

LONDON BOROUGH OF TOWER HAMLETS**MINUTES OF THE LICENSING SUB COMMITTEE****HELD AT 2.30 P.M. ON TUESDAY, 25 SEPTEMBER 2018****THE COUNCIL CHAMBER, TOWN HALL, MULBERRY PLACE, 5 CLOVE
CRESCENT, LONDON, E14 2BG****Members Present:**

Councillor Shad Chowdhury (Chair)
Councillor Faroque Ahmed
Councillor Sabina Akhtar

Officers Present:

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

Representing applicants	Item Number	Role
Jacqueline Rubens	3.1	Legal Representative
Xin Ran Zhou	3.1	Applicant

Representing objectors	Item Number	Role
Gerard McMahon	3.1	Local Resident

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. ITEMS FOR CONSIDERATION

3.1 Application for Variation of a Premises Licence for Mailinda, 62 Mellish Sreet, London E14 8NS

At the request of the Chair, Ms Jacqueline Rubens, Legal Representative on behalf of the Applicant explained that this premises would be a local amenity, customers would be walking to the venue or via taxis and cabs and it would be Chinese customers that would be mainly frequenting the restaurant. It was noted that the cuisines served at the premises would not have strong smells it wouldn't be curries or dishes with strong cheese and therefore would not cause an odour or noxious smells to neighbouring properties. It was also noted that the restaurant served high end Chinese cuisines and therefore would be attracting a different clientele. She referred to the supplemental agenda and stated that the Applicant had agreed to conditions for a sound limiter and also a 30 minutes reduction to the licence hours as proposed by Environmental Health.

Ms Rubens highlighted that the Ward Councillor in his objection said that he had no objections to karaoke subject to sound proofing. She also stressed the fact that there were no objections from Responsible Authorities but only from local residents. She explained that the karaoke would play Chinese songs/music and in its nature would not be so loud and therefore together with sound proofing and a noise limiter, noise would not emanate from the premises. It was also noted that the application was for an additional half an hour to what they currently had.

It was noted that the premises has had a licence since 2012 with no issues or concerns or complaints from Responsible Authorities. It was noted that the Applicant would put a notice up for customers to leave the premises quietly and respect the needs of local residents. In terms of parking Ms Rubens explained that there hasn't been a parking problem to the Applicants knowledge and highlighted areas on the map where parking facilities were available. She said that the Applicant was a responsible owner and wanted his premises to benefit the local community as it was a restaurant and local amenity for local residents. She stated that the Applicant should not be held accountable for general anti-social behaviour in the area.

Members then heard from Mr Gerard McMahon, local resident who expressed concerns about noise nuisance and anti-social behaviour in the area he highlighted how densely populated the area was and explained that the granting of a licence would mean double the amount of space (ground floor and now 1st floor) so double the amount of customers and the potential for more noise nuisance and public nuisance.

He explained that karaoke was live music and would be loud especially in a residential area with lots of families with young children, a retirement home next door to the premises and in particular the hot summers when windows

would be left open and noise would travel even more. He stated that it was not a high street and people had the right to the quality of life. In terms of the smells he said that this was an issue for residents living in John Tucker House as they live next door and experience the smells which emanate from the premises.

He said that there were parking issues and often he is unable to park on his street and would need to park a far distance away from his home as there is no parking available. Mr McMahon concluded by saying that granting a licence would mean the premises would double in the capacity of customers and therefore there would be increased traffic, increase in ASB and increase in noise nuisance.

In response to questions the following was noted;

- In order to limit noise the premises would be sound proofed and there would be a sound limiter installed which would be set by the Tower Hamlet Environmental Health Team.
- That the sound limit would be set by an Environmental Health Officer who would do an assessment from neighbouring properties and set a suitable level.
- That the Applicant would surrender their old licence if a new licence was to be granted.
- That conditions relating to the licensing objective of the protection of children from harm was on page 101 of the agenda.
- That the premises had A3 planning permission and therefore suitable for a food outlet.
- That there were no specific concerns of ASB linked to the premises.
- That there had been no objections from the Police or Environmental Health.
- That windows would be kept closed as air conditioning had been installed.
- That any customers queuing could wait in the karaoke rooms whilst waiting for their food in order to avoid any customers from congregating outside the premises.
- That the Applicant was not aware of any issues concerning parking.
- That on average there would only be 1-2 customers that would drive to the premises on daily basis.
- That the Applicant used a delivery service company for their takeaway deliveries.
- That there was no parking available for delivery drivers but they were able to park right outside the premises as they often only stop for a few minutes to pick up the order.
- That they have been operating a takeaway service since 2012 with no problems or complaints.

In summing up Ms Rubens stated that most customers would be walking or using public transport to the premises, that the clientele was mainly Chinese overseas students who didn't have cars and would be walking to the premises or using a cab.

Members adjourned the meeting at 3.30pm for deliberations and reconvened at 3.50pm.

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 the Legal Representative on behalf of the Applicant and noted the written objections from local residents and the Ward Councillor as well as hearing from one of the objectors present at the meeting with particular regard to the licensing objective of the prevention of public nuisance.

The Sub-Committee noted that the premises in question was situated in a densely populated residential area, with an elderly care home, and mixed residential homes with young families. Members were of the view that the type and the density of such an application if granted in this area may lead to problems of public nuisance and disorder.

The Sub-Committee also noted the written representations made by objectors and also heard verbal representation from the objector present at the meeting regarding concerns relating to the existing levels of noise nuisance and anti-social behaviour, and the lack of parking facilities etc. 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, and thereby the likely impact on the area.

The Sub-Committee considered that the onus lay upon the Applicant to show through the operating schedule, with appropriate supporting evidence that the operation of the premises, if licensed, would not undermine any of the licensing objectives. 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 Environmental Health in terms of reduced hours and the installation of a sound limiter and sound proofing as well as the other conditions proposed. However, the Sub Committee was not satisfied that sufficient measures were in place to prevent public nuisance in the form of noise pollution.

The Sub-Committee was concerned that the premises would be importing a significant number of people into the area for karaoke events which in its nature would be loud and noisy. The area is already experiencing a high volume of 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. There were not sufficient measures in place for customers leaving the venue and entering into residential streets. The Sub-Committee was not satisfied that the operating schedule as presented at the Sub-Committee meeting met those requirements.

The Sub Committee was therefore not satisfied with the application and were of the view that on the balance of probability this premises if granted would cause a negative impact on the area, in that it was considered the applicant failed to demonstrate that their application for a premises licence would not undermine the licensing objectives.

Accordingly, the Sub Committee unanimously

RESOLVED

That the application for a New Premises Licence for Mailinda, 62 Mellish Street, London E14 8NS be **REFUSED**

4. EXTENSION OF DECISION DEADLINE: LICENSING ACT 2003

There were no applications that required deadline extensions.

The meeting ended at 4.00 p.m.

Chair, Councillor Shad Choudhury
Licensing Sub Committee