

LONDON BOROUGH OF TOWER HAMLETS**MINUTES OF THE LICENSING SUB COMMITTEE****HELD AT 6.35 P.M. ON TUESDAY, 3 DECEMBER 2019****THE COUNCIL CHAMBER, TOWN HALL, MULBERRY PLACE, 5 CLOVE
CRESCENT, LONDON, E14 2BG****Members Present:**

Councillor Shah Ameen (Chair)

Councillor Sufia Alam

Councillor Mohammed Pappu

Officers Present:

David Wong	– (Legal Services)
Mohshin Ali	– (Senior Licensing Officer)
Farhana Zia	– Senior Committee Officer

Representing applicants	Item Number	Role
Mr Andrew Woods	4.1	Applicant's legal representative
Ms Tamara Kamur	4.1	Woods River Cruises Ltd
Mr Matthew Butt	4.2	Counsel for Applicant
Mr David Inzani	4.2	Solicitor for Applicant
Ms Marie-Laure Le Blais	4.2	Applicant
Mr Quentin Coulombel Du Beaudies	4.2	Director & General Manager of Applicant's company
Mr Toby Brown	4.2	Manager of Old Spitalfields Market for OSM Ltd, Landlord
Representing objectors	Item Number	Role
Mr Jonathan Stebbins	4.2	President of Spitalfields Market Residents Association
Ms Margaret Gordon	4.2	Chair, St George Residents' Association Spitalfields
Rose Sheldon	4.2	Local Resident
Sophie Stebbins	4.2	Local Resident

1. DECLARATIONS OF DISCLOSABLE PECUNIARY INTEREST

There were no declarations of interests made.

2. RULES OF PROCEDURE

There rules of procedure were noted.

3. MINUTES OF THE PREVIOUS MEETING(S)

The minutes of the Licensing Sub-Committee held on the 1st and 29th October 2019 were agreed as an accurate record of the proceedings.

4. ITEMS FOR CONSIDERATION**5. LICENSING ACT 2003: APPLICATION FOR A PREMISES LICENCE FOR (SILVER SOCKEYE) WAPPING PIER, KING HENRY'S STAIRS, WAPPING HIGH STREET, LONDON E1W 2NR**

At the request of the Chair, Mr Mohshin Ali, Senior Licensing Officer, introduced the report which detailed the application for a licence for Silver Sockeye, Wapping Pier, King Henry's Stairs, Wapping High Street, London E1W 2NR. It was noted that representations had been made by local residents.

Mr Andrew Woods, the Applicant's legal representative, explained the licence was for a private hire river boat, which would be moored at Wapping Pier. Mr Woods said the conditions offered by the Applicant in the operating schedule made clear, members of the public would not be embarking or disembarking from the boat at this location. The mooring would be the home of the river boat with a maximum of three members of staff using Wapping Pier when leaving or returning to the pier. There would be no music or alcohol on board when the boat is moored.

Mr Woods said this was a family run business that had been in operation since 1947, and which had two other similar vessels. He said the application for the sale of alcohol and regulated entertainment related to when the boat would be on the river, and not when it is moored at the pier.

There were no objectors in attendance at the meeting. However the Sub-Committee noted their concerns in relation to public nuisance, in particular noise disturbance of passengers embarking and disembarking.

In response to questions from Members, the following was noted:

- The maximum capacity of the boat is 195 passengers and crew. However the average party group consisted of 60 to 80 people. The boat is hired mainly for corporate events.
- The boat has recently operated under a Temporary Event Notice, in relation to an event involving 70 guests in respect of which there were no complaints
- The timings applied for (6:00 a.m. to 2:00 a.m.) make allowance for the rare occasion a party runs later than midnight. However on average a party would normally cease at 10:00 p.m. or 11:00 p.m. It is also to ensure the timings are consistent with the times operated by the other boats run by the business making it easier to offer clients flexibility in hiring across the fleet of boats.

- The Applicant reassured Members that no guests would be embarking or disembarking from the boat at Wapping Pier. It was the boat's home, and so it would only be moored at the Pier.

Members adjourned the meeting at 18:53 hours for deliberations and reconvened at 19:32 hours.

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. The Prevention of Public Nuisances; and
4. The Protection of Children from Harm

Consideration

Each application must be considered on its own merit. The Chair confirmed that the Sub-Committee had carefully considered all of the evidence before them, the written representations of the objectors and the oral representations from the Applicant's Legal Representative, with particular regard to public nuisance.

The Sub-Committee noted the licence was for a private hire river boat, which would be moored at Wapping Pier, King Henry's Stairs, Wapping High Street, London E1W 2NR. The Sub-Committee noted the conditions offered by the Applicant as part of the operating schedule and the conditions agreed with the Environmental Protection Team.

The Sub-Committee noted the concerns of local residents with regard to public nuisance and noise emanating from recorded music. However the Sub-Committee were reassured by the Applicant's legal representative, that the hours applied for regulated entertainment, related to when the boat would be on the river and not when it was moored at the pier. Members were informed a maximum of three members of staff would embark and disembark from the boat at Wapping Pier and no music or alcohol would be permitted at this location.

The Sub-Committee were satisfied the licensing objectives would be promoted and the conditions on the licence would effectively mitigate the risk of noise nuisance. The Sub-Committee was also satisfied the conditions imposed would help alleviate the concerns raised by the objectors.

Accordingly, the Sub-Committee unanimously

RESOLVED

That the application for a premises licence for Silver Sockeye, Wapping Pier, King Henry's Stairs, Wapping High Street, London E1W 2NR be **GRANTED** with conditions.

The sale by retail of alcohol – On sales only

Monday to Sunday, from 06:00 hrs to 02:00 hrs the following day

The provision of late night refreshment – indoors

Monday to Sunday, from 23:00 hrs to 02:00 hrs the following day

The provision of regulated entertainment – Indoors and outdoors

(Live music and recorded music)

Monday to Sunday, from 06:00 hrs to 02:00 hrs the following day

Conditions

- 1.1 Guests shall not embark or disembark the premises from the Wapping Pier address. All guests shall be picked up and dropped off at other Central London piers. Only staff will arrive or leave from this pier.
- 1.2 Alcohol will only be sold for consumption by persons on a pre-booked event and/or private function not to the general public.
- 1.3 Effective training of staff to have understanding and awareness of the premises licence and the requirements to meet the licensing objectives.
- 1.4 The premises shall sign up to the Best Bar None scheme.
- 1.5 The premises shall have a zero tolerance drugs policy in place.
- 1.6 An incident log shall be kept on the premises and shall be made available to the council or the police on request.
- 1.7 A record shall be kept detailing all refused sales of alcohol. The record shall include the date/time of the refused sale and the name of the member of staff who refused the sale. The record shall be available at the premises for inspection by authorised officers on request.
- 1.8 Bottles or glasses shall not be taken off the premises
- 1.9 The premises licence holder shall ensure that all waste and recycling is lawfully disposed of, subject to bottles and cans not being disposed of into open receptacles in the vicinity of Wapping Pier.
- 1.10 A Challenge 25 proof of age scheme shall be operated at the premises where the only acceptable forms of identification are recognised photographic identification cards, such as a driving licence, passport or proof of age card with the PASS Hologram".

- 1.11 Loudspeakers shall not be located in the entrance doors or outside area of the boat.
- 1.12 Whenever the boat is moored at Wapping Pier, it will not have any customers on board.
- 1.13 Whenever the boat is moored at Wapping Pier, there will be no music played on board.
- 1.14 There will be no kitchen on board the boat.

6. LICENSING ACT 2003: APPLICATION FOR A PREMISES LICENCE FOR (FUNKY CELLAR) OLD SPITALFIELDS MARKET, 10A LAMB STREET, LONDON E1 6EA

At the request of the Chair, Mr Mohshin Ali, Senior Licensing Officer, presented the report which detailed the application for a new premises licence for Funky Cellar, Old Spitalfields Market, 10a Lamb Street, London E1 6EA. It was noted representations had been made by local residents.

Mr Mathew Butt, Counsel for the Applicant explained his client was applying for a new licence, which was similar in nature to the one operated by the previous owners. He said it was evident local residents had experienced difficulties with the previous owner. However the Applicant was not related to the previous owner in any way. Mr Butt said the Applicant was a responsible operator, who had a similar business interest in another part of London, and whilst it would have been beneficial to have transferred the previous licence, the licence had lapsed, when the previous owner went into administration.

In addressing the licensing objectives, Mr Butt said the Applicant's application fulfilled the criteria stated in paragraph 19.8 of the Council's Statement of Licensing Policy, set out on page 263 of the agenda pack; namely that it is a set of small premises with a capacity of fifty persons or less, which intended to operate within the framework hours. The premises would not be alcohol led as the alcohol was ancillary to a food business, and the site had previously been the subject of a premises licence in like terms to the licence now sought. The previous premises licence having ceased when the previous unrelated premises licence holder had gone into administration. Mr Butt offered further conditions stating the Applicant would withdraw that part of the application regarding the provision of regulated entertainment, in order to address the licensing objective of public nuisance and noise disturbance to residents living above and adjacent to the premises. Mr Butt said should the Sub-Committee be minded to grant the licence, the Applicants would consider implementing new refrigeration units at the premises, which would have sliding doors to contain smell emanating from the cheeses it was selling, even though the smell and eating of cheeses was not a licensable activity. Furthermore, the Applicant would ensure the ventilation fan would be in operation whenever licensable activity took place.

Members heard from Mr Jonathan Stebbins, President of the Spitalfields Market Residents Association, who was representing local residents. Mr

Stebbins said that whilst residents welcomed new businesses in the area, they had to be mindful of the area being a mixed commercial and residential area. The buildings were old Victorian structures, within which noise and smell travelled. The buildings were not insulated and occupants of the flat above the premises had experienced particular difficulties relating to the smell of cheeses as well as noise disturbance from music played by the previous owners. Mr Stebbins said there had been an incremental rise in the number of commercial businesses in the area and the cumulative impact zone was in place to redress this balance. Mr Stebbins questioned whether the premises fell within the exceptional circumstance of having a capacity of 'fifty or less persons' and said he understood from the plan on page 150 of the agenda pack, that the premises capacity would exceed fifty person, when taking into account the basement and ground floor areas.

Mr Stebbins added whilst the residents welcomed the new conditions offered these were very last minute and residents had not been given an opportunity to give a considered response.

In response to questions from Members, the following was noted:

- No complaints had been received by the Licensing Authority since the lapse of the previous premises licence in April 2019. The current owners had operated under four TENs throughout November, and no complaints had been received or logged.
- There was no evidence of impact on the cumulative impact zone between April and November 2019.
- The Applicant had no association with nor were they connected, in any way, to the previous owners.
- The basement area would continue to be a storage space and toilet area, so would not be an area where licensable activity would take place. The colour copy of the diagram on page 150 clearly shows the area of licensable activity which would be confined to the ground floor and outside area, with fifty or less covers.
- The outside area will allow for four benches and two tables.
- A licence is not required for background music. A regulated entertainment licence was applied for to cover all eventualities. Given the concerns of local residents, the Applicant was willing to withdraw this altogether.
- Following a public meeting with residents, the Applicant was willing to consider further sound insulation if the licence was granted. They would also replace the refrigeration units with sliding doors, so as to stop the smell from cheeses overpowering residential flats, including flats above the premises.

In summing up, Mr Matthew Butt asked Members to grant a premises licence on the conditions stated in the operating schedule and those offered at the meeting. He said the Applicant rebutted the presumption of not granting the licence in a CIZ, has exceptional circumstances applied and would not be adding to the cumulative impact in the area. The Applicant had demonstrated

the steps it would take to uphold the licensing objectives and would work with local residents to ensure the premises was well run and managed.

Mr Stebbins for the objectors said consideration should be given to the mixed use of the area and the impact which the creep of commercial businesses was having on the livelihoods on residents.

Members adjourned the meeting at 20:31 hours for deliberations and reconvened at 21:00 hours.

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' 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. The Prevention of Public Nuisance; and
4. The Protection of Children from Harm

Consideration

Each application must be considered on its own merit. The Chair confirmed that the Sub-Committee had carefully considered all of the evidence before them and the oral representations from the Applicant's Legal Representative and local residents, with particular regard to public nuisance.

The Sub-Committee noted the premises are in a cumulative impact zone (CIZ) and therefore, 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 premises licence application be refused.

The Sub-Committee noted that under the Council's Statement of Licensing Policy, the Applicant can rebut the above presumption if it can demonstrate that the granting of the application will not negatively add to the cumulative impact already experienced in the CIZ.

The Sub-Committee noted the representations from the residents regarding the impact of the premises in the CIZ and their concerns relating to the existing levels of public nuisance, in particular noise amplification and disturbance as well as smell emanating from cheeses being sold from the premises.

The Sub-Committee noted the application is for a new licence, operating similarly to the previous business, where the licence had lapsed due to the former owners going into administration. The Sub-Committee noted the

current applicants had no connection to the previous business, although the proposal was to operate a similar business.

The Sub-Committee noted the hours applied for had been amended to fall within the legal framework hours and heard from the Applicant's legal representative as to the conditions offered to address the concerns of local residents. The refrigeration units for the cheeses would have sliding doors and the ventilation fan would be in operation during the times of licensable activity. The Applicant also offered to remove from their application the provision of regulated entertainment, in order to mitigate any public nuisance caused by recorded music playing.

The Applicant's legal representative stated that his client's business further rebutted the presumption against grant of an application relating to premises in a CIZ, because the application involved the examples of exceptional circumstances stated in paragraph 19.8 of the Council's Statement of Licensing Policy, set out on page 263 of the agenda pack - namely these were small premises with a capacity of fifty persons or less, which intended to operate within the legal framework hours. The premises were a food outlet, so not alcohol led, and the proposed premises licence would replace a defunct premises licence of similar coverage with expired in April 2019, under different management relating to the same premises. In addition the Applicant's legal representative argued his client were responsible operators who ran a similar licensable premises in another local authority area without concerns or complaints.

Whilst mindful of the normal presumption against grant of an application relating to premises in a CIZ, the Sub-Committee were satisfied on the evidence that there were exceptional circumstances in this case that a grant of the application relating to these premises would not add to the cumulative impact in the area. The Sub-Committee concluded the licensing objectives will be promoted and the conditions offered by the Applicant will adequately mitigate the risk of public nuisance.

Accordingly, the Sub-Committee unanimously

RESOLVED

That the application for a New Premises Licence for Funky Cellar, Old Spitalfield Market, 10a Lamb Street, London E1 6EA be **GRANTED** with conditions.

The sale by retail of alcohol –(on and off sales)

Monday to Saturday from 11:00 hours to 22:00 hours

Sunday, from 11:00 hours to 19:00 hours

The opening hours of the premises

Monday to Saturday, from 10:00 hours to 23:00 hours

Sunday, from 10:00 hours to 20:00 hours

Conditions

- 1.1 Deliveries to the premises shall be after 08:00 hours and before 18:00 hours.
- 1.2 Refuse collections shall be from 08:00 hours to 18:00 hours on Monday to Friday, from 09:00 hours to 18:00 hours on Saturday and 09:00 hours to 17:00 hours on Sunday.
- 1.3 There shall be no drinking, vertical or otherwise on the pavement not even for smokers.
- 1.4 There shall be no standing smokers on the pavement.
- 1.5 There shall be no outside dining on the pavement.
- 1.6 There shall be no Lamb Street pavement tables
- 1.7 A Challenge 25 proof of age scheme shall be operated at the premises where the only acceptable forms of identification are recognised photographic identification cards, such as a driving licence, passport or proof of age card with the PASS Hologram.
- 1.8 The premises shall install and maintain a comprehensive CCTV system as per the minimum requirements of the Tower Hamlets Police Licensing Team. All entry and exit points will be covered enabling frontal identification of every person entering in any light condition. The CCTV system shall continually record whilst the premises is open for licensable activities and during all times when customers remain on the premises. All recordings shall be stored for a minimum period of 31 days with date and time stamping. Viewing of recordings shall be made available immediately upon the request of Police or authorised officer throughout the entire 31 day period.
- 1.9 A staff member from the premises who is conversant with the operation of the CCTV system shall be on the premises at all times when the premises are open. This staff member must be able to provide a Police or authorised council officer copies of recent CCTV images or data with the absolute minimum of delay when requested.
- 1.10 An incident log shall be kept at the premises, and be available on request to the Police or an authorised officer. It must be completed within 24 hours of any incident and will record the following:
 - a) all crimes reported to the venue;
 - b) all ejections of patrons;
 - c) any complaints received concerning crime and disorder
 - d) any incidents of disorder;
 - e) all seizures of drugs or offensive weapons;
 - f) any faults in the CCTV system, searching equipment or scanning equipment;
 - g) any refusal of the sale of alcohol;
 - h) any visit by a relevant authority or emergency service.

- 1.11 Notices shall be prominently displayed at all exits requesting patrons to respect the needs of local residents and businesses and leave the area quietly.
- 1.12 The current cheese refrigeration units are to be replaced with refrigeration units fitted with sliding doors by 31st January 2020.
- 1.13 The ventilation system is to be in operation at all times licensable activity takes place.
- 1.14 Sound insulation is to be installed in consultation with the Council's Environmental Health Officer by the 31st January 2020.

The meeting ended at 9.05 p.m.

Chair, Councillor Shah Ameen
Licensing Sub Committee