

LONDON BOROUGH OF TOWER HAMLETS**MINUTES OF THE LICENSING SUB COMMITTEE****HELD AT 2.40 P.M. ON TUESDAY, 29 JANUARY 2019****THE COUNCIL CHAMBER, TOWN HALL, MULBERRY PLACE, 5 CLOVE
CRESCENT, LONDON, E14 2BG****Members Present:**

Councillor Peter Golds (Chair)

Councillor Zenith Rahman

Councillor Victoria Obaze

Officers Present:

Vivienne Walker

– (Senior Prosecution Lawyer)

Kathy Driver

– (Principal Licensing Officer)

Simmi Yesmin

– (Senior Committee Officer, Democratic Services)

Representing applicants

Leo Charalambides

4.1

(Legal Representative)

Corrigan Lockett

4.1

(Applicant)

Damian Doherty

4.2

(Environmental Health Officer)

PC Mark Perry

4.2

(Metropolitan Police)

Nazir Ali

4.2

(Trading Standards Officer)

Representing objectors

Nicola Cadzow

4.1

(Environmental Health Officer)

Wayne Lloyd

4.1

(Local Resident)

Michael Dover

4.1

(Local Resident)

David Dadds

4.2

(Legal Representative)

Md Shilu Choudhury

4.2

(Premise Licence Holder)

Ruhel Amin

4.2

(Designated Premise Supervisor)

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 Shell Old Ford, 445-453 Wick Lane, London E3 2TB

At the request of the Chair, Ms Kathy Driver, Licensing Officer, introduced the report, which detailed the application for a new premises licence for Shell, Old Ford, 445 - 453 Wick Lane, London E3 2TB. It was noted objections had been received from the Environmental Protection team and local residents however the former had withdrawn their objection on the basis of agreed conditions.

Members heard from the Applicants legal representative, Mr Leo Charalambides, who stated his client was a national operator of convenience stores and petrol stations. The hours for the sale of alcohol stated in the initial application had been amended in consultation with the Responsible Authorities and therefore, whilst he had empathy with local residents, no criticism had been made of the operating schedule and the conditions therein by the Responsible Authorities. Mr Charalambides stated his client Shell would be working closely with the new franchisee to ensure the licensing objectives were upheld.

Mr Charalambides stated that across the Shell network, not a single site had ever been subject to a review hearing and that the objective of the company was to provide an accessible convenience store for local residents. Mr Charalambides referred to Thwaites stating that case law stated members of the Panel ought to listen to the advice of the Responsible Authorities rather than individual complaints of anti-social behaviour which were much wider and did not specifically relate to the Shell, Old Ford site. With regards to the objection of Mr Dover, Mr Charalambides said the issues raised, regarding the 'party wall' was a 'private nuisance' consideration and therefore could not be considered as part of the Licensing process.

Mr Charalambides continued stating if the licence was granted it would provide protection for local residents, in the event it was reviewed or if the conditions in the operating schedule were not upheld.

Members also noted the concerns raised by the Objectors in particular the public nuisance caused by groups of motorbike and quad bike riders who revved their engines as well as the drunken antics of nightclub revellers and football supporters. Members heard from Mr Lloyd and Mr Dover about the

affects the public nuisance was having on their daily lives. They said the issues were not limited to night time only but also occurred during daylight hours. Mr Lloyd stated that Shell ought to take more responsibility and be a responsible contributor to the local community as the gathering of riders happened on their forecourt. He said the possibility of alcohol being readily available to nightclub revellers would only further add to the problems the community was enduring.

Mr Dover read his written statement on pages 91 to 96 of the agenda. In particular, Mr Dover highlighted the lack of signage asking patrons to leave quietly and the gathering of bike enthusiasts revving their engines, urinating on the public highway and his property.

In response to questions the following was noted:

- Kathy Driver confirmed the objections from Mr Lloyd and Mr Dover were individual objections and not representations on behalf of the community.
- Ms Driver confirmed no other complaints had been made, other than the objections received, as part of the agenda pack.
- Mr Lockett confirmed there was a lavatory available within the convenience store, for patrons to use.
- Mr Charalambides suggested Mr Dover speak with Shell area manager to work on a solution with respect to the issues he was experiencing.
- Mr Charalambides confirmed his clients were seeking an Alcohol licence from 6:00 a.m. to 12 midnight.

Suggestion to Officers

- Members asked that the issues raised by the Objectors such as congestion caused by vehicles queuing to right turn into the station forecourt should be raised with Officers from the Council's highways department and that the anti-social behaviour witnessed by local residents be further investigated by the Environmental Protection Team.

Members adjourned the meeting at 3.55pm to deliberate and reconvened at 4.10pm.

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:

The Prevention of Crime and Disorder;
Public Safety;
Prevention of Public Nuisance; and
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 his Legal Representative and heard objections from two local residents present at the meeting with particular regard to the two licensing objectives of the prevention of public nuisance, and the prevention of crime and disorder.

Members noted the premises are situated close to the A12 and attracted a considerable amount of anti-social behaviour, from club revellers from a nearby nightclub as well as from groups of motorbike and quad bike riders. Issues such as noise disturbance and urination in the public highway are common occurrences, which exacerbated the quality of life for local residents. However Members noted the fact the Applicant had operated the garage for more than 20 years and had invested in rebuilding the convenience store and forecourt.

Members recognised that the area was a residential area and therefore accepted that a late licence could cause potential increase in public nuisance for residents in an area which already experiences high levels of nuisance. However, Members also noted the efforts made by the Applicant to alleviate the concerns of residents by offering to display notices around the premises requesting customers to respect the needs of local residents and to leave the area quietly and in particular to meet with Mr Dover who lived directly next to the premises to discuss ways in which any further public nuisance (which may potentially be linked to the premises) can be mitigated in the future.

Members welcomed the efforts made by the Applicant by offering conditions in their operating schedule and accepting a reduction in hours for sale of alcohol as agreed with the Environmental Health Officer. However, Members were of the view that a further reduction in the hours in line with the Council's Framework hours would be more appropriate for the area in which the premises are situated.

Members reached a decision and the decision was unanimous. Members granted the application subject to the Council's framework hours and imposed conditions which would help promote the licensing objectives.

Accordingly, the Sub Committee unanimously

RESOLVED

That the application for a New of the Premises Licence for Shell, 445 Wick Lane, London E3 2TB be **GRANTED** with conditions.

Sale of Alcohol – (off sales only)

Monday to Thursday, from 06:00 hours to 23:30 hours

Friday and Saturday, from 06:00 hours to 00:00 hours (midnight)

Sunday, from 06:00 hours to 22:30 hours

The Provision of Late Night Refreshment

Monday to Sunday, from 23:00 hours to 05:00 hours

The opening hours of the premises

Monday to Sunday, 24 hours a day

Conditions

- 1.1 A suitable and sufficient CCTV system with recording facilities will be in place at site and will operate at all times the premise is open for licensable activities.
- 1.2 Images will be retained for a period of no less than 31 days. Access to the equipment and recordings will be provided to the Police or other relevant officers of a responsible authority within 24 hours of the request being made.
- 1.3 Staff will be trained with regard to their responsibilities in the retail sale of alcohol and regular refresher training will also be undertaken (minimum of every 6 months). Written training records can be made available for inspection upon reasonable request by the Police or other relevant officers of a Responsible Authority.
- 1.4 A refusals log will be operated and maintained and will be produced to a relevant officer of the Police or other relevant officers of a responsible authority upon reasonable request.
- 1.5 An incident log will be operated and maintained and will be produced to a relevant officer of the Police or other relevant officers of a responsible authority upon reasonable request.
- 1.6 A Challenge 25 policy will be operated at the premise. Acceptable forms of identification are a passport, photo-card driving licence and PASS accredited identification card.
- 1.7 Spirits (with the exception of spirit mixers and premixed spirit drinks) will be located behind the counter.
- 1.8 The Premises Licence holder shall be permitted to display bulk stacks, wine towers and chilled promotional offerings throughout the store that may not necessarily be shown on the plan. The locations may be subject to change but will be contained within the red lined licensable area shown on the plan attached to the Premises Licence. The display of bulk stacks will not be located where they may impact on the ability of customers to use exits or escape routes without impediment.

- 1.9 Between the hours of 23.00 and 06.00 each day the site will operate a closed door policy with all service taking place through the night pay hatch.
- 1.10 Lager and Cider with an ABV in excess of 6.5% will not be sold with the exception of any premium or handcrafted products.
- 1.11 Clearly legible notices shall be displayed at all exits and around the Premises and the forecourt requesting patrons to respect the needs of local residents and to leave the premises and area quietly;
- 1.12 Clearly legible notices displayed inside the premises informing customers that toilet facilities are available for customer use.

4.2 Application for a Review of a Premises Licence at Cost Price, 41 Brick Lane, London, E1 6PU

At the request of the Chair, Ms Kathy Driver, Licensing Officer, introduced the report which detailed the application for a review of the premises licence for Cost Price, 41 Brick Lane, London E1 6PU. It was noted that the review had been triggered by the Licensing Authority and supported by the Metropolitan Police and Trading Standards.

At the request of the Chair, Mr Damian Doherty, Licensing Officer referred to his review application on pages 153-157 of the agenda. He explained that the premises had been reviewed previously by Tower Hamlets Trading Standards on 15th October 2013 and resulted in conditions being imposed onto the licence. It was also noted that on 10th March 2018 an alcohol test purchase was made by a Licensing Officer after the terminal hour at 01:15am the member of staff present who made the sale said that neither the Premise Licence Holder nor the Designated Premises Supervisor was available. Further offences which were noted were that a current copy of the licence was unavailable, the wrong summary was on display and there was not a refusal/incident book as required by one of their licence condition.

Mr Doherty also explained that on Friday 27th April at 23:15 hours, Council Officers attended the unlicensed premises known as Mexican Grille, 194 Mile End Road, this was also another business owned by Mr Mohammed Shilu Chowdhury, Premises Licence Holder for Cost Price. Officers ordered and received hot food and hot drinks and staff were informing customers that the restaurant closed at 1am. A written warning was issued and later an application was made for late night refreshments which was refused by the Licensing Sub Committee.

It was also noted that Mr Chowdhury was also the Premises Licence Holder at another off licence called Jerrin News at 90 Mile End Road, and this licence was currently suspended due to non-payment of the annual licence fee. Mr Doherty concluded that the licensee had no regard to meeting the licensing objectives, the premises continues to knowingly undertake unlicensed activity and clearly the licensee had not taken the prior review or prior prosecutions

seriously enough to improve the management of the premises. He said that taking into account the history of the premises and the history of Mr Choudhury's running of other premises within the Borough he proposed that the Sub-Committee should consider the revocation of the licence.

Members then heard from PC Mark Perry representing the Metropolitan Police who echoed the comments made by Mr Doherty and expressed concerns of trading outside licensed hours and even when found guilty in Court there had been no regard to rules and regulations and therefore not fit to run the premises and cannot be trusted to follow licence conditions.

Members also heard from Mr Nazir Ali, Trading Standards Officer, he expressed concerns that sales of tobacco products were made to persons under the age of 18 years on two separate occasions, on 13th April and 7th August 2018. He stated that Mr Chowdhury was deemed not fit and proper person to comply with the licensing objective of the protection of children from harm.

At the request of the Chair, Mr David Dadds, Legal Representative on behalf of Mr Choudhury stated that any application should be considered on its own merits and other premises owned by Mr Choudhury should not be considered. He said that paying a fee late didn't make Mr Choudhury un fit or improper to hold a licence. He said that that a test purchase was done in April 2018 and the sale of alcohol was successfully refused.

Mr Dadds said that there had been only one offence of trading outside hours and in any event where there is non-compliance of conditions, the relevant responsible authority should take steps to meet with the licensee, discuss an action plan, discuss training needs and take a graduated approach before a review application is made. He acknowledged that the underage sale of tobacco was serious and should have been the trigger for the review.

He said that Mr Choudhury accepted that steps needed to be taken, it was noted that Mr Choudhury was the landlord, however has not been directly running the business since August 2017 due to ill health and therefore leases to the business to tenants. It was noted Mr Ruhel Amin was the person operating the business and accepts making the underage sale of tobacco in August 2018 and has had refresher training, and proposes to train all staff and introduce till prompt for age restricted products and introduce the challenge 25 policy. It was noted that at the time of this sale Mr Amin and his wife had just had a new baby and his wife was suffering from post-natal depression and therefore sleepless nights, lack of awareness etc. were his mitigating reasons for making the sale. Mr Dadds said that Mr Amin was very apologetic and is undertaking further training. Mr Dadds concluded that revocation in this instance was harsh and disproportionate and a suspension of the licence in order to get the appropriate training and introduce till prompts would be more appropriate.

In response to questions from Members the following was noted;

- That the alcohol test purchase in April 2018 had been correctly refused.
- That an out of hours sale of alcohol was made in March 2018
- That there had been two offences of selling tobacco to minors
- Conditions proposed were to introduce till prompts for age restricted products, introduce the Challenge 25 policy and offer training for all staff.

Mr Dadds stated that selling tobacco was not serious enough for revocation of the licence and a suspension of the licence was more proportionate. He also suggested that officers could inspect the premises for training records etc. before opening after suspension period.

He said that any reference to other premises should be dismissed and any steps should be reasonable and proportionate.

In summation, PC Mark Perry stated that Members should look at the evidence before them, note that there they had been operating outside hours, operating without a licence, and failing test purchases and should note the history of other premises owned by the Mr Choudhury. He stated that Mr Choudhury had a lack of regard to rules and regulations and licensing objectives and revocation of the licence should be considered.

Mr Dadds stated that the previous review was 6 years ago, a non-payment of a fee was not an offence and not relevant. And as for trading without licence, Mr Choudhury had initially thought there was a licence in place. He said in totality there were two offences of selling tobacco to underage minors and this should warrant a suspension and conditions and revocation of the licence would be disproportionate.

Members adjourned the meeting at 5.10pm to deliberate and reconvened at 5.35pm.

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:

The Prevention of Crime and Disorder;
Public Safety;
Prevention of Public Nuisance; and
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 made by Licensing Authority supported by

officers representing the Metropolitan Police and Trading Standards and also heard from the Legal Representative, representing the Premises Licence Holder with particular regard to the three licensing objectives of the prevention of public nuisance, the prevention of crime and disorder and the protection of children from harm.

Members determined that the incidents of failed test purchases; the selling of alcohol outside licensable hours and selling age restricted products (tobacco) to minors were of serious concerns. Members accepted that the Premises License Holder and the Designated Premises Supervisor accepted these failings and were apologetic and had shown remorse. Both had been trained and are undertaking further training in order to sell responsibly.

Members were very concerned that someone underage was able to purchase age restricted products in the form of tobacco and therefore concerned with the adequacy of checks being made when such products are being sold.

Whilst Members noted the Premises Licence Holder's efforts by proposing additional conditions, Members felt that on the balance of probabilities there was a serious risk of crime and disorder and the protection of children from harm associated with the premises therefore due to the seriousness of the incidents and lack of confidence in the management, Members made a decision and the decision was unanimous. Members decided to grant the review by suspending the premises licence for the maximum period of three months.

Members consider this suspension a necessary and proportionate response to the very serious incidents which occurred as it will allow the Premises Licence Holder to do all that is necessary to address the issues which have come to light, train staff and put in place all the conditions imposed on the license to further promote the licensing objectives.

Decision

Accordingly, the Sub-Committee unanimously –

RESOLVED

That the application for a Review of the Premises Licence for, Cost Price, 41 Brick Lane, London E1 6PU be **GRANTED with the Suspension of the Licence and conditions.**

Suspension

The Suspension of all licensable activities for a period of three months.
(The decision notice will state the exact dates the suspension will commence and end on)

Conditions

1. All members of staff who are authorised to sell alcohol shall be properly trained in the legal requirements and restrictions to sell alcohol.
 - a) A record shall be maintained and kept at the Premises detailing the name of each member of staff trained; the date training was provided; details of the person who provided the training and an acknowledgment that staff have been so trained.
 - b) The record shall be available for inspection by authorised officers of the Licensing Authority and the Police at all times the Premises are open.
 - c) Staff shall receive regular refresher training in the Licensing Act 2003 at intervals of no more than 12 months.
2. To install till prompts for age restricted products.
3. A Challenge 25 policy will be operated at the premise. Acceptable forms of identification are a passport, photo-card driving licence and PASS accredited identification card

5. EXTENSION OF DECISION DEADLINE: LICENSING ACT 2003

The Sub Committee agreed to extend the decision deadlines for the following applications;

Premises	Hearing Date	Decision by
London Cocktail Club, 253 Paradise Row, London, E2 9LE (CH)	05/02	04/12
The Town House, 5 Fournier Street, London, E1 6QE (SN)	05/02	18/12
City Supermarket, 389 Cambridge Health Road, London E2 9RA (CH)	27/02	27/12
Roman Road PFC, 89 Roman Road, London E2 0QN (MA)	27/02	24/01
Cagdas Food Centre, 606 - 608 Roman Road, London E3 2RW (MA)	05/03	30/01
Sichuan, 32 Hanbury Street, London E1 6QR (CH)	05/03	08/02

Premises	Hearing Date	Decision by
Royal Oak, 73 Columbia Road, London E2 7RG (KD)	19/03	06/02

The meeting ended at 5.40 p.m.

Chair, Councillor Peter Golds
Licensing Sub Committee