIONS
Commercial	NO OBJECTIONS

Environmental Protection	SEE COMMENTS ATTACHED (Appendix B)
Development Control	SEE COMMENTS ATTACHED (Appendix B)

Representations received from interested parties:

10 Representations from 4 local residents and 1 Town Council (Appendix C).

Conclusions

11 Without prejudice, the Officer would like to draw to Members attention issues that they may wish to consider:

12 Mandatory conditions – the following conditions will be added to the premises licence when it is issued.

The supply of alcohol

Where a premises licence authorises the supply of alcohol, the licence must include the following conditions:-

No supply of alcohol may be made under the premises licence -

(a) at a time where 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.

Every supply of alcohol under the premises licence must be made or authorised by a person who holds a personal licence.

Mandatory Conditions in force from 06 April 2010

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.

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 -

Item No. 3

(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.

2. 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).

3. The responsible person shall ensure that free tap water is provided on request to customers where it is reasonably available.

4. 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.

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.

5. 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.

The decision is to be made with regard to the Licensing Act 2003, Secretary of State's Guidance issued under Section 182 of the Act and the Council's Statement of Licensing Policy. Where the decision departs from the Policy or Guidance the departure must be directed solely at the attainment of the licensing objectives, and such departure must be supported by clear and cogent reasons.

Sources of Information: <http://www.culture.gov.uk/alcohol> and entertainment

Contact Officer(s): Mrs. Claire Perry Ext. 7325

**KRISTEN PATERSON
COMMUNITY AND PLANNING SERVICES DIRECTOR**

RISK ASSESSMENT STATEMENT

This Hearing is regulated by The Licensing Act 2003 (Hearings) Regulations 2005 No. 44.

The decision of this Hearing will be encompassed within the issued premises licence, and the licence will take effect on the 06 July 2011 subject to any appeal to a Magistrates Court or higher Court.

Response from Development Control, Planning – 18.05.11, Aaron Hill

Planning permission was granted for the 49 London Road to be used for a A3 restaurant (reference SE/05/01830/FUL). This was subject to quite a few conditions (22 in total) and quite a few relate to protecting the residential amenity of neighbouring properties:

Condition 10: Controlling noise

Condition 11: Hours of opening

Condition 12: Hours of commercial deliveries and waste collection

Condition 14: No live music or pre-recorded music shall be played outside the building;

Condition 19: windows in the north and east elevation to be acoustic glazing

Condition 20: internal glass bottle store

Condition 21: No external plant - i.e., air conditioning units shall be installed without prior approval

Condition 22: A scheme for acoustic insulation of the floor to protect first floor flats

Therefore it is quite clear that the need to residential amenity of neighbouring properties and operation of the premises was tightly controlled.

Planning permission was further granted in 2007 to extend the opening hours (condition 11) to the following:

The premises shall not be open for customers or potential customers outside the following hours: 0830 - 24.00 Mondays to Saturdays and 1000 - 2300 Sundays and Public Holidays. The external seating area shall not be used outside the hours of 08:30 - 22:00 Monday to Saturday and 10:00 - 22:00 Sundays and Bank Holidays.

In the interests of the amenities of the area and of the occupants of the first floor flats in accordance with policies EN1 and S6 of the Sevenoaks District Local Plan.

A further planning application was made to extend the opening hours until 1am, however this application was consequently withdrawn.

The licensing application seeks to allow various activities to continue until 1am on a daily basis and occasionally until 3am. I am concerned that the proposed extended hours will tip an already finely balanced site/circumstances to the detriment of the residential amenity of the nearby dwellings due to noise disturbance.

I hope this helps

Aaron Hill
Development Control South Team Manager

Response from Environmental Protection – 16.06.11, Nick Chapman

I refer to the above application which has been passed to the Environmental Protection Team for comment.

The Environmental Protection Team has already received several complaints regarding the activities at this premises and whilst unrelated to the premises licence highlight the sensitivity of the area in which the business operates.

Having reviewed the application I am concerned about the potential for nearby residents to be subjected to excessive noise disturbance from the proposed activities at this premises, particularly those residences to the rear of the premises and the flats above.

With consideration to the licensing objective of preventing public nuisance I would therefore ask that the following conditions be imposed:

- 1, All external doors and windows must be kept closed, other than for access and egress, in all rooms when regulated entertainment occurs.
- 2, When regulated entertainment occurs the lobby doors shall be kept closed other than for access and egress.
- 3, No regulated entertainment should occur in the external areas of the premises.
- 4, Disposal of waste bottles into external receptacles must not occur between 22:00 and 08:00 hours.
- 5, The external seating area shall not be used after 22:00 hours.
- 6, The external area adjacent to the north of the building on Lime Tree Walk shall not be used after 22:00 hours or when regulated entertainment is taking place within the ground floor rooms.

In addition the application seeks to extend the activities at the premises until 1am on a daily basis and on occasion to 3am . I understand that current planning consent restricts the opening hours of this premises to 00:00 Mondays to Saturdays and to 23:00 on Sundays and Public Holidays. I consider that these hours should be adhered to in order to prevent further detriment of the residential amenity due to noise disturbances.

Finally, whilst I understand that applicant does not intend to have regulated entertainment in the external areas, the Environmental Protection team have received complaints regarding the playing of background music in the forecourt area. The applicant should therefore ensure that the external speaker system has a suitable and separate control system independent to the internal sound system and that sound levels in this area are monitored to ensure that they do not constitute regulated entertainment. It is the opinion of the Environmental Protection team that any external music should be stopped at 22:00 hours.

Appendix C

Claire Perry

From: Liz McLaren [spursliz@yahoo.co.uk]
Sent: 27 April 2011 16:41
To: Claire Perry
Subject: 49 London Road

Dear Mrs Perry

49 London Road

I have spoken to Mr Gorham at the council with problems in the final construction of this building - El Matador bar and restaurant - he gave me your email as the person to address my concerns to about the licensing application for 49 London Road.

I would like to object most strongly to a drinks license being granted from 08.30 until 01.00 every day except Sunday and also until 23.30 on Sundays. Whilst the front of the building is on the main road, the rear is within Lime Tree Walk, and there are 40 private, family homes and two blocks of flats from within a few yards of their doorstep. We are in a conservation area, and it is very quiet here. The children go up and down to primary school along the road, and there is very little other traffic. There has never been a requirement for a bar to be open in Sevenoaks from this time and stay open all day and I don't believe there is now.

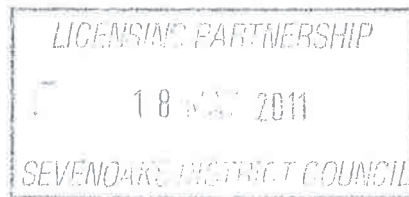
I would be most grateful if you could give my comments consideration when you are looking at this license.

Yours sincerely

Liz McLaren
8 Lime Tree Walk
Sevenoaks
TN13 1YH

31 Lime Tree Walk
Sevenoaks
Kent TN13 1YH

Licensing Section
Sevenoaks District Council
Argyle Road
Sevenoaks



16 May 2011

Dear Sir/Madam,

OBJECTION TO LICENCE APPLICATION AT 49 LONDON ROAD

Your Ref: 11/00705/LAPRE

We wish to make representation in respect to the application for a licence to supply alcohol and refreshment at 49 London Road , Sevenoaks.

If the licence is granted, it will impact immeasurably on the neighbouring area. Although the applicants address is London Road, the premise aligns onto Lime Tree Walk. The area in the back of applicant's premises is quiet and lies quite literally in the middle of residential properties, only metres from their front doors. The adjacent narrow section of Lime Tree Walk is also heavily used by local residents gaining access to the town centre and is also one of the main walking routes to St. Thomas Primary school. The rear and side of applicant's building is exposed to the general public, therefore this area is more susceptible to disorder and public nuisance.

Crime and disorder increases in areas where licensed premises are opened and offences such as public drunkenness, anti-social behaviour and violent offences increase. This will be a potential problem on Lime Tree Walk as it is narrow, quiet and dark. Security personnel and CCTV will do little to prevent crime and disorder or protect public safety in the vicinity outside the applicant's premises.

There is likely to be considerable noise from the premises as people arrive at and leave the venue. I have seen employees of the establishment in back of the building dealing with rubbish and smoking.. Presently, the applicant's rubbish bins are exposed to public view at the back of the building. The sight of these bins, often to over capacity, is not pleasant. Seeing employees smoking out back is also annoying and objectionable and sends wrong messages to children. The proposed late hours (01:00) of the applicant will exacerbate the noise from this area. Noise will carry on even later into the early morning as employees clean up after closing time.

The applicant's proposed operating schedule has dance and live music until 23:00 with alcohol and late night refreshment until 01:00. El Matador promotes itself as a restaurant and lounge with culture attractions, but at night it will become a drinking bar attracting patrons specifically to get intoxicated. The effects of alcohol on society are well known and unfortunately binge drinking has not been curbed by increasing licensing hours as thought.

On the license application there are provisions for seasonal variations and non standard hours and the applicant requests 'business anniversary' hours until 03:00. The request for this late hour, which could apparently happen on any day of the week, jeopardizes local resident's welfare and could easily be subject to abuse.

The proposed hours for supply of alcohol until 01:00 would be the latest of any restaurant or pub in Sevenoaks and the applicant request 01:00 every day of the week. The approval of this license will have unacceptable consequences of disorder and nuisance put upon the neighbourhood. The licensing council is obligated to protect the quality of life of local residents by rejecting this application. We are of the view that the applicant has failed to meet the licensing objectives and the proposed licence should be refused.

Yours faithfully,



Patricia
John and Patricia Tutten.

Sylvia Lewis

From: c-c-goodall@tiscali.co.uk
Posted At: 05 May 2011 20:22
Conversation: El Matador, @ 49 London Road.
Posted To: Licensing (Licensing@sevenoaks.gov.uk)
Subject: El Matador, @ 49 London Road.

Dear Sir's,

I am contacting you with regards to Saturday 30th of April, and the fact that El Matador customers were using the residential road I live in, 'Lime Tree Walk', as a Taxi bay to drop off, and pick up people until after 1am in the morning.

Niether the customers, nor those picking them up, had any consideration for the fact that they were using a residential road at 1am; where people were trying to sleep, as a pick up, and drop off zone.

They were extremely loud, with cars coming, and going, into the early hours, engines revving, car doors being slammed, people being loud, and thoughtless, not giving a damn that people were trying to sleep.

I have long term poor health, that requires a good nights sleep to help my body recover from the damage , and I will not accept months of being kept awake by drunk, loud, thoughtless customers leaving El Matador, when they could park in Blighs car park, and not affect a residential area.

Don't bother trying to make excuses, by saying no one else has complained, no one will, as they all know it's like flogging a dead horse, when the people you complain to, are the ones who own the resturants.

Yours tired, and utterly fed up.

Ms Clare Goodall

Appendix C

Janet Lockie

From: Planning [planning@sevenoakstown.gov.uk]
Posted At: 17 May 2011 12:07
Conversation: Sevenoaks Town Council's comments on El Matador Licensing application 1100705/LAPRE
Posted To: Actioned emails
Subject: Sevenoaks Town Council's comments on El Matador Licensing application 1100705/LAPRE
Importance: High

Please find attached The Town Council's comments on this application (El Matador Licensing application 1100705/LAPRE).

Sevenoaks Town Council would like to make the following representation concerning the application for the application for the premises licence for El Matador 49 London Road Sevenoaks on the grounds that the proposed hours would adversely affect the amenities of the residents in neighbouring and adjoining properties and thereby contravenes the objective of prevention of public nuisance.

The Town Council recommends:

- i). Live music to finish at 22:00 Mon-Sat and 21:00 on Sundays. New Year's Eve and Business Anniversary extension be restricted to 01:00am.
- ii). The same restriction as above be applied to recorded music, dance, provision of facilities for dancing and entertainment of a similar description.
- iii). Late night refreshment to finish by midnight [00:00] Mon to Sat and 23:00 on Sundays. New Year's Eve and Business Anniversary extension to be restricted to 01.00am.
- iv). Supply of alcohol to finish by Midnight [00:00] Mon to Sat and 23:00 on Sundays
- v). Premises be open to the public from 08:00 to midnight [00:00] Mon to Sat and 10:00 to 23:00 Sundays
- vi). No music permitted outside the building
- vii). A noise attenuation survey be undertaken and noise control levels put in place
- viii). A condition be imposed ensuring doors and windows are kept closed
- ix). Notices be displayed requesting customers to be quiet and considerate when leaving the premises

The Town Council requests that these restrictions be imposed to prevent public nuisance to the large number of residential properties in Lime Tree Walk and Victoria Road

Regards,

Hugh D'Alton
 Committee Clerk

Sevenoaks Town Council
 Town Council Offices
 Bradbourne Vale Road
 Sevenoaks
 TN13 3QG

Tel : 01732 459953

Email : Planning@sevenoakstown.gov.uk

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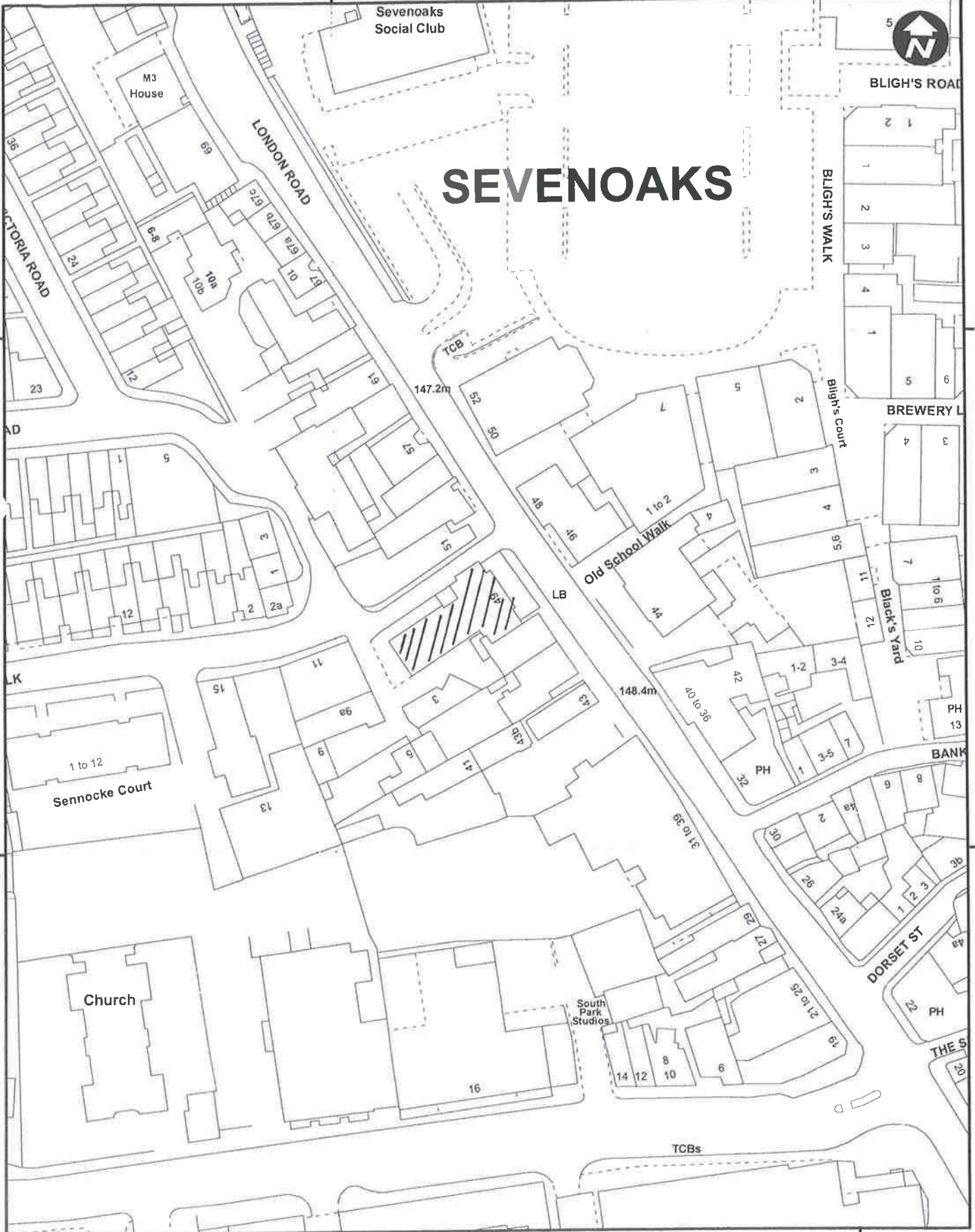
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 Sevenoaks District Council, 100019428, 2011

Scale: 1:1,000

Date: 20/06/2011

El Matador, 49 London Road, Sevenoaks, Kent, TN13 1AR

