LONDON BOROUGH OF TOWER HAMLETS

MINUTES OF THE LICENSING SUB COMMITTEE

HELD AT 6.30 P.M. ON TUESDAY, 13 NOVEMBER 2018

C1, 1ST FLOOR, TOWN HALL, MULBERRY PLACE, 5 CLOVE CRESCENT, LONDON, E14 2BG

Members Present:

Councillor Eve McQuillan (Chair)
Councillor Shad Chowdhury
Councillor Victoria Obaze

Other Councillors Present:

Others Present:

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Officers Present:

Kathy Driver	–	(Principal Licensing Officer)
Viviene Walker	–	(Senior Prosecution Lawyer)
Simmi Yesmin	–	(Senior Committee Officer, Democratic Services)

Representing applicants	**Item Number**	**Role**

Representing objectors	**Item Number**	**Role**

Apologies

1. DECLARATIONS OF DISCLOSABLE PECUNIARY INTEREST

Councillor Shad Choudhury, declared a personal interest on agenda item 4.1, Application for a New Premises Licence for Venue 82, 82a Commercial Street, London E1 6LY on the basis that as a Ward Councillor for Spitalfields and Banglatown, he had received correspondence from, both the applicant and objectors. However he confirmed that he had made no contact/communication with either of the parties in relation to the application.

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 Licensing Sub Committees held on 25th September and 2nd October 2018 were agreed as a correct record.

4. ITEMS FOR CONSIDERATION

4.1 Application for a New Premises Licence for Venue 82, 82A Commercial Street, London E1 6LY

At the request of the Chair, Ms Kathy Driver, Licensing Officer, introduced the report, which detailed the application for a new premises licence for Venue 82, 82a Commercial Street, London E1 6LY. It was noted that objections had been received on behalf of local residents and Resident Associations.

At the request of the Chair, Mr Sushanta Das Gupta, Applicant, referred to his supporting statement produced in the supplemental agenda and explained that he was applying for a premise licence for the sale of alcohol which would only be ancillary to a meal and he was confident that he had everything in place to maintain and promote the four licensing objectives.

He stated that representations from local residents, was prejudice and that they were under the assumption that he was linked to previous owner from 2012. He confirmed that he was not connected to the previous owner in anyway and the previous owner had no involvement in the business. Mr Das Gupta highlighted his qualifications and experiences to date and explained how he would maintain and uphold the licensing objectives.

He asked residents/objectors to suggest conditions that would help alleviate their concerns and welcomed any suggestions that may help ease their concerns. Mr Das Gupta referred to the supplemental agenda which included

a water bill that confirmed that he had been occupying the premises since 2017.

He continued to explain that the premises would be a booking only restaurant and not open to the general public to attend. It was noted that the Responsible Authorities had not objected to the licence and in consultation with the Applicant had agreed to conditions.

He explained that he had four letters of support from renowned groups of the community and asked Members to note these in the supplemental agenda. Lastly Mr Das Gupta confirmed that he had no connection with the previous owners.

Members then heard from local residents, Mr Matthew Piper, Mr David Gadd and Mr Barra Little, who expressed and shared similar concerns regarding the granting of the application. It was noted that in 2012 when this premises were last licenced it caused a huge amount of problems in the local area, anti-social behaviour, drug dealing and public nuisance etc. As a result of a review of the licence triggered by the Police and residents, the premises licence was revoked. It was acknowledged that since the revocation of the licence there has been a drop in ASB in the area and there was a real fear that if this application was granted then problems would return.

It was noted that although the Applicant had stated that there was no connection with the previous owner, the previous owner was still the freeholder/landlord and the landline phone number that is advertised for Venue 82 is the same one as a premises (Bengal Cuisine) that is owned by the previous owner from 2012 and therefore residents believed that it was likely that the Applicant had links with the previous owner. It was noted that the premise itself was very small with one exit which was used as an exit and entrance. Residents also highlighted the negative impact on the area and the effects of the premises being within the Cumulative Impact Zone Policy. It was noted that the policy needs to be strictly adhered to.

Residents believed that the business would clearly be alcohol led and there were no conditions that would help promote the licensing objectives, and urged Members to reject the application.

In response to questions from Members the following was noted;

- That it would be a booking only restaurant, where bookings would need to be made in advance.
- That the applicant was willing to provide a detailed business model.
- That the applicant through his supporting documents highlighted the fact that the premises were outside the density of the crime area.
- The hours applied for were within the Council's framework hours.
- That there were nine other licensed premises in close proximity to Venue 82.
- That alcohol would be ancillary to a meal and there would be no vertical drinking.

- The current seating capacity at the premises was for 45 people and previously it was for 60 people.
- That alcohol would be served with full meals only.
- That the premise has not been in use since 2012.
- That contact details of management would be made available to residents if the application was to be granted.
- Previous experiences of the applicant were noted (manager of a licensed premises and was also a Designated Premises Supervisor in a pub – all in Tower Hamlets).
- That the applicant would adhere to all the fire safety measures that have been highlighted by the Fire Authority subject to the application being granted.
- That there was no access for wheelchair users to the basement/proposed dining area.
- That alcohol would not be served on the ground floor where there was an open seating area.
- That two SIA door staff would be at the entrance to supervise customers coming in and outside out the premises.
- That having a booking only system would mean the applicant would have more control over who is coming the venue.
- The residents believed that the applicant had links to the previous owner.
- That the residents felt a café, estate agent, art gallery would be suited for this particular venue.
- That the premises were directly opposite the church, previously customers have been seen vomiting, urinating, defecating in close proximity to the venue and the Church.
- That residents believed, that there were no conditions, appropriate for the venue.
- That there would also be party bookings, where the venue could be booked for special occasions.
- The applicant was unable to explain how he would enforce a condition to allow no vertical drinking if bookings were for 6 hours etc.
- In comparison to other licensed venues in the area, residents believed other venues were different as, conditions were strictly adhered to, staff managed customers outside, management were experienced and there were strong business models in place.
- That the applicant did not accept a condition to remove the outdoor seating area from the ground floor as he felt this would not be sustainable for the business.
- That SIA door staff would help enforce conditions for no vertical drinking.
- That an average spend at the premises would be £40 per person.

In summing up, Mr Piper explained that the premises was small, difficulty in of access, needed to be managed by someone strong and experienced who has a grip of the business. He said that the Applicant appeared to be confused, about the capacity of the venue, whether it was party venue or booking only restaurant, and was clear that it was any attempt to get licence. Mr Piper also stated that the applicant failed to address the impact on the CIZ and

demonstrate a rebuttable presumption, therefore he urged Members to refuse the application.

Mr Das Gupta explained that the application was clear and robust, and urged Members to grant the application. He said that the objectors were prejudiced and were raising concerns about what happened in 2012. He said that there were nine other licenced premises in the area. He concluded that there would be conditions in place to address and promote the licensing objectives.

Members retired for deliberation at 7.35pm with the Legal Services Officer and Democratic Services Officer and an observer from Legal Services.

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 licencing 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 and the objectors with particular regard to all four licensing objectives of the prevention of public nuisance, the prevention of crime and disorder and the protection of children from harm and public safety.

The Sub-Committee noted that the premises in question are situated in the Cumulative Impact Zone and when a representation is received, the licence will be refused. However the effect of this special cumulative impact policy is to create a rebuttable presumption.

The Sub-Committee noted that the Applicant can rebut the presumption if they can demonstrate that their application for a premises licence would not undermine any of the four licensing objectives.

The Sub-Committee considered that the onus lay upon the Applicant to show this through the 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 that the cumulative impact of the number, type and the density of licensed premises in the area may lead to serious problems of nuisance and disorder; and that the Cumulative Impact Zone did not act as an absolute prohibition on granting or varying new licences within that zone.

The Sub-Committee noted the written representations made by objectors and also heard representations from objectors at the meeting regarding the impact of the premises on the Cumulative Impact Zone. The Sub-Committee noted objectors' concerns relating to the existing levels of noise nuisance and anti-social behaviour; and concerns about increased noise nuisance, impact upon family environment, and the likely increased numbers of clientele in the area if the application were to be granted, and thereby the likely impact on the 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 agreed with responsible authorities and the willingness to accept suggestions/conditions from residents and the Sub Committee. However, the Sub Committee heard no evidence that rebutted the presumption of the Cumulative Impact Zone.

The Sub Committee noted that the Applicant was unable to demonstrate how he or his staff would manage crowds outside the premises on the ground floor and how he would manage no vertical drinking during private parties/bookings. It was further noted that there was one stairway and entrance for both access and egress and there were not sufficient measures in place for crowd management for when customers would be leaving the venue and spilling into the streets.

The Sub-Committee noted that the premises would be importing a number of people into area for private booking events who would then be leaving to go into the area which already experiences a high volume of crime and disorder, public nuisance and anti-social behaviour. The potential increased footfall arising from any grant of the application in this instance requires a particularly robust operating schedule, which should demonstrate particular measures at the premises to address the likely impact of increased clientele and potential alcohol fuelled disorder arising there from. The Sub-Committee was not satisfied that the operating schedule as presented at the Sub-Committee meeting met that requirement.

The Applicant failed to demonstrate how he would manage the premises and his staff and how he would enforce conditions on a premise licence if it was to be granted and not to add to the cumulative impact already being experienced in the area.

The Sub Committee was therefore not satisfied with the application and were of the view that the Applicant had failed to successfully demonstrate that they had rebutted the presumption against granting a premises licence for a premises situated in a Cumulative Impact Zone, in that it was considered the Applicant failed to demonstrate that their application for a premises licence

would not undermine any of the four licensing objectives in particular the prevention of public nuisance and public safety.

Accordingly, the Sub Committee unanimously

RESOLVED

That the application for a New Premises Licence for Venue 82, 82a Commercial Street, London E1 6LY, be **REFUSED**

5. EXTENSION OF DECISION DEADLINE: LICENSING ACT 2003

There were no applications that required deadline extensions.

The meeting ended at 9.00 p.m.

Chair, Councillor Eve McQuillan
Licensing Sub Committee