

**LONDON BOROUGH OF TOWER HAMLETS****MINUTES OF THE LICENSING SUB COMMITTEE****HELD AT 6.30 P.M. ON TUESDAY, 14 JANUARY 2020****THE COUNCIL CHAMBER, TOWN HALL, MULBERRY PLACE, 5 CLOVE  
CRESCENT, LONDON, E14 2BG****Members Present:**

Councillor Mohammed Pappu (Chair)  
Councillor Mohammed Ahbab Hossain  
Councillor Leema Qureshi

**Officers Present:**

David Wong	– (Legal Services)
Mohshin Ali	– (Senior Licensing Officer)
Kathy Driver	– (Principal Licensing Officer)
Simmi Yesmin	– (Democratic Services)

<b>Representing applicants</b>	<b>Item Number</b>	<b>Role</b>
Birol Sahin	3.1	(Applicant)
Kevin Morris	3.1	(Licensing Agent)
Imran Ahmed	3.1	(Applicant's Friend)
Sarah Le-Fevre	3.2	(Legal Representative)
Steve Fairman	3.2	(Manager)

<b>Representing objectors</b>	<b>Item Number</b>	<b>Role</b>
Nicola Cadzow	3.1	(Environmental Health Officer)
PC Mark Perry	3.2	(Metropolitan Police)

**Apologies**

None

**1. DECLARATIONS OF DISCLOSABLE PECUNIARY INTEREST**

There were no declarations of interests made.

**2. RULES OF PROCEDURE**

The rules of procedure were noted.

### **3. ITEMS FOR CONSIDERATION**

#### **3.1 Application for a New Premises Licence for Jack the Chipper, 74 Whitechapel High Street, London E1 7QX**

At the request of the Chair, Mr Mohshin Ali, Licensing Officer, introduced the report which detailed the application for a new premises licence for Jack the Chipper, 74 Whitechapel High Street, London E1 7QX. It was noted that objections had been received by Officers on behalf of the Licensing Authority and Environmental Health.

At the request of the Chair, Mr Kevin Morris, the Applicant's Business Consultant explained that he was not the agent at the time the application was first made and had only recently taken this case on. He explained that the Applicant had spent £100k on refurbishments to the premises and the rent and rates for the premises was high.

He explained that there had been a breakdown in the relationship between the previous agent and the applicant, and the applicant had assumed that the premises had a licence as the previous business that occupied the premises had a premises licence. However this licence lapsed in 28 August 2019. The applicant was unaware of this and was unaware that he could not sell alcohol. The applicant accepted that there had been a breach of the Licensing Act 2003 on his part regarding unlicensed selling of alcohol. Mr Morris explained that had he been the agent at the start of the process he would have explained to the applicant what he could and could not do.

He explained that subject to consultation with the Police, the hours applied for had been reduced to 12 midnight Sunday to Wednesday and 1am on Thursday to Sunday. It was noted that restricting the hours would help reduce noise levels.

Members then heard from Ms Kathy Driver, Licensing Officer, who referred to her statement on pages 61-68 of the agenda and explained that she was objecting on the basis that the premises was within the Brick Lane Cumulative Impact Zone (CIZ). She further explained that the premises had been brought to the Council's attention when officers from the Tower Hamlets Waste Enforcement Team had found dumped waste, including receipts from these premises. A check of those receipts against licensing records confirmed that there was no licence in place and therefore, a warning letter was sent to the premises on 23 September 2019, advising them to cease the sale of alcohol and any other licensable activities. Following this, there was a successful test purchase, on 29 November 2019, when officers were able to make a purchase of hot food at 11.27pm and therefore, a further warning letter was sent.

Ms Driver was surprised that despite the warning letters, the applicant continued to trade without a licence. She asserted that the applicant did not understand the laws and regulations regarding licensing, and therefore she was not confident that he would comply with conditions and promote the

licensing objective. Ms Driver also stated that Applicant nor his representative have addressed the issues of the CIZ and have not demonstrated how he would not negatively add to the cumulative impact zone. Ms Driver concluded that that the previous licence only had late night refreshments and not the sale of alcohol.

Members also heard from Ms Nicola Cadzow, Environmental Health Officer, who explained that the applicant had not provided sufficient details in their operating schedule demonstrating how they would promote the licensing objective of public nuisance and how they would not add to the cumulative impact in the Brick Lane Cumulative Impact Zone.

In response to questions the following was noted;

- That the Applicant was unaware that there was no licence in place.
- The Applicant would promote the licensing objectives by having no regulated entertainment, sound proofing the premise, and ensure the responsible sale of alcohol.
- When asked how the applicant would rebut the presumption against grant of a premises licence for premises in the CIZ, it was presented that the hours had been reduced to help address noise disturbance.

In summation, Ms Driver said the premises was clearly within the Brick Lane Cumulative Impact Zone and the Council's Statement of Licensing Policy had not been addressed regarding the presumption in it against grant of a premises licence for premises in the CIZ. There had been clear breaches of the legislation, and the owner was present during the successful test purchase, so there was no confidence that the premises management would uphold the licensing objectives. It was also noted that the hours applied for were beyond the Council's framework hours.

Mr Morris concluded that the applicant needed to be trusted, that there had been a lot of naivety from the applicant's part, but he had been made aware of his obligations if a licence were granted. Mr Morris said that he had limited knowledge of the CIZ and was therefore limited on the advice he could give his client.

Members adjourned the meeting at 7.10pm for deliberations and reconvened at 7.35pm.

### **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. The Prevention of Public Nuisance; and
4. The Protection of Children from Harm.

### **Consideration**

Each application must be considered on its own merits. The Chair confirmed that the Sub-Committee had carefully considered all of the evidence before them and heard oral representations at the meeting made by the Applicant's Business Agent and the Officers from Responsible Authorities objecting to the application, with particular regard to the prevention of public nuisance and prevention of crime and disorder.

The Sub-Committee noted that the premises are in a cumulative impact zone (CIZ), and so, the effect of a premises subject to a licensing application being in a CIZ is that there is a rebuttable presumption that where relevant representations are received by one or more of the responsible authorities and/or other persons objecting to the application, the application will be refused.

The Sub-Committee noted that under the Council's Statement of Licensing Policy, the Applicant can rebut the above presumption if they can demonstrate that their application for a premises licence would not undermine any of the four licensing objectives by not adding to the cumulative impact of licensed premises already in the CIZ.

The Sub-Committee considered that the onus lay upon the applicant to show through their operating schedule, with appropriate supporting evidence that the operation of the premises, if licensed, would not add to the cumulative impact already being experienced.

The Sub-Committee noted the representations from the Licensing Authority, Environmental Health regarding the impact of the premises on the Brick Lane Cumulative Impact Zone (CIZ) and concerns relating to the previous breaches of trading without a licence.

The Sub-Committee therefore considered that it had not heard enough evidence that rebutted the presumption against granting any further premises licence within the CIZ. The Sub-Committee was not satisfied that the operating schedule as presented at the Sub-Committee meeting rebutted the above presumption.

The Sub Committee was therefore not satisfied that there were exceptional circumstances to justify a grant of the application, and were of the view that the applicant had failed to rebut the presumption against granting a premises licence for a premises situated in a cumulative impact zone, in that the applicant failed to demonstrate how they would not undermine any of the four licensing objectives by adding to the cumulative impact in the area.

Accordingly, the Sub Committee unanimously;

**RESOLVED**

That the application for a New Premises Licence for Jack the Chipper, 74 Whitechapel High Street, London E1 7QX be **REFUSED**.

**3.2 Application for a Transfer of a Premises Licence Holder for Queens Head, 8 Flamborough Street, London E14 7LS**

At the request of the Chair, Ms Kathy Driver, Licensing Officer, introduced the report which detailed the application for a transfer of the premises licence for Queens Head, 8 Flamborough Street, London E14 7LS. It was noted that objections had been received on behalf of the Metropolitan Police.

She explained the current licence was recently reviewed on 2<sup>nd</sup> April 2019 during which the provision of regulated entertainment and the individual named as the Designated Premises Supervisor (DPS) were removed from the premises licence. The licence was surrendered by the previous licence holder, H Company 6 Limited, on 19<sup>th</sup> September 2019. As the licence was surrendered, an application could be made under Section 50 for reinstatement of the licence by transferring the licence within a period of 28 days after the licence lapsed.

The new applicant applied on 25<sup>th</sup> September 2019. It should be noted that although this transfer application effectively reinstated the licence up to the date of this Licensing Sub-Committee hearing, should this application be rejected or withdrawn, the licence would lapse again. Only one application for transfer under can be made according to the legislation.

At the request of the Chair, Ms Sarah Le Fevre, Barrister for the Applicant explained that the transfer is to the company that currently operates the business. In her submission she highlighted the following;

1. That there was limited jurisdiction in a transfer application, as only police could object and an application could only be rejected on the basis of crime and disorder.
2. There was no evidence of crime and disorder
3. That the previous review application was resolved by consent by both parties as issues had been resolved.

It was noted that over the last nine months since the review of the premise licence, there had been no complaints and the incidents that had been referred to in the police objection were from 2018, which was dealt with in the preceding review of the premises licence. The then DPS had been removed, and a new DPS, Mr Steve Fairman had been operating the business with no repeat of previous problems. Ms Le Fevre explained that a new application for a new premises licence had been made in case the transfer application being considered was unsuccessful. It was noted that if the transfer was granted, then a further transfer to Mr Fairman would subsequently be sought.

Members then heard from PC Mark Perry who referred to his representation contained in the agenda and stated that Mr Jefferies was not a fit and proper

person. PC Perry explained with reference to his written representations why he believed that Mr Jefferies would not uphold the licensing objectives with regard to the prevention of crime and disorder nor adhere to the conditions of a premises licence. PC Perry asserted that Mr Jefferies was therefore an unsuitable person to hold a premises licence. He briefly went through his representations on pages 131-132 of the agenda pack, and highlighted incidents relating to the previous review etc., which PC Perry suggested showed that Mr Jefferies had shown a complete lack of respect for the Police and was hostile towards them.

PC Perry explained that an objection to a transfer is not taken lightly and it was unfortunate that Mr Jefferies was not present at the meeting in order to be questioned. It was noted that prior to Mr Jefferies taking over the premises, there had been no problems, but since he had taken over, there had been problems of noise, nuisance and complaints.

PC Perry stated that it was believed that Mr Jefferies had no control of the licence, that he would continue to undermine the licensing objective of crime and disorder by continuing to stay open past the licensable hours, that he would breach other conditions of the licence, and therefore he should not be rewarded for bad behaviour.

In response to questions the following was noted;

4. That only police can object to a transfer of a licence if the prevention of crime and disorder is undermined.
5. That if this transfer was granted then there would be another application for transfer to Mr Fairman immediately.
6. That Mr Fairman started in April 2019 and since taking over the management of the premises there had been no complaints.
7. That Mr Jefferies was not the DPS and since the previous review, there had been no repeat of problems.
8. There were concerns that Mr Jefferies had shown disregard and failure to comply with conditions previously.
9. That Mr Fairman manages the day to day running of the business.
10. That there were no issues that currently undermined the licensing objectives of crime and disorder.

In summing up, PC Perry explained that there was no objection to Mr Fairman. However based on previous evidence, Mr Jefferies, the Applicant was not a fit and proper person to hold a premises licence.

Ms Le-Fevre explained that the test should be whether the transfer if granted would undermine the objective of preventing crime and disorder.

Members adjourned the meeting at 8.15pm for deliberations and reconvened at 9.10pm.

### **The Licensing Objectives**

In considering the application, Members are normally 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. The Prevention of Public Nuisance; and
4. The Protection of Children from Harm

However, in this instance, Members noted that the only licensing objective at issue regarding this transfer application was the prevention of crime and disorder.

### **Consideration**

Each application must be considered on its own merits. The Chair confirmed that the Sub-Committee had carefully considered all of the evidence before them and heard oral representations at the meeting made by the Applicant's Legal Representative and the Officer representing the Metropolitan Police objecting to the application for transfer, with particular regard to the prevention of crime and disorder.

Members heard that since the review of the premises licence in April 2019, there had been no incidents over the last year under the management of Mr S. Fairman and that Mr T. Jefferies has had no day to day management of the premises. The Licensing Sub Committee decided to grant the transfer application by a majority vote with a condition that Mr Thomas Jeffries shall not be permitted to be involved in the day to day management of the premises.

The Sub-Committee considers that on the basis of the evidence heard and read this will promote the Licensing Objective for the prevention of crime and disorder.

The Sub-Committee was satisfied that the licensing objectives would be promoted and that the condition imposed would help alleviate any concerns arising from the Metropolitan Police.

### **Decision**

Accordingly, the Sub Committee by a majority vote;

### **RESOLVED**

That the application for a Transfer of a Premises Licence for, Queens Head, 8 Flamborough Street, E14 7LS be **GRANTED** with a condition.

Transfer of Licence

The premises licence for Queens Head, 8 Flamborough Street, London E14 7LS be transferred to TJ3 Property Co Ltd.

Conditions

1. That Mr Thomas Jeffries shall not be permitted to have any involvement in the day to day management of the premises.

**4. EXTENSION OF DECISION DEADLINE: LICENSING ACT 2003**

There were no applications that required extensions to decision deadlines.

The meeting ended at 9.40 p.m.

Chair, Councillor Mohammed Pappu  
Licensing Sub Committee