

LONDON BOROUGH OF TOWER HAMLETS**MINUTES OF THE LICENSING SUB COMMITTEE****HELD AT 6.33 P.M. ON TUESDAY, 25 FEBRUARY 2020****THE COUNCIL CHAMBER, TOWN HALL, MULBERRY PLACE, 5 CLOVE
CRESCENT, LONDON, E14 2BG****Members Present:**

Councillor Ehtasham Haque (Chair)
Councillor Rajib Ahmed (Vice-Chair)
Councillor Leema Qureshi

Officers Present:

Agnes Adrien – (Head of Litigation, Legal Services)
Corinne Holland – (Licensing Officer)
Mohshin Ali – (Senior Licensing Officer)
Nicola Cadzow – (Environmental Health Officer)
Farhana Zia – Senior Committee Officer

Representing applicants	Item Number	Role
Mr Darren Almeida	3.1	Counsel for Applicant
Ms Sarah Le Fevre	3.2	Counsel for Applicant
Mr David Inzani	3.2	Solicitor for Applicant
Mr Jason Dervin	3.2	Spitalfields Estate General Manager Bishops Square S.A.R.L

Representing objectors	Item Number	Role
Ms Nicola Cadzow	3.1	Environmental Health
Mr Mohshin Ali	3.1	Licensing Authority
Ms Nicola Cadzow	3.2	Environmental Health

1. DECLARATIONS OF DISCLOSABLE PECUNIARY INTEREST

There were no declarations of interests made.

2. RULES OF PROCEDURE

The rules of procedure were noted.

3. ITEMS FOR CONSIDERATION

3.1 Licensing Act 2003 Application for a new Premise Licence for Noodles & Beer, Unit 6, 31 Bell Lane, London, E1 7LA

At the request of the Chair, Ms Corinne Holland, Licensing Officer, introduced the report which detailed the application for a new premises licence for Noodles & Beer, Unit 6, 31 Bell Lane, London, E1 7LA. It was noted that objections had been received by Officers on behalf of the Licensing Authority and Environmental Health as well as from a local resident.

At the request of the Chair, Mr Darren Almeida, Legal Representative on behalf of the Applicant explained the premises licence was being sought for a Noodle restaurant, which had a total of fifty three covers (seats). Mr Almeida explained the Applicant had put forward conditions, as per the supplement agenda, taking on board the advice of the Police Licensing Team, with whom it had agreed conditions. It would ensure a CCTV system and a Challenge 25 policy, is in place to combat against any crime and disorder or public nuisance, should it arise. Mr Almeida said staff would be trained to use the CCTV equipment and relevant notices would be placed outside the premises to ask patrons to leave quietly. The restaurant is not a nightclub so therefore there is no risk of a large crowd leaving at the same time. There would be a steady flow of customers coming and going, who would eat and leave the restaurant quietly. Mr Almeida said the concerns raised by the local resident had been addressed on page 6 of the supplement agenda (points a to e) concerning the breakout of noise from the premises. Mr Almeida said the adoption of the proposed conditions should allay the fears of residents and would uphold the licensing objectives. Mr Almeida requested the premises licence be granted.

Members then heard from Ms Nicola Cadzow, Environmental Health Officer. She explained she objected to the application as scant detail was provided in the initial application on how the Applicant would uphold the licensing objectives in particular the public nuisance objective. Ms Cadzow said that having looked at the proposed conditions put forward in the supplement agenda, she remained concerned at the Applicants ability to report and log incidences of noise and public nuisance. She said the conditions did not specify times for the disposal of rubbish and bottles which she would expect to see in the proposed conditions or any mitigation against the level of noise that would be permitted before doors and windows would be closed. Ms Cadzow reminded Members the premises was in a cumulative impact zone (CIZ) and the onus was for the Applicant to show how the licensing objectives would not be undermined.

Mr Mohshin Ali, Licensing Officer concurred with the objection raised by Ms Cadzow stating that his objection related to the premises being in a cumulative impact zone. He said the Applicant's representative had made no attempt to address how it would rebut the presumption of refusing the licence, on the grounds that the premises is in a CIZ. Mr Ali said the conditions put forward did not, on a balance of probability address why the application should not be refused and the negative impact it would have on the area.

In response to questions the following was noted:

- The responsible authorities did not feel the written application or the oral representation made by the Applicant's legal representative rebutted the presumption of why the licence should be granted, as the premises is situated in a CIZ.
- The Applicants legal representative agreed there was no designated smoking area for patrons to smoke and initially said he would be happy to accept a condition to limit the number of smokers to five smokers outside at any one time. When challenged further, he stated his client would be happy if this was limited to three smokers.
- Members sought clarity why speakers would be placed away from adjacent walls of residential properties, page 41 of the agenda, when no licence had been applied for, for regulated entertainment. Mr Almeida said this must be an oversight from a previous template being used.
- In response to what would be done to mitigate against the disposal of rubbish, the Applicant's legal representative said the conditions put forward were not detailed so to allow the Sub-Committee to impose timings. Mr Almeida said his client would accept a condition that no waste should be disposed after 9:00 p.m.
- In response to how the presumption that the application be refused because it is in a CIZ, is rebutted Mr Almeida said the premises qualified as an exceptional circumstance. It was a small premises with fifty three covers and would operate within the council's legal framework hours. He said the business was not alcohol led and was located on the periphery of the CIZ away from the busy Brick Lane end and more towards Aldgate. He said the adoption of the proposed conditions would ensure the licensing objectives would be upheld. However the Chair commented that the name of the premises Noodle and Beer suggested otherwise that the premises, is not alcohol led and did not meet the exceptional circumstance criteria.

Members adjourned at 19:15 hours for deliberations and reconvened at 19:42 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 Nuisance; and
4. The Protection of Children from Harm.

Consideration

Each application must be considered on its own merits. The Chair confirmed that the Sub-Committee had carefully considered all the evidence before them and heard oral representations at the meeting made by the Applicant's Legal Representative and Officers representing the Responsible Authorities objecting to the application, with particular regard to the four Licensing Objectives.

The Sub-Committee noted that the premises are in a cumulative impact zone (CIZ) and so, the effect of a 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 through their operating schedule, 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 representations from the Licensing Authority, and Environmental Health regarding the impact of the premises on the Brick Lane Cumulative Impact Zone (CIZ) and concerns this had not been addressed by the Applicant in their application or their submission.

The Sub-Committee therefore considered that it had not heard enough evidence that rebutted the presumption against granting any further premises

licence within the CIZ. For instance, the Sub-Committee were concerned that the applicant had insufficiently addressed how they would not negatively add to the cumulative impact in the particular area in relation to the prevention of crime and disorder objective and the public nuisance objective. The Sub-Committee were not satisfied that the proposed conditions as presented at the Sub-Committee meeting rebutted the above presumption and concluded the premises did not qualify as an exceptional circumstance. The premises exceeded the limit of being a small premises with a capacity of fifty persons or less which intended to operate within the framework hours or that the premises is not alcohol led; because the name of the premises would suggest otherwise.

The Sub-Committee were of the view that the applicant had failed to rebut the presumption against granting a premises licence for a premise situated in a cumulative impact zone, in that the applicant failed to demonstrate how they would not undermine any of the four licensing objectives by adding to the cumulative impact in the area.

Accordingly, the Sub-Committee unanimously:

RESOLVED

That the application for a New Premises Licence for Noodles and Beer, Unit 6, 31 Bell Lane, London E1 7LA be **REFUSED**.

3.2 Licensing Act 2003 Application for a new Premise Licence for Pavilion, 37 Brushfield Street, London E1 6AA

At the request of the Chair, Corinne Holland, Licensing Officer introduced the report which detailed the application for a new premises licence for Pavilion, 37 Brushfield Street, London E1 6AA. It was noted that objections had been received by Officers on behalf of Environmental Health and local residents. However the objections from the local residents had been withdrawn following mediation between the Applicant and the objectors.

As the request of the Chair, the Applicant's Legal Representative Ms Sarah Le Fevre explained that the application, as submitted, had been extensively revised following a mediation meeting with local residents. The hours for the sale of alcohol applied for had been reduced from 07:00 - 23:30 hours, to 10:00 - 23:30 hours Monday to Sunday. The initial application reflected the hours of the previous business, whose licence had lapsed due to the business going into liquidation.

Ms Le Fevre explained the licence would apply to the basement area only and not the Ground, First and Mezzanine floors. The application had attracted six resident objections and one from a Housing Residents Association. However *all* these objections had been withdrawn following a mediation meeting on the 3rd February 2020. Ms Le Fevre said some objectors had written emails in support of the revised application.

Ms Le Fevre referred members to the pages 25 and 26 of the supplement agenda and the proposed conditions therein. She said additional conditions had been agreed with residents. The basement had a single access point and had been acoustically assessed to ensure noise did not carry to disturb neighbours. The access and egress point for the collection of waste was on Commercial Street, and is currently used by other businesses in Spitalfield Market. It therefore did not give rise to complaints as the operation to collect waste is supervised.

Ms Le Fevre said the her client, Mr Jason Dervin was the General Manager of the Spitalfields Estate for the Applicant company Bishops Square S.A.R.L. Mr Devin had been in post for eighteen plus years and had built good relations with neighbours. The Applicant had applied for the licence for the sale of alcohol for the basement area to allow for pre-booked private events. The other floors had been successfully let to a high end fashion retailer. Ms Fevre said exceptional circumstances applied because there had been a wholesale withdrawal of objections by residents, despite the premises being in a cumulative impact zone (CIZ).

Members then heard from Ms Cadzow, Environmental Health Officer who reminded members the application was for a new licence within a CIZ and therefore there was a presumption to refuse the application unless Members were satisfied the presumption had been rebutted. She said whilst she appreciated and welcomed the reduction in hours, she was concerned about the dispersal of people once the events were over. Ms Le Fevre reassured Members there was a dispersal policy in place.

In response to questions the following was noted:

- There had been no history of complaints against the premises.
- The Managing agents had taken over the lease, following the liquidation of the previous occupants business and wanted to attract high end operators.
- The basement would be used for private pre-booked events, with a maximum of 2 or 3 events per month.
- The maximum capacity as per the fire risk assessment is 220 people although it is unlikely events would attract the maximum capacity of people. There would be a limitation on the number of people attending.
- Mr Dervin is currently the Designated Premises Supervisor.

Members adjourned at 20:10 hours and reconvened at 20:30 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 Nuisance; and
4. The Protection of Children from Harm.

Consideration

Each application must be considered on its own merits. The Chair confirmed that the Sub-Committee had carefully considered all the evidence before them and heard oral representations at the meeting made by the Applicant's Legal Representative and from the Officer representing the Responsible Authorities objecting to the application, with particular regard to the Licensing Objective for the prevention of public nuisance.

The Sub-Committee noted that the premises are in a cumulative impact zone (CIZ), and so, the effect of a 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 through their operating schedule, 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 from Environmental Health regarding the impact of the premise on the Brick Lane Cumulative Impact Zone (CIZ) however felt the Applicant had effectively rebutted the presumption by demonstrating through the proposed conditions and remedial action taken with the community that if the licence was granted, the licence would not add to the cumulative impact in the area.

The Sub-Committee were satisfied that the revisions made to the application plus the fact that *all* the resident objectors had withdrawn their objections warranted this application as an exceptional circumstance especially as some resident objectors had written emails in support of the application as a result of a mediation meeting held with the Applicant.

Accordingly, the Sub-Committee unanimously:

RESOLVED

That the application for a New Premises Licence for Pavilion, 37 Brushfield Street, London E1 6AA be **GRANTED** with conditions.

The licence will apply to the Basement area only.

Sale of Alcohol (on sales)

Monday to Sunday 10:00 to 23:30 hours

Provision of Regulated Entertainment (recorded music only)

Monday to Sunday 10:00 to 23:30 hours

Hours premises open to the public

Monday to Sunday 07:00 to 23:30 hours

Conditions

1. 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.
2. 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.
3. 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.
4. All windows and external doors shall be kept closed when regulated entertainment takes place, except for the immediate access & egress of persons.

5. Notices shall be prominently displayed at all exits requesting patrons to respect the needs of local residents and businesses and leave the area quietly.
6. No noise shall emanate for the premises nor vibration be transmitted through the structure of the premises, which gives rise to a nuisance.
7. The premises will close on Christmas Day and Boxing Day.
8. A direct telephone number of the manager at the premises shall be made available to residents and businesses in the vicinity.
9. Licensable activities in the basement floor shall only be provided at pre-booked private events.
10. The Premises Licence Holder will, if it is deemed necessary, carry out a risk assessment and the requirement for SIA trained door supervisors will be implemented in like with that risk assessment.
11. Deliveries to the premises shall only take place between 08:00 and 22:00 hours.
12. Collections of waste or recycling materials from the premises shall only take place between 08:00 and 22:00 hours.

The meeting ended at 8.35 p.m.

Chair, Councillor Ehtasham Haque
Licensing Sub Committee