LCA/292/2008

LANDS TRIBUNAL ACT 1949

COMPENSATION – stop notice – basement bar and first floor restaurant – period and level of lost rent from basement – whether rent lost from first floor as result of stop notice – whether other claimed consequential losses established – compensation of £70,430.32 awarded.

IN THE MATTER OF A NOTICE OF REFERENCE

BETWEEN	**SHOPSEARCH UK LIMITED**	**Claimant**
	and	
	LONDON BOROUGH OF GREENWICH	**Compensating Authority**

Re: 234 Trafalgar Road
Greenwich
London
SE10 9ER

Before: N J Rose FRICS

Sitting at 43-45 Bedford Square, London, WC1B 3AS
on 21-23 April 2009

Mr Ivor Andrews, with permission of the Tribunal, for the Claimant
Neil Cameron QC, instructed by Watmores, solicitors, for the Compensating Authority

The following cases were referred to in argument:

International Traders Ferry Ltd v Adur District Council [2004] EWCA Civ 288
Sample (Warkworth) Ltd v Alnwick District Council (1984) 48 P & CR 474
Graysmark v South Hams District Council [1989] 03 EG 75
Lagden v O'Connor [2004] 1 AC 1067
The Liesboch [1933] AC 449

DECISION

1. This is a reference to determine the amount of compensation which the claimant, Shopsearch UK Limited, is entitled to receive from the compensating authority, the London Borough of Greenwich, under sections 171H(4) and 186(2) of the Town and Country Planning Act 1990 (the 1990 Act), directly attributable respectively to the prohibition effected by a temporary stop notice dated 10 November 2006 and to the prohibition contained in a stop notice dated 8 December 2006 served on the claimant by the compensating authority. An enforcement notice was also served on 8 December 2006, but was quashed on appeal on 29 October 2007 on grounds other than those mentioned in paragraph (a) of section 174(2) of the 1990 Act.

2. On 11 February 2005 the claimant acquired a lease of part of premises known as 234 Trafalgar Road, Greenwich, London, SE10 9ER. The term of the lease was 125 years from 29 September 1999. On 7 November 2005 a premises licence was granted by the compensating authority under the provisions of the Licensing Act 2003. The postal address of the premises was shown as The Plaza, S Bar and Restaurant, 234 Trafalgar Road. The holder of the premises licence was the claimant and the designated premises supervisor (DPS) was the claimant's sole director, Mr Ivor Andrews.

3. On 4 May 2006 the claimant applied to vary the premises licence. The application was approved on 14 July 2006. The postal address of the premises was on this occasion shown as Caffrey's Sports Bar, 234 Trafalgar Road. The holder of the licence and the DPS remained unchanged.

4. On 10 November 2006 the compensating authority issued a temporary stop notice pursuant to section 171E(2) of the 1990 Act. The notice related to "the basement premises at 234 Trafalgar Road, Greenwich, London SE10 ('the Premises') as shown with a thick black line on the plan attached to this Temporary Stop Notice ('the Plan')". The activity which the compensating authority thought amounted to a breach of planning control was: "the carrying out of development by the material change of use of the Premises from a use which is ancillary to the office use and betting office on the first floor and ground floors of the Premises respectively, to use as a bar and lap-dancing club without Planning Permission or other Lawful Authority ('the Activity')." The requirement specified in the notice was: "Cease all the Activity specified in this Temporary Stop Notice." The basement bar was ready to open on 10 November 2006. It was not opened as a result of service of the Temporary Stop Notice.

5. On 8 December 2006 the compensating authority issued an enforcement notice under the provisions of section 172 of the 1990 Act. The land to which the enforcement notice related was: "Basement and premises at 234 Trafalgar Road, Greenwich, London SE10 known as Caffrey's Sports Bar ('the Basement') shown edged with a thick black line on the attached plan ('the Plan')." The breach of planning control alleged was: "Without planning permission the material change of use of the Basement from a mixed betting office/retail/residential use/parking use to a use as a bar and lap-dancing night club." The requirement specified in the notice was: "Within a period of one month after this Notice takes effect: Cease the use of the

Basement for the purposes as a bar within class A4 of the Use Classes Order 1987 (as amended) and as a night club, a sui generis use."

6. On 8 December 2006 the compensating authority also issued a stop notice. The land to which the notice related was: "The basement of premises at 234 Trafalgar Road, Greenwich, London SE10 known as Caffrey's Sports Bar (the 'Basement') shown edged with a thick black line on the attached plan ('the Plan')." The activity to which the notice related was: "Without planning permission the material change of use of the Basement from a mixed betting office/retail/residential use/parking use to a use as a bar and lap-dancing night club." The requirement specified in the notice was: "Cease the use of the Basement for the purposes as a bar within Class A4 of the Use Classes Order 1987 (as amended) and as a night club, a sui generis use."

7. The claimant appealed against the enforcement notice on the grounds specified in section 174(2)(b), (c) and (f) of the 1990 Act. On 29 October 2007 the inspector appointed to determine the appeal allowed it on ground (b), to the extent that she corrected the enforcement notice by deleting the words "lap-dancing club". The inspector allowed the ground (c) appeal and quashed the enforcement notice. On 16 November 2007 the compensating authority informed the claimant that it would not be challenging the inspector's decision and that the basement could be used for an A4 use, but not as a night club.

8. At the hearing before me Mr Andrews appeared on behalf of the claimant with permission of the Tribunal. He gave factual evidence and called, as expert witness, Mr Trevor M Watson BSc, MBA, FRICS, director of valuations of Davis Coffer Lyons. Mr Neil Cameron QC appeared for the compensating authority. He called expert evidence from Mr Howard Day FRICS, MAE, principal of Howard Day Associates. Both experts specialise in providing property advice to the leisure sector.

Facts

9. From the evidence I find the following facts. The claimant's leasehold interest relates to the front sections of the basement, ground and first floors of a converted cinema building, lying on a busy main road (the A206) between Greenwich town centre and the A102. Most of the remainder of the building has been converted to residential flats. Maze Hill and Westcombe Park railway stations (to London Bridge) are both within five minutes walk. Greenwich station and Maritime Greenwich station (Docklands light railway) are both within about 15 minutes walk. The building is situated in a mixed use area in a prominent corner position at the junction of Trafalgar Road and Vanbrugh Hill. At the date of service of the temporary stop notice the ground floor was sub-let to Ladbrokes Limited, who occupied it as a betting office. The basement, with a gross internal area of approximately 1,880 sq ft, was fitted out as a sports bar with some pole and table dancing. (Mr Andrews explained that such use is different from lap dancing as alleged in the stop notice and the enforcement notice and that he had no intention to operate a night club). The first floor, of approximately 2,600 sq ft, was partly fitted out as a restaurant.

10. Shortly after it acquired the head leasehold interest, the claimant instructed Allsop and Co to offer it for sale by auction on 22 March 2005, subject to the existing sub-lease to Ladbrokes and to proposed sub-lease backs of the basement and first floors. The sale was unsuccessful.

11. The claimant intended to commence trading in the basement at 5pm on 10 November 2006, under the name of Caffrey's Sports Bar. It had advertised the proposed opening in the press and in e-mails to previous customers of other properties owned and/or operated by Mr Andrews, who had since 1974 successfully run more than thirty licensed premises.

12. In July 2006 Mr Andrews had attended a meeting in Bromley with Ms Julie Harrison, who had worked at two of his previous premises and Ms Samantha Quick, together with their respective solicitors. Following that meeting, on 24 July 2006 Mr Andrews wrote to confirm his offer to grant a new sub-lease of the basement bar to Ms Harrison and Ms Quick. The offer was subject to contract and no sub-lease was ever completed. However, following the meeting the two ladies gave notice to their respective employers. They obtained their BII (British Inn Keeping Institute) qualification on 9 October 2006. It was intended that their new lease would be completed during the first week of the bar's opening and that they would then obtain personal licences and replace Mr Andrews as the DPS.

13. Ms Harrison and Ms Quick were present at the subject premises, together with other staff when, at 4.32pm on 10 November 2006, officers of the compensating authority attended at the property, affixed a site notice stating that a temporary stop notice had been served, and advised that failure to comply could attract a maximum penalty of £20,000.

14. Ms Harrison and Ms Quick then remained without work for some time. They eventually obtained alternative employment overseas.

15. The claimant had had a banking relationship with HSBC Private Bank since 2004, during which time it received a range of funding facilities within the context of a wider private banking relationship. When the claimant informed HSBC about the stop notice, all further funding was suspended until the matter could be resolved. The stop notice ceased to have effect when the claimant's appeal against the enforcement notice was upheld in November 2007. The effects of the "credit crunch" of summer 2007, however, made it difficult for HSBC and other lenders to provide facilities which were related to commercial property. As a result, it has proved hard for the claimant to obtain additional funding.

16. The claimant traded briefly in the basement during October and November 2008 and intends to re-open again in the near future. The fitting out of the first floor as a restaurant has not been completed.

Issues

17. The issues arising in this reference are as follows:

1. The period during which the claimant is entitled to loss of rent for the basement and the quantum of such loss.

2. Whether the claimant is entitled to loss of rent for the first floor. If so, the period and quantum of such entitlement.

3. Whether the claimant is entitled to reimbursement of legal costs incurred in connection with the enforcement notice appeal.

4. The amount of compensation payable in respect of printing and advertising costs.

5. The amount of compensation payable in respect of stock losses.

6. Whether the claimant is entitled to compensation for damage to its reputation and, if so, how much.

7. Whether the claimant, Ms Harrison and Ms Quick are entitled to punitive damages for the way they were forced to close the premises and, if so, how much.

8. Whether compensation is payable in respect of payments of £26,000 allegedly due to Ms Harrision and Ms Quick.

I consider each issue in turn.

Issue 1 – Over what period is the claimant entitled to be compensated for loss of rent for the basement and at what rate?

18. The claimant sought loss of rent from the basement for the period from 10 November 2006, when the temporary stop notice was served, until a date twelve months after 16 November 2007, when it was told that it could commence trading. The experts broadly agreed that, if the basement had been offered to let on the open market towards the end of 2007, it would have taken between 6 and 9 months to secure a letting and been necessary to grant a rent free period of about 3 months. The compensating authority, however, contended that it was not necessary to wait for the premises to be occupied under a formal tenancy agreement. Mr Day thought that the bar could have opened almost immediately under new management following the appeal decision. Mr Andrews said that it was never the claimant's intention to operate the premises under management, because it did not have the facilities or administration to do so. Mr Watson could see no reason why the basement could not have started trading relatively quickly under new management immediately after the appeal decision. He considered, however, that it would not have been possible to open in time to benefit from the busy pre-Christmas trading period. There would have been no point in opening in January or February

2008, since trade was always very poor in those two months. He considered that the earliest realistic opening date was 1 March 2008. In the course of cross examination Mr Day repeated his view that the basement could have been opened almost immediately, but he added "whether it would be wise to do so is another question." I accept Mr Watson's evidence on this issue. Compensation is therefore payable for loss of rent between 10 November 2006 and 29 February 2008 – a total of 68 weeks.

19. I now consider the amount of rent which has been lost. Mr Andrews relied on his letter to Ms Harrison and Ms Quick dated 24 July 2006, which he said set out the basis upon which, in the absence of the stop notices, the basement would have been occupied. Where material it read as follows:

> "Shopsearch is the company which owns the virtual freehold of the premises in Greenwich.
>
> Shopsearch is willing to grant to you a leasehold interest of the [basement] bar which is now fully licensed, fully refurbished and ready for trading ...
>
> The basic rent proposed is £400 a week (£20,800 per annum) which will apply until the first rent review in three years time but this rent can only be increased in line with market rents at that time and from past experience we would not expect the rent to increase more than 10% – 15%.
>
> The turnover rent is calculated at 10% of the gross sales and as you know I am predicting that the very minimum weekly takings would be £8,000 and that is without private hire fees on Saturday night and gaming machine profits.
>
> I propose that the normal hours of trading are 11am until 9pm Mondays to Fridays leaving Saturdays available for private hire if you wish to do this. Upon these hours of trading with weekly takings of £8,000 it will leave you with £3,719 per week available for your wages and profit. Even if you were only taking £5,000 a week it still provides £2,059 per week for wages and profit.
>
> As I am so confident that you will easily achieve the £8,000 per week takings figure I am willing to guarantee to you, that the first 13 weeks, that you will achieve a minimum of £2,000 per week for your wages and profit...
>
> If the two of you decide to proceed I would suggest that you take on the lease in a separate company which Paul Mestrey [the ladies' solicitor] could acquire for you (for approximately £250) but alternatively I have available a company called Roy Stuart (Racing) Limited which has not yet traded. You are welcome to have this company free of charge and I would suggest that you divide the shares equally ... I trust the two of you will now wish to proceed with this project because I believe you will be extremely successful and your success is obviously to my benefit particularly by way of the turnover rent.
>
> I look forward to hearing from you."

20. Mr Cameron emphasised that this letter was marked "subject to contract". He pointed out that the only draft lease to Roy Stuart (Racing) Limited which had been drawn up by the claimant's solicitors was for a term of 15 years at a fixed rent of £36,000 per annum, subject to upwards only reviews at 5 yearly intervals. It contained no provision for a turnover rent.

21. Mr Andrews argued that, although some of the correspondence was marked "subject to contract",

> "there was never, at any time, any thought by the Claimant to renege on, or withdraw from the most fair and reasonable (to both sides) business opportunities which had been offered to its sub-tenants."

22. Mr Andrews also relied on witness statements signed by Ms Harrison and Ms Quick. They were in virtually identical form. Ms Harrison stated that

> "in early 2006 I agreed with Mr Ivor Andrews of Shopsearch UK Limited that myself and my business partner Samantha Quick would rent from Shopsearch UK Limited the basement premises of 234 Trafalgar Road, Greenwich, London, SE10 9ER at a rental of £400 per week plus a turnover rent calculated at 10% of net weekly takings."

23. I attach little weight to these written statements. Both were dictated by Mr Andrews and neither author was available for cross examination. The reference to an agreement in early 2006 is inconsistent with the offer letter which was sent by Mr Andrews on 24 July 2006. Nevertheless I find that, having given up their previous employment, obtained the BII qualification and attended at the premises on opening day, the two ladies were committed to the new enterprise. Mr Watson described a lease with a turnover rent as being "relatively uncommon and unconventional" and he said that there were no such leases of similar premises in Greenwich town centre or Blackheath. I accept that evidence. I find that, if the stop notices had not been served, Ms Harrison and Ms Quick would have entered into a lease along the lines of the solicitor's draft at £36,000 per annum (or £692.30 per week) from 10 November 2006 with five yearly rent reviews.

24. I have found that the claimant is entitled to lost rent until 29 February 2008. I consider, however, that in addition it would have continued to suffer a rental short-fall after that date. The reason is as follows. In the absence of a stop notice, the claimant would have continued to receive rent at the rate of £36,000 per annum until at least the first rent review date, that is on 10 November 2011. I have also found that it could have traded in the basement, under management, with effect from 1 March 2008. Mr Watson estimated the rental value of the basement at £30,000 per annum and Mr Day's figure was £31,000. They agreed that the difference between the two figures was well within the acceptable margin of error. I conclude that the rental value on 1 March 2008 was £30,500 per annum. The claimant has therefore lost an additional £5,500 per annum (£36,000 minus £30,500) from 1 March 2008 until the first rent review date in the notional lease – that is 10 November 2011.

25. The total loss of rent is therefore £67,384.24, calculated as follows:

10 Nov 2006 to 29 Feb 2008	– 68 weeks at £692.30 per week	=	£47,076.40
1 Mar 2008 to 10 Nov 2011	– 192 weeks at £105.77 per week	=	£20,307.84
			£67,384.24

26. I have not overlooked the fact that the basement would have produced a greater weekly return under management than if it were leased to another operator. The experts explained, however, that much of the difference between the two figures represents a return for risk and management time. Since neither of these was in fact incurred by the claimant, it is not appropriate to reflect them in the compensation calculation.

Issue 2 – Is the claimant entitled to compensation for loss of rent from the first floor restaurant? If so, what is the period of such entitlement and the level of rent that was lost?

27. Mr Andrews said that the proposed tenants of the first floor were Miss Louise Dyer, formerly his general manager, and Mr Mark Stacey, to whom she is now married. Miss Dyer already had her BII certificate and her personal licence. The intention was that she would also become a named DPS on the licence, which covered both the basement and first floor premises as well as ground floor entrances and fire escapes. The refurbishment of the building was being carried out in two stages, with the basement opening first. The cash flow generated by the basement would then fund the completion of the works to the first floor. In the event it proved impossible to proceed with the refurbishment of the first floor in the absence of any income from the basement or funding from a bank. Moreover, the compensating authority's position was that the use of the first floor had changed from bar/restaurant to offices.

28. Mr Cameron submitted that the claimant's case had not been made out on the facts. I accept that submission for the following reasons. Miss Dyer was not called to give evidence. In a witness statement dated 24 August 2008, however, she stated that, in late 2004, she and Mr Stacey had agreed that they would rent the first floor at a basic rent of £500 per week plus a turnover rent of 10% of net weekly takings. A letting memorandum to that effect was produced. It was dated 1 December 2004 and marked "subject to contract". Although these heads of terms were drawn up in December 2004, the fitting out had not been completed by November 2006. In my judgment, if a firm agreement had been reached with Miss Dyer and Mr Stacey in December 2004, it is to be expected that the premises would have opened for business within the following two years, but they did not. In a letter dated 23 September 2008 the compensating authority's solicitors asked Mr Andrews to supply any subsequent correspondence with Miss Dyer or any other interested parties relating to a lease or licence in respect of the premises as well as a copy of any lease or licence which may have been entered into. Mr Andrews did not do so. In the course of cross-examination he was again asked to produce these documents. He then produced a letter from the claimant to Miss Dyer dated 25 January 2005, an e-mail from Miss Dyer to Mr Andrews dated 15 July 2005 and a further e-mail from Miss Dyer to Mr Andrews dated 24 August 2005. None of these documents

demonstrate that any agreement was reached between Shopsearch and Miss Dyer or any company controlled by her.

29. Moreover, in a letter dated 25 May 2006 to the compensating authority as local planning authority, Miss Nicola Barnard of Farnleigh & Co, acting on behalf of the claimant, said:

> "All three floors of bar/restaurant use originally comprised 8029 sq ft. The ground floor comprising 2597 sq ft has now been removed and is a Ladbrokes betting office. It is now proposed to remove the first floor (3057 sq ft) which will become offices. All that will remain is the basement which comprises 2375 sq ft."

30. The fact that, by mid 2006, the claimant had decided not to proceed with restaurant use on the first floor is supported by the inspector's decision letter dated 6 March 2007 on an appeal against the refusal of planning permission for educational use (use Class D1) of the first floor. The inspector had visited the site on 20 February 2007. He stated, at para 3:

> "I understand that, as a result of marketing the premises as offices, enquiries have been made about possible educational uses within Use Class D1 and this has led to the present proposal."

31. I am satisfied that, by the time the temporary stop notice was served, the proposal to use the first floor as a restaurant had been abandoned. It follows that the claimant suffered no loss of rent and/or turnover rent in relation to those premises as a result of the service of the temporary stop notice and/or the stop notice.

Issue 3 – Is the claimant entitled to reimbursement of legal costs incurred in connection with the enforcement notice appeal?

32. The claimant claimed £25,181.90, being the total legal fees paid to his solicitors, Messrs Charles Russell, between December 2006 and June 2007. Mr Andrews submitted that these fees resulted directly from the issue of the stop notices. He said that, had a mere enforcement notice been served, he would have handled the appeal without legal advice, as he had done in the past.

33. Mr Cameron emphasised that the legal costs were incurred in pursuing an appeal against an enforcement notice, not the stop notices, since there was no statutory right to appeal against the latter. The claimant had made an application to recover the costs of the enforcement notice appeal and that application had been rejected by the inspector.

34. I accept Mr Andrews's evidence that, on previous occasions, he or his companies have appealed against enforcement notices without the benefit of legal advice. I am not satisfied, however, that he would have done so in the present case, if the compensating authority had served an enforcement notice without a stop notice. His company had incurred considerable expenditure in fitting out the basement. It decided to seek detailed legal advice in order to

ensure that its appeal against the enforcement notice was conducted properly. I am not persuaded that it would have acted differently if the enforcement notice had not been accompanied by a stop notice. It follows that the costs incurred in pursuing the enforcement notice appeal were not directly attributable to the prohibitions effected by the temporary stop notice or the prohibitions contained in the stop notice. The claim for legal costs therefore fails.

Issue 4 – How much compensation is payable for abortive printing and advertising costs?

35. Mr Andrews said that the claimant spent £4,913.09 on printing and advertising the basement bar shortly before the planned opening date and this had all been wasted. The principle of this claim was accepted by the compensating authority. In the course of cross-examination, however, Mr Andrews accepted that he had included some items in error. The sums claimed included VAT and Mr Andrews conceded that the claimant was registered for VAT and thus could have reclaimed the tax. I find that compensation is payable in respect of wasted expenditure totalling £2,964.10 net of VAT, calculated as follows:

T and C Printers	£ 356.60
The Stage	£ 160.00
Canary Wharf City Life	£ 997.50
E1 City Life	£1,000.00
Limited Edition	£ 200.00
E-mail Centre	£ 250.00
	£2,964.10

Issue 5 – What compensation should be paid for stock losses?

36. The total amount claimed under this heading was £1,773.60. Mr Cameron submitted that there was no evidence to support this claim, other than a handling charge of £81.98 for returning wines and champagne. I accept that submission and award £81.98.

Issue 6 – Is the claimant entitled to compensation for damage to its reputation and, if so, how much?

37. The sum of £50,000 was claimed for damages to the claimant's reputation. Mr Andrews said that the closure of the premises was widely publicised in the local press and on the internet. As a result there was now a certain stigma attached to the "Caffrey's" and "Shopsearch" names. Mr Cameron submitted that there was no evidence that the claimant had suffered any damage to its reputation. Even if such damage were established there was no evidence of any financial loss arising as a result. I accept those submissions. The claim for

damage to reputation has not been made out. It is therefore not necessary for me to decide whether Mr Cameron was right to suggest that compensation for any such loss cannot be awarded because it arises from the claimant's impecuniosity or because it is too remote.

Issue 7 – Are the claimant and/or Ms Harrison and Ms Quick entitled to punitive damages because of the way the premises were closed down?

38. Mr Andrews asked the Tribunal

> "to consider some form of punitive damage compensation in respect of the heavy handed and inappropriate way in which the Council closed down our premises even before they had opened. The shock and stress caused to Julie and Samantha was considerable and they became out of work for more than three months".

39. Mr Andrews added that, on 27 July 2006 he was telephoned by PC Kidd, the Greenwich Police licensing officer. He was told the Cllr Roberts, the leader of the council, who was also a ward councillor, was "livid" that a licence had been granted to the claimant. He had spoken to PC Kidd's Chief Inspector and Superintendent. PC Kidd had told them that the licence application was in order and that the police did not have any grounds to object to it. Mr Andrews alleged that Cllr Roberts had given instructions for the stop notices to be issued "irrespective of the correct planning procedures."

40. Mr Cameron submitted that PC Kidd's version of his telephone conversation with the leader of the council did not demonstrate any improper motives on the part of Cllr Roberts or the compensating authority. He also submitted that the evidence did not support Mr Andrews's contention that Cllr Roberts had given instructions that the stop notice should be issued. Moreover, if the claimant had wished to challenge the stop notice on the grounds that it was issued for an improper purpose, the appropriate remedy would have been to seek permission to apply for judicial review of the decision. No such application had been made. An alternative avenue for the claimant to pursue such a complaint was to make an application for costs at the enforcement notice enquiry. The claimant had pursued such application, relying upon a contention that the compensating authority had acted beyond its powers. That contention and that application were considered and rejected by the inspector in her costs decision dated 29 October 2007.

41. I agree with Mr Cameron that the evidence does not support the allegation of improper behaviour on the part of the compensating authority. Even if it did, I would have no power to award exemplary damages. The Tribunal's power, exercisable under section 186(6) of the 1990 Act, is limited to determining the compensation payable for "any loss or damage directly attributable" to the prohibition effected by/contained in the temporary stop notice/the stop notice.

Issue 8 – Is compensation payable for the claimant's alleged liability to make guaranteed payments of £26,000 to Ms Harrison and Ms Quick?

42. Mr Andrews explained this head of claim as follows:

> "Under my contract with Samantha and Julie I am required to pay to them £1,000 per week each for 13 weeks of which only a small part has presently been paid.
>
> I believe that there is a legitimate claim for their loss of earnings for the whole period when the premises have been closed but they have not instigated any legal action (to date) against Shopsearch and appear content that provided their £13,000 payment [each] is made to them they will accept this in full and final settlement.
>
> Samantha and Julie did have an interest in the premises when it was closed and I maintain that they are also legally entitled to claim compensation for their loss of earnings for the full period."

43. Mr Cameron submitted that there was no evidence to support this element of the claim, as there was no concluded contract between the claimant and Ms Harrison and Ms Quick which gave rise to an obligation to make any payment. Mr Andrews's letter of 24 July 2006 did refer to the offer of such a guarantee. That letter, however, was headed "subject to contract" and, when the draft lease was drawn up by the claimant's solicitors, it contained no such arrangement. In addition, there was no documentary evidence to support Mr Andrews's verbal contention that part payment was in fact made. I accept Mr Cameron's submissions in their entirety. This head of claim fails.

Conclusions

44. I determine that the total compensation payable to the claimant by the compensating authority is £70,430.32, as follows:

Loss of rent from basement	£ 67,384.24
Printing and advertising	£ 2,964.10
Loss on stock	£ 81.98
	£70,430.32

45. A letter concerning costs accompanies this decision, which will take effect when the question of costs has been determined.

Dated 8 May 2009

N J Rose FRICS