

LONDON BOROUGH OF TOWER HAMLETS
MINUTES OF THE LICENSING SUB COMMITTEE
HELD AT 6.45 P.M. ON TUESDAY, 23 JULY 2019

**THE COUNCIL CHAMBER, TOWN HALL, MULBERRY PLACE, 5 CLOVE
CRESCENT, LONDON, E14 2BG**

Members Present:

Councillor Peter Golds (Chair)
Councillor Mohammed Ahbab Hossain
Councillor Sufia Alam

Officers Present:

Corinne Holland	–	(Licensing Officer)
Nicola Cadzow	–	(Environmental Health Officer)
Lavine Miller-Johnson	–	(Licensing Officer)
David Wong	–	(Legal Services)
Simmi Yesmin	–	(Democratic Services)

Representing applicants

	Item Number	Role
Tom O'Maoileion	4.2	(Legal Representative)
James Pears	4.2	(Applicant)

Representing objectors

	Item Number	Role
Nicola Cadzow	4.2	(Environmental Health Officer)
Lavine Miller-Johnson	4.2	(Licensing Officer)

Apologies

None

1. DECLARATIONS OF DISCLOSABLE PECUNIARY INTEREST

No declarations of disclosable pecuniary interests were declared.

2. RULES OF PROCEDURE

The Rules of Procedure were noted by the Sub Committee.

3. MINUTES OF THE PREVIOUS MEETING(S)

The minutes of the meeting were agreed and approved as a correct record.

4. ITEMS FOR CONSIDERATION**4.1 Application for a New Premises Licence for: Lord Napier, 25 White Post Lane London E9 5EN**

This application was withdrawn by the Applicant prior to the meeting.

4.2 Application for a Variation of the Premises Licence for Genesis Vegan Restaurant, 144-146 Commercial Street, London, E1 6NU

At the request of the Chair, Ms Corinne Holland, Licensing Officer, introduced the report which detailed the application for a variation of the premises licence for Genesis Vegan Restaurant, 144-146 Commercial Street, London E1 6NU. The application was to amend conditions on the existing licence. It was noted that objections had been received on behalf of the Licensing Authority and Environmental Protection (Noise).

At the request of the Chair, Mr Tom O'Maoileion, Legal Representative on behalf of the Applicant explained that the application was for the proposal to allow drinking outside the premises. He explained that they had been granted planning permission/permissions from Street Trading for a licence for tables and chairs outside the premises until 10pm. Mr O'Maoileion therefore amended the application to 10pm – and said that sales of alcohol would be until 9.30pm and there would be a 30 minute drinking up time and tables and chairs would be cleared and rendered unusable by 10pm.

He explained the nature of the restaurant, and said that the tables and chairs would be stacked up and brought back into the premises when they were closing. It was noted that they had received permission for four tables and eight chairs. It was also noted that the sale of alcohol to the outdoor area would only be sold and served by waiter/waitress, and only served ancillary to a meal and part of a table service.

Mr O'Maoileion explained that they were not seeking to increase hours or capacity, but to have the flexibility to serve alcohol to customers sitting outside having a meal. He stated that the Cumulative Impact Zone (CIZ) policy was mainly for alcohol led venues, vertical drinking establishments and late night venues and these premises were none of the above.

He referred to paragraphs 18.10 and 18.11 of the Tower Hamlets Licensing Policy, where it states that within the policy, that the Council may be able to approve licences that are unlikely to add significantly to the saturation and will consider the circumstances of each individual application. He asked Members to consider this as he believed that the variation would not add significantly to the cumulative impact in the area.

Members then heard from Ms Nicola Cadzow, Environmental Health Officer, she explained that her representation was on the basis of the prevention of public nuisance. She explained that it was difficult to say how much impact

the premises would have on the area, but was very likely to cause noise disturbance to nearby residents by allowing people sitting and drinking outside the premises until 10pm. Ms Cadzow was of the view that the application for drinking outside until 10pm was far too late and likely to cause disturbance to residents living nearby.

Members also heard from Ms Lavine Miller-Johnson, Licensing Officer, she explained that the hours applied for were excessive. She referred to her representation on page 163-164 of the agenda and was of the view that the applicant had not fully demonstrated how this application would not add to the cumulative impact in the Brick Lane Cumulative Impact Zone. Ms Miller-Johnson stated that if Members were minded to grant the licence then Members should consider reducing the hours to 8pm which would be a more reasonable time and to impose the conditions which she had suggested on page 164 of the agenda.

In response to questions the following was noted;

- That the Applicant had recently received permission from Street Trading for a licence for tables and chairs outside the premises.
- That every year, the permission for tables and chairs will need to be renewed and if there were to be any problems or complaints than this would affect the renewal.
- That having an outside eating area would create a civilising effect to the restaurant.
- That staff would manage the outdoor area, the premises had a glass frontage, so staff would be able to see through and monitor accordingly.
- That food and drinks would be served to seated customers and served by waiter/waitress.
- That alcohol would be served ancillary to a meal.
- There would be no music played outside and there have been no complaints about the premises in general.
- Notices would be displayed around the premises asking customers to leave the area quietly and respect the needs of local residents.
- That smoking was not permitted outside the premises.
- That alcohol consumption at the premises was very small, there was no bar area and no vertical drinking.
- The maximum number of seats outside would be for 8 people
- That there was no capacity figure on current licence but there were currently 70 covers inside the restaurant.
- There were no concerns relating to crime and disorder and the Police had not objected.
- The conditions offered in the operating schedule addressed concerns of public nuisance.
- That all conditions proposed by the Licensing Officer on page 164 on agenda were accepted by the Applicant.

All parties gave brief concluding remarks.

Members adjourned the meeting at 7.40pm for deliberations and reconvened at 8.15pm.

The Licensing Objectives

In considering the application, Members were required to consider the same in accordance with the Licensing Act 2003 (as amended), the Licensing Objectives, the Home Office Guidance and the Council's Statement of Licensing Policy and in particular to have regard to the promotion of the four licensing objectives:

1. The Prevention of Crime and Disorder;
2. Public Safety;
3. Prevention of Public Nuisance; and
4. The Protection of Children from Harm

Consideration

Each application must be considered on its own merit. The Sub Committee had carefully considered all of the evidence before them and considered written and verbal representation from both the Applicant's Legal Representative and Officers representing the Licensing Authority and Environmental Health objecting to the application with particular regard to the licensing objective of the prevention of public nuisance.

The Sub-Committee noted that the premises in question were situated in the Brick Lane Cumulative Impact Zone and when a representation is received, the licence will be refused, unless the applicant can demonstrate exceptional circumstances whereby the application, if granted, would not add to the cumulative impact in that zone. The Sub-Committee noted that effect of the Council's Statement of Licensing Policy in relation to a cumulative impact zone, is to create a rebuttable presumption against granting an application relating to premises in a cumulative impact zone.

The Sub-Committee considered that the onus lay upon the applicant to show through the operating schedule, with appropriate supporting evidence that the application, if granted, would not add to the cumulative impact already being experienced, as added cumulative impact would undermine any of the four licensing objectives.

The Sub-Committee noted the representations made by Responsible Authorities regarding the added cumulative impact which would arise from a grant of the application. The Sub-Committee noted objectors' concerns relating to the existing levels of noise nuisance in the area and noted concerns about the likely increase in noise nuisance when dining and drinking outside the premises, and thereby the likely added impact on the Brick Lane Cumulative Impact Zone.

The Sub Committee noted the applicant's representation that the impact of the premises licence if granted, would be mitigated by the proposed

conditions. However, the Sub Committee heard no evidence that rebutted the above presumption. Members considered that planning permission or permission to operate on part of the public highway under a Street Trading Licence do not in themselves create exceptional circumstance rebutting the presumption against granting a licensing application relating to premises in a cumulative impact zone.

The Sub Committee was therefore not satisfied that the applicant had successfully demonstrated that a grant of the application would not add to the cumulative impact in the Brick Lane Cumulative Impact Zone. In making their decision, the Sub Committee took into account paragraphs 19.6 and 19.8 of the Tower Hamlets Statement of Licensing Policy, relating to the Special Cumulative Impact Policy for the Brick Lane and Bethnal Green Areas. The Sub-Committee also considered that, whilst the applicant had sought to rely upon paragraphs 18.10 and 18.11 of the Tower Hamlets Statement of Licensing Policy, no one part of that Statement of Licensing Policy could be read out of context, and that document as a whole had to be read in the context of paragraphs 19.6 and 19.8 of the same, as those latter two paragraphs relate to the Special Cumulative Impact Policy for the Brick Lane and Bethnal Green Areas.

Accordingly, the Sub Committee unanimously

RESOLVED

That the application for a Variation of the Premises Licence for Genesis Vegan Restaurant, 144-146 Commercial Street, London E1 6NU be **REFUSED**.

5. EXTENSION OF DECISION DEADLINE: LICENSING ACT 2003

The Chair agreed to extend the decision deadlines for the following applications;

Premises	Hearing Date	Decision by
Nomadic Community Gardens, Fleet Street Hill, London E1 5ES (CH)	10/09 Ext mtg	25/07
Malinda, 62 Mellish Street London E14 8NS (KD)	10/09 Ext mtg	10/06
Papa John's, Unit 2 Westward Pepper Street (LMJ)	10/09 Ext mtg	30/07
24/7 Off Licence, 141	17/09	08/08

Premises	Hearing Date	Decision by
Commercial Road, London E1 1PX (CH)		
The Turks Head, Green Bank, London E1W 2PA (CH)	17/10	08/08
Ozone Coffee Roastery, 8 Oritchards Road, London (MA)	01/10	13/08
221 East India Dock Road, London E14 (LMJ)	01/10	16/08
Containerville, 455-459 Hackney Road, London E2 9DY (MA)	15/10	19/08
Make it Group, 5 Hancock Rd, London E3 3DA (MA)	15/10	28/08
Bier Café Ltd, 2 Gales Garden, London E2 0EJ (SN)	29/10	29/08
Old George, 379 Old Bethnal Green Road London E2 (KD)	29/10	29/08

The meeting ended at 8.30 p.m.

Chair, Councillor Peter Golds
Licensing Sub Committee