

LONDON BOROUGH OF TOWER HAMLETS

RECORD OF THE DECISIONS OF THE LICENSING SUB COMMITTEE

HELD AT 6.30 P.M. ON TUESDAY, 5 FEBRUARY 2019

**C3, 1ST FLOOR, TOWN HALL, MULBERRY PLACE, 5 CLOVE CRESCENT,
LONDON, E14 2BG**

Members Present:

Councillor Ehtasham Haque (Chair)

Councillor Mohammed Ahab Hossain (Member)

Councillor Leema Qureshi (Member)

Other Councillors Present:

Officers Present:

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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 Licensing Sub Committees held on 4th & 20th December 2018 were agreed as a correct record.

4. ITEMS FOR CONSIDERATION

4.1 Application for Variation of a Premises Licence for The Craft Cocktail Club Ltd, Arch 253, Paradise Row, London, E2 9LE

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 has carefully considered all of the evidence before them and considered written and verbal representation from both the Applicant's Legal Representative and from the Environmental Health Officer with particular regard to the licensing objective of the prevention of public nuisance.

The Sub-Committee noted that the premises are in a cumulative impact zone (CIZ), and so, the effect of 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 this through the operating schedule in the application, 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 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, provided the Applicant could show through the operating schedule in the application, 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 representation made by the Environmental Health Officer regarding the impact of the premises on the Cumulative Impact Zone, in particular noise nuisance that would be likely to emanate from the forecourt of the premises during the late hours of the night, bearing in mind the Applicant sought variation of the terms of the premises licence so as to permit customers to sit outside and eat and/or drink on the forecourt for two hours later than the currently permitted time of 21:00 hours . It was also noted that would more likely than not, impact the are in terms of increased noise

nuisance, causing public nuisance and impacting nearby residents' family environment, account being taken of the likely increased numbers of clientele in the area attracted by being able to enjoy the forecourt area for later into evenings than currently allowed, if the application were to be granted. Therefore, granting the application would more likely than not add to the cumulative impact in the cumulative impact zone.

The Sub Committee noted the Applicant's representation that the impact of granting the application would not be significant and if granted, the effect would be mitigated by the proposed conditions agreed and offered. However, proposed agreed conditions were entirely provisional upon the Applicant first being able to satisfy the Sub-Committee on the evidence that from the operating schedule in the application, granting the application would not result in addition to the cumulative impact of licensed premises in the CIZ. The Sub Committee was not satisfied it had heard such evidence to rebut the presumption against granting an application relating to premises in a CIZ.

Although the Sub-Committee had heard of similar premises operated elsewhere without issue by the Applicant, the Sub-Committee took into account the fact that according to paragraph 19.8 of the London Borough of Tower Hamlets Licensing Policy, there was a strict policy of not granting applications relating to premises in a CIZ where applicants have not demonstrated exceptional circumstances such that granting the application would not negatively add to the cumulative effect upon the licensing objectives within the CIZ. Account was also taken of that Licensing Policy also saying that examples of factors which will not be considered exceptional include that the Applicant operates similar premises elsewhere without complaint, another example of something which would not be considered exceptional being that the premises are well managed and run.

The Sub-Committee concluded that the Applicant had not demonstrated that there were exceptional circumstances in relation to the application so as to satisfy the Sub-Committee that granting the application would not add to the cumulative impact in the CIZ in which the premises are located. Accordingly, the Sub Committee unanimously;

RESOLVED

That the application for a Variation of the Premises Licence for The Craft Cocktail Club Ltd, Arch 253, Paradise Row, London E2 9LE be **REFUSED**.

4.2 Application for a New Premises Licence for (The Town House) 5 Fournier Street, London, E1 6QE

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 has carefully considered all of the evidence before them and considered written and verbal representation from both the Applicant's Legal Representative and local residents present at the meeting with particular regard to the licensing objectives of the prevention of public nuisance, and the prevention of crime and disorder.

The Sub-Committee noted that the premises are in a cumulative impact zone (CIZ), and so, the effect of 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 took into account the objectors' concerns relating to the public nuisance, and anti-social behaviour; and noted objectors' 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. The Sub Committee noted that the premises was situated in an area where it was a predominately residential and noted residents' concerns that there were residents who lived in close proximity to the premises, who had not been consulted by the Applicant during the consultation process.

The Applicant's Representative explained that the impact of the premises licence would not be significant and if granted, would be mitigated by the proposed conditions they had offered in their operating schedule. The Applicant's representative talked about applications where conditions limited the sale of alcohol to off sales only, and to restrict the sale of alcohol to only craft and artisan ciders, but did not expressly seek to amend the application as it stood.

The Sub Committee considered that they had not heard sufficient evidence to demonstrate how, if granted, the application as it stood would not add to the cumulative impact in the Brick Lane CIZ. The Council's Licensing Policy regarding applications relating to premises in a CIZ was strict as to refusing

an application unless an applicant had demonstrated that there were exceptional circumstances, such that granting the application would not add to the cumulative effect on the licensing objectives in the CIZ.

In reaching their decision, the Sub-Committee made an observation that it lay open to the Applicant to reconsider and resubmit differently, the application if the Applicant saw fit, and whilst this afforded no guarantees to the Applicant in that event, depending on what transpired upon a resubmitted application, a fresh application in revised terms might be considered differently.

Members reached a decision and the decision was unanimous. Members refused the application. The Sub-Committee was particularly mindful of the licensing objective of preventing public nuisance and

Accordingly, the Sub Committee unanimously;

RESOLVED

That the application for a New Premises Licence for Town House, 5 Fournier Street, London E1 6QE 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,
Licensing Sub Committee