

LONDON BOROUGH OF TOWER HAMLETS**MINUTES OF THE LICENSING SUB COMMITTEE****HELD AT 6.35 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
 Councillor Leema Qureshi

Officers Present:

Lavine Miller-Johnson – (Licensing Officer)
 David Wong – (Legal Services)
 Simmi Yesmin – (Democratic Services)

Representing Applicants	Item Number	Role
Lana Tricker	4.1	(Legal Representative)
James Hopkin	4.1	(Applicant)
Danni Wilson	4.1	(Manager)
Mike Nickson	4.2	(Licensing Representative)
Fiona Atkins	4.2	(Applicant)
Clifford Atkins	4.2	(Applicant)

Representing Objectors	Item Number	Role
Nicola Cadzow	4.1	(Environmental Health Officer)
Matt Piper	4.2	(Resident)
Barra Little	4.2	(Resident)
Glen Mifsud	4.2	(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. MINUTES OF THE PREVIOUS MEETING(S)

The minutes of the Licensing Sub Committee meetings held on 4th and 20th December 2018 were agreed and approved 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

At the request of the Chair, Ms Lavine Miller-Johnson, Licensing Officer, introduced the report which detailed the application for a variation of the premises licence for The Craft Cocktail Company, Arch 253, Paradise Row, London E2 9LE. The application was to vary their existing licence condition to extend the outside seating area from 21:00 to 23:00 hours, seven days a week. It was noted that an objection had been received on behalf of the Environmental Health Team.

At the request of the Chair, Ms Lana Tricker, Legal Representative on behalf of the Applicant explained that they wanted to vary one of their existing licence conditions for the use of the external area from 21:00 hours to 23:00 hours. She explained that the Craft Cocktail Company was a very experienced cocktail brand and given the location it was very popular, had lots of seating and good transport links and mainly attracted a female clientele. Ms Tricker stated that the application had been discussed with Responsible Authorities such as the Police and had been discussed at the local Pub Watch meeting.

It was noted when the application was first made the premises was not part of a Cumulative Impact Zone (CIZ) and the Police had made no objections. There had been no individual representations as the Applicants had developed a positive relationship with local residents. She highlighted that the concerns from Environmental Health were due to the late hours and the concerns of noise escape. Ms Tricker highlighted the fact the hours of extension were within the framework hours and any noise escape would be managed by the conditions in place and supervision by an SIA accredited door supervisor.

Ms Tricker concluded by stating the ways in which they rebut the presumption of the CIZ; they were active members of the community, the manager was the Chair of the local Pub Watch scheme, had internal polices promoting the licensing objectives, together with additional conditions offered such as a condition to limit the number of people in the outdoor area to 45 persons after 10pm. A dispersal policy, tightly controlled with two managers and four members of staff and that they were part of the Best Bar None initiative where their policies had been tested and rated.

Members then heard from Ms Nicola Cadzow, Environmental Health Officer, she explained that any noise that would be generated from outside the premises was likely to cause a disturbance to local residents in the vicinity. She highlighted that the premises was in a CIZ and the idea of using the outdoor space would encourage other premises to apply for later hours, therefore affecting residents.

She said that Temporary Event Notice applications were not a problem but the outdoor area was only 10 metres away from residential properties, the premises had music speakers outside, and Ms. Cadzow therefore asked that speakers should not be allowed outside at any time.

In response to questions from Members the following was noted;

- That the applicants had a good relationship with residents, have had a couple of complaints and in response to these they have turned the music down, and one occasion provided management contact details which resolved issues.
- That there had been four noise complaints altogether which were from the same two residents.
- That the premises were operating successfully and the concerns raised were only speculative.
- The front door was always kept closed to prevent noise escape.
- That the additional outdoor trading hours would financially help stabilise the business due to rising business rates.
- That the company was actively involved in the Best Bar None initiative to meet industry standards.
- The Applicant had other premises in Westminster and Oxford Circus which were also in a CIZ, however, it was noted that none of the other premises had an outdoor drinking area.
- That there were no objections from the Police [or local residents].

In conclusion Ms Cadzow said that she had concerns as the increase in hours would cause an increase in public nuisance.

Ms Tricker concluded by stating that they would limit the capacity to 45 people after 10pm, keep doors closed and have one SIA accredited door supervisor on duty on Fridays and Saturdays after 10pm.

Members adjourned the meeting at 7.10pm to deliberate and reconvened at 7.25pm.

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 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 area 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

At the request of the Chair, Ms Lavine Miller-Johnson, Licensing Officer, introduced the report which detailed the application for a new premises licence for Town House, 5 Fournier Street, London E1 6QE. The application was seeking a licence for the sale of alcohol. It was noted that objections had been received on behalf of local residents. It was also noted that there was one letter of support.

At the request of the Chair, Mr Mike Nickson, Licensing Representative on behalf of the Applicants explained that they wished to vary the application to apply for off sales only, this was due to the concerns raised by residents. He

said they were not applying for late night refreshments or regulated entertainment, but merely the flexibility to sell craft artisan beers/ciders. He said that it had been a coffee shop for the past 20 years, a charming and cultural café. He said that there were two floors to the premises and the licence would relate to the basement floor only. He said it was not proposed to operate the premises as an off licence, but to sell artisan and craft beers/ciders produced in small quantities by the Applicants, which would be on sale in the basement floor only and therefore not be behind the shop window or openly displayed on the premises. Therefore, the proposed sale of artisan and craft beers/ciders was not likely to attract street drinkers.

He explained that many discussions had been made and many have welcomed the idea with letters of support contained in the agenda and supplemental agenda. He said that the hours were within the framework hours and objections raised by residents related to activity from other licensed premises in the local area.

Mr Nickson acknowledged that the premises was within a Cumulative Impact Zone (CIZ), and that therefore, the burden was on the Applicants to prove how they would rebut the presumption against granting a licensing application relating to premise in a CIZ. Mr Nickson also argued that any cumulative impact which objectors relied on, would need to be proved by evidence. It was noted that no Responsible Authorities had objected to the application as they had no concerns. It was noted that the Applicants estimated that the proposed sale of alcohol would account for no more than 5% of the business. The Applicants submitted that any decision is to be proportionate and reasonable and based on evidence.

The Applicants presented that the Town House had community support, and that there had been dialogue with residents for the past 18 months, as a result of which the Applicants had indicated having applied self-imposed conditions. The Applicants also suggested conditions such as restricting the licence to craft and artisan beers only and for the licence only to be operated by Fiona and Clifford Atkins.

Mr Nickson referred Members to page of 209 of the agenda which referred to the Special Cumulative Impact Policy for the Brick Lane and Bethnal Green Area, in particular section 19.8 which lists examples of factors the Licensing Authority may consider as exceptional may include, though are not limited to;

- Small premises with a capacity of fifty persons or less who only intend to operate during framework hours.
- Premises which are not alcohol led and operate only within framework hours such as coffee shops.

He said the premises had a capacity of 14 people, was not alcohol led and the hours were within the Council's framework hours.

At the request of the Chair, local residents who objected, Mr Glen Mifsud, Mr Matt Piper and Mr Barra Little, all raised similar concerns that the premises were not suitable for the sale of alcohol. These residents also mentioned past

experiences where the premises had events held under temporary event notices, when it had been noisy and no apparent controls of noise by the management. The fact that it was in close proximity to the residential properties, alcohol being sold as off sales would mean people drinking on the streets, sitting on door steps smoking and causing public nuisance.

The objectors stressed the fact that the premises were within a CIZ, another licenced premises would add to the cumulative impact of other licensed premises in that CIZ. Mr Little highlighted the fact that he had not been consulted, and he lived next door to the premises. The objectors felt that conditions put forward were not far enough to protect residents from public nuisance. It was in a largely residential street. The building itself was partly residential and to introduce alcohol would be a detriment to peace and enjoyment of people living there.

In response to Members questions the following was noted;

- That the premises were not commercial premises in isolation as there were other commercial premises on the same street.
- There would be no alcohol on the ground floor and there would be no advertisement for the sale of alcohol.
- The craft cider would be very limited, and very expensive.
- If customers were seen to be inebriated they would not be served and this would be strictly controlled.
- That the Applicants had been at the premises for the past 18 years.
- That the Applicants made their own craft beers/ciders.
- There would be no consumption off the premises.
- That the Applicants were willing to restrict the sale of alcohol to craft and artisan beers/ciders only.
- That alcohol would form a small part of the business.

Members adjourned the meeting at 8.15pm to deliberate and reconvened at 8.45pm.

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, Councillor Ehtasham Haque
Licensing Sub Committee