

**LONDON BOROUGH OF TOWER HAMLETS****MINUTES OF THE LICENSING SUB COMMITTEE****HELD AT 5.30 P.M. ON TUESDAY, 10 NOVEMBER 2020****ONLINE 'VIRTUAL' MEETING - [HTTPS://TOWERHAMLETS.PUBLIC-I.TV/CORE/PORTAL/HOME](https://towerhamlets.public-i.tv/core/portal/home)****Members Present:**

Councillor Kahar Chowdhury (Chair)

Councillor Sufia Alam

Councillor Mohammed Pappu

**Officers Present:**

Lavine Miller-Johnson	–	(Licensing Officer)	
David Wong	–	(Legal Services)	
Corinne Holland	–	(Licensing Officer)	
Simmi Yesmin	–	(Democratic Services Officer, Committees, Governance)	

<b>Representing applicants</b>	<b>Item Number</b>	<b>Role</b>
Sally Hills	3.1	(Licensing Representative)
Rashpinder Mahal	3.2	(Legal Representative)
Irene Chewcal	3.2	(Applicant)
Altamasul Khan	3.3	(Applicant)
Mir Haque	3.3	(Manager)

<b>Representing objectors</b>	<b>Item Number</b>	<b>Role</b>
Nicola Cadzow	3.2/3.3	(Environmental Officer)
PC Mark Perry	3.3	(Metropolitan Police)
Chris Hancox	3.3	(Planning Officer)

**Apologies**

None

**1. DECLARATIONS OF INTEREST**

Councillor Sufia Alam declared a personal interest on item 3.3 Application for a variation of a premises licence for Enso Restaurant, 94 Brick Lane, London E1 6RL, on the basis that she had frequented the premises but confirmed that she had not discussed the application prior this meeting.

## **2. RULES OF PROCEDURE**

The rules of procedure were noted.

## **3. ITEMS FOR CONSIDERATION**

### **3.1 Application for a Variation of the Premise Licence for Budgens Express 287-289 Whitechapel Road London E1 1BY**

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 Budgens Express, 287-289 Whitechapel Road, London E1 1BY. It was noted that an objection had been received by a local resident. It was noted that there had been no complaints over the past years.

At the request of the Chair, Ms Sally Hills, Licensing Representative on behalf of the Applicant explained that the Applicant wanted to extend his current hours for sale of alcohol due to the current pandemic crisis and loss of income due to lockdown. It was noted that the premises had had its current licence for 15 years and has had no complaints of crime or disorder or public nuisance. It was noted that there were no representations made by the Responsible Authorities and conditions had been agreed with the Metropolitan Police. Ms Hills formally amended the application and reduced the hours for sale of alcohol to 1 am, seven days a week.

It was noted that she had tried to contact the objector but has had no response.

It was noted that the objector was not present at the meeting and therefore the Sub-Committee would note and consider their written representation contained in the agenda.

There were no questions from the Members.

### **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 of the evidence before them and heard oral representations at the meeting made by the Applicant's Licensing Representative, and in the absence of the objector Members noted and considered the written objection contained in the agenda pack, with particular regard to the prevention of public nuisance.

Members welcomed the efforts made by the Applicant in accepting and agreeing to the conditions proposed by the Metropolitan Police and also reducing the hours that had originally been applied. The conditions agreed gave Members assurance that the licensing objectives would be promoted.

Members were satisfied that the reduction in hours would also help alleviate concerns arising from the local resident objector and reduce the risk of any disturbances. and harm to children.

The Sub Committee was therefore satisfied that the granting of the variation would not negatively impact on the area and the conditions imposed would help promote the licensing conditions.

Accordingly, the Sub Committee unanimously;

### **RESOLVED**

That the application for a Variation of the Premises Licence for Budgens Express, 287-289 Whitechapel Road, London E1 1BY be **GRANTED**.

#### Sale of Alcohol (off sales)

Monday to Sunday from 08:00 hours to 01:00 hours (the following day)

#### Hours premises are open to the Public

Monday to Sunday from 00:00 hours to 00:00 hours (24 hours)

#### Existing conditions to be removed from the premise licence

Alcohol shall not be sold or supplied except during permitted hours.

In this condition, permitted hours means:

- a. On weekdays, other than Christmas Day, 8 a.m. to 11 p.m.
- b. On Sundays, other than Christmas Day, 10 a.m. to 10.30 p.m.
- c. On Christmas Day, 12 noon to 3 p.m. and 7 p.m. to 10.30 p.m.
- d. On Good Friday, 8 a.m. to 10.30 p.m.

#### New Conditions to be imposed on the premises licence

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. In the event that a serious assault is committed on the premises (or appears to have been committed) the management will immediately ensure that:
  - a) the police (and, where appropriate, the London Ambulance Service) are called without delay;
  - b) all measures that are reasonably practicable are taken to apprehend any suspects pending the arrival of the police;
  - c) the crime scene is preserved so as to enable a full forensic investigation to be carried out by the police; and such other measures are taken (as appropriate) to fully protect the safety of all persons present on the premises.
5. 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.

6. The Telephone number and email address of the premises manager is to be kept at the store at all times and be given to a Police Officer or member of staff from a responsible authority upon request.

### **3.2 Application for a new Premise Licence for Hoshi, 10 Toynbee Street, London E1 7NE**

At the request of the Chair, Ms Corinne Holland, Licensing Officer, introduced the report which detailed the application for a new premises licence for Hoshi, 10 Toynbee Street, London E1 7NE. It was noted that objections had been received by officers representing the Licensing Authority and Environmental Health.

At the request of the Chair, Mr Rashpinder Mahal, Legal Representative on behalf of the Applicant explained that the hours applied for had been reduced to 10am to 7pm, that the premises was a Japanese grab and go service providing Japanese food and snacks. He explained that the floor plans initially had 2/3 stalls inside the premises for eating in but due to the current pandemic these had been taken out and confirmed they no longer needed the provision for on sales of alcohol.

Mr Mahal addressed the concerns of the Cumulative Impact Zone by explaining that the premises was a small premises with a capacity of less than 50 people, it was not alcohol led, there would be no consumption of food or drink in the premises and alcohol would only be sold ancillary to a meal, with staff regularly monitoring the outside area of the premises. Mr Mahal explained that there would be no regulated entertainment and signs would be displayed asking customers to leave quietly and respect the needs of local residents. It was also noted that litter bins would be provided inside and outside the premises and litter and waste would be collected and stored inside the premises pending waste collection.

He said they would be offering an online order service, the relevant age restrictions would be applied and alcohol delivery would be signed for and all staff would be trained on the responsible sale of alcohol.

Members then heard from Lavine Miller-Johnson, Licensing Officer and Nicola Cadzow, Environmental Health Officer, both expressing similar concerns that the premises was within the cumulative impact zone (CIZ) and not sufficient information was detailed in the operating schedule in order to rebut the presumption of granting a licence in the CIZ. Some of the other concerns raised by officers related to how the applicant would stop customers from bulk buying and then drinking in the street.

In response to questions the following was noted;

- That the applicant was now seeking off sales only.
- A maximum of two units of alcohol would be sold per order.

- There have been no reported problems or complaints over the past years of trading.
- The applicant agreed to accept the proposed conditions offered by them in agenda on page 158 as conditions should a licence be granted.
- The hours sought in the application were confirmed as 10am to 7pm, seven days a weeks as there were some discrepancies in the report and application etc.
- Staff would patrol the area on a regular basis to manage any customers outside and issues of litter.
- That smoking would not be allowed in the immediate vicinity of the premises.
- That the contact details of the manager would be displayed in the premises for residents to contact if there were any problems.

### **The Licensing Objectives**

In considering the application, Members are normally 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 of the evidence before them and heard oral representations at the meeting made by the Applicant's Legal Representative and Officers representing the Licensing Authority and Environmental Health with particular regard to 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 heard from the Applicant's Representative that the premises was food-led and alcohol would only be supplied ancillary to a meal. When questioned Members were satisfied that granting a premises licence for the reduced hours applied for and the nature of business the applicant intends use for and with conditions limiting the licence to a food outlet only would not negatively add to the cumulative impact zone.

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 the concerns relating to the likely disturbance to residents nearby. However it was noted that the premises was not alcohol led, the hours were within the Council's framework hours and it was a set of small premises, which with the conditions proposed by the Applicant and the Applicant's removal of on sales from the application, gave the Sub Committee the assurance that the concerns raised by the Responsible Authorities were alleviated and what the Applicant sought would not add to the cumulative impact. The Sub-Committee were satisfied that the conditions offered would also promote the licensing conditions.

#### Decision

Accordingly, the Sub Committee unanimously;

#### **RESOLVED**

That the application for a New Premises Licence for Hoshi, 10 Toynbee Street, London E1 7NE be **GRANTED**.

#### Sale of Alcohol (off sales only)

Monday to Sunday from 10:00 hours to 19:00 hours

#### Hours premises are open to the Public

Monday to Sunday from 10:00 hours to 19:00 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. In the event that a serious assault is committed on the premises (or appears to have been committed) the management will immediately ensure that:
  - a) the police (and, where appropriate, the London Ambulance Service) are called without delay;
  - b) all measures that are reasonably practicable are taken to apprehend any suspects pending the arrival of the police;
  - c) the crime scene is preserved so as to enable a full forensic investigation to be carried out by the police; and such other measures are taken (as appropriate) to fully protect the safety of all persons present on the premises.
5. 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.
6. A direct telephone number for the manager at the premises shall be publicly available at all times the premises is open. This telephone number is to be made available to residents and businesses in the vicinity.

7. Notices shall be prominently displayed at all exits requesting patrons to respect the needs of local residents and businesses and leave the area quietly.
8. Off sales of alcohol for drinking away from the premises shall only be sold in sealed vessels and not consumed within the immediate vicinity of the premises.
9. Alcohol to be only sold ancillary to a meal with a limit on only two alcoholic drinks per order and per household.
10. No smoking outside the immediate vicinity of the premises.
11. No collection of waste/recycling materials including bottles from the premises shall take place between the hours of 22:00 hours and 08:00 hours the following day.
12. No deliveries shall take place between the hours of 22:00 hours and 08:00 hours the following day.
13. A log shall be retained recording all refusals of alcohol. The log book shall be available for inspection by a Police Officer or an Authorised Council Officer.
14. Training shall be given to all staff to ensure compliance with the four licensing objectives. Training records will be kept on the premises, and the training records will show the date of the training. The training record is to be signed by the staff member receiving the training and then countersigned by the Designated Premises Supervisor (DPS). The training on the compliance with the four licensing objectives shall be repeated on an annual basis.
15. Staff will be trained on health and safety procedures. New employees will receive training within one month of commencement of employment and it will be a condition of their continued employment that they satisfactorily complete the training.
16. No idling of delivery vehicles related to the premises licence holder's business outside the premises.

### **3.3 Application for a Variation of a Premises Licence for (Enso) 94 Brick Lane, London E1 6RL**

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 Enso Restaurant, 94 Brick Lane, London E1 6RL. It was noted that objections had been received by officers representing the Licensing Authority, Environmental Health, Planning and the Metropolitan Police.

At the request of the Chair, Mr Altamasul Islam Khan, Applicant, explained that the premises was a Japanese/Thai Restaurant which currently had a

licence until 12 midnight and were seeking to extend the hours for sale of alcohol, late night refreshments and regulated entertainment until 2am and until 4am for mainly online food delivery platforms. He explained that the variation in hours would allow customers to stay in the premises longer and would satisfy customers demands.

Members also heard from Mr Mir Haque, Manager of the premises who explained that the premises would have no recorded music after 2am, there would be no DJs, and no live music to avoid public nuisance, and that they would instruct customers to leave quietly and assist them in calling cabs home etc. It was noted that he and the applicant had experience of managing late night premises, had good relations with the Spitalfields Resident Association forums and have had no objection from residents. He further explained that they had a strong team of staff, they would operate the Challenge 25 policy, ask customers to leave quietly and ensure no one congregates outside the premises.

At the request of the Chair, PC Mark Perry, Metropolitan Police, referred to his representation contained on pages 255-256 of the agenda and highlighted that the premises was in cumulative impact zone (CIZ) with high levels of anti-social behaviour in the area. He said there was very little detail explaining how the premises would not add to the cumulative impact in the cumulative impact zone (CIZ). PC Perry was therefore concerned about the lack of knowledge in his opinion shown by the applicant in relation to the licensing objectives and their interaction with the CIZ. PC Perry questioned why they wanted regulated entertainment until 2am, and expressed that these premises could potentially turn into a bar if the hours sought were granted. PC Perry highlighted that there were many late night venues in the area, and another set of late night premises would increase public nuisance and ASB already experienced in the area.

Members then heard from Ms Corrine Holland, Licensing Officer and Nicola Cadzow, Environmental Health Officer. Both expressed similar concerns regarding the lack of detail in the application as to how the application, if granted, would not add to the cumulative impact in the CIZ. Concerns were expressed over the excessive hours applied for. There were also concerns that delivery drivers will be talking outside, and idling their engines causing noise nuisance during the earlier hours of the morning. Ms Holland and Ms Cadzow also highlighted the impact another late night premises would have on public nuisance and ASB in the area.

It was also noted that the premises had been reported for trading beyond licensable hours in June 2020 and a warning letter was sent to the business about that before this variation application was received.

The Planning Authority's written objection as a responsible authority contained in the agenda was also noted and considered.

In response to questions, the following were noted:-

- That the applicant would remove regulated entertainment from the application, as all they wanted was background music which did not require a licence, as it does not constitute regulated entertainment.
- In order to address and manage crowds, the applicant would operate a booking only system after midnight.
- The applicant would have a maximum of 30 customers at any one time after midnight.
- The applicant would have experienced staff on duty, and a personal licence holder would be on the premises at all times.
- There would be no limitation on the number of alcoholic drinks per order, but delivery drivers would be experienced and will ask to check the relevant identification upon delivery.
- The premises had a big reception area and would have customers waiting there to avoid anyone spilling onto the streets.
- After 2am, no customers would be allowed in and the business would operate for delivery only.
- The applicant would operate a Challenge 25 policy and would not allow children under 18 years in after 10pm.
- Concerns were raised from officers as to how it was possible to book a table between 12 midnight and 2am now, even though there is no licence in place for these hours – the applicant confirmed that they would amend their website.

### **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 of the evidence before them and heard oral representations at the meeting made by the Applicants and the Officers representing the Responsible Authorities objecting to the application, with particular regard to the prevention of crime and disorder and 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 representations from all four Responsible Authorities, the Licensing Authority, Environmental Health, Environmental Health and Planning regarding the impact of the premises on the Brick Lane Cumulative Impact Zone (CIZ), the length of the hours applied for and concerns relating to the previous breach of trading beyond licensing hours.

The Sub-Committee therefore considered that it had not heard enough evidence that rebutted the presumption against granting the further variation on the premises licence in relation to these premises which are within the Brick Lane CIZ. For instance, the Sub-Committee were concerned that the applicant had insufficiently addressed how there would be no addition to the cumulative impact in the particular area in relation to the prevention of crime and disorder objective. The Sub-Committee was not satisfied that the operating schedule as presented at the Sub-Committee meeting rebutted the above presumption.

The Sub Committee were therefore not satisfied that there were exceptional circumstances to justify a grant of the application, and were of the view that the applicant had failed to rebut the presumption against granting a premises licence for premises situated in a cumulative impact zone, in that the applicant lacked understanding of the CIZ and 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 Variation of the Premises Licence for Enso Restaurant, 94 Brick Lane, London E1 6RL be **REFUSED**.

#### **4. EXTENSION OF DECISION DEADLINE: LICENSING ACT 2003**

Members agreed to extend the decision deadlines for the applications below to 31 January 2021; Licensing applications were extended due to the impact of the pandemic, and were adjourned under regulation 11 of the Licensing Act 2003 (Hearings) Regulations 2005, and was in the public interest to do so and did not require representation from parties of the application.

<b>Premises</b>
Kilikya, Unit C4 Ivory house, St Katherines, E1W 1AT
Hackney Essentials: 146 Columbia Road, London, E2 7RG
Lucky Dog, Ground Brick Lane London E1 6RL

The meeting ended at 8.00 p.m.

Chair, Councillor Kahar Chowdhury  
Licensing Sub Committee