

LONDON BOROUGH OF TOWER HAMLETS**MINUTES OF THE LICENSING SUB COMMITTEE****HELD AT 5.30 P.M. ON TUESDAY, 1 DECEMBER 2020****ONLINE 'VIRTUAL' MEETING - [HTTPS://TOWERHAMLETS.PUBLIC-I.TV/CORE/PORTAL/HOME](https://towerhamlets.public-i.tv/core/portal/home)****Members Present:**

Councillor Eve McQuillan (Chair)

Councillor Victoria Obaze

Councillor Amina Ali

Officers Present:

Luke Wilson	–	(Legal Services)	
Corinne Holland	–	(Licensing Officer)	
Simmi Yesmin	–	(Democratic Services Officer, Committees, Governance)	

Representing applicants	Item Number	Role
Emanuel Xureb	3.1	(Applicant)
Nicola Cadzow	3.2	(Applicant/ Environmental Health Officer)

Supporting the Review

Kathy Driver	3.2	(Principal Licensing Officer)
PC Mark Perry	3.2	(Metropolitan Police)
Asitha Ranatunga	3.2	(Legal Representative on behalf of Residents)

Representing objectors	Item Number	Role
Sarah LeFevre	3.2	(Legal Representative)
Lisa Feeth	3.2	(Legal Representative)
Steve Fairman	3.2	(Premise Licence Holder)
William Cole	3.2	(Security Officer)

Apologies

None

1. DECLARATIONS OF INTEREST

There were no declarations of interests made.

2. RULES OF PROCEDURE

The rules of procedure were noted.

3. ITEMS FOR CONSIDERATION

3.1 Application for a Premises Licence for (Shop) 36 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 36 Toynbee Street, London E1 7NE. It was noted that objections had been received on behalf of two Responsible Authorities, the Licensing Authority and Environmental Health.

Mr Emanuel Xureb, Applicant, explained that he had been in the drinks trade all his life and had a lot of experience in operating a licensed premises. He explained that the premises was not open yet and if a licence was granted he would sell quality wines and delicatessen food. He would be offering something different from the local supermarkets.

Mr Xureb said that he would be selling premium selected and outsourced wines from Europe, South America, and from small individual farmers across Europe to get unique flavours not available on the high street. Mr Xureb said that he did not mind reducing the hours of operation. He stated that he would look to employ local people and train young staff. He wanted to start a good business and make it look nice.

Members then heard from Ms Nicola Cadzow, Environmental Health Officer, who confirmed that the premises was in the CIZ. Ms Cadzow shared the concerns of Ms Driver in that there was insufficient information in the application to rebut the CIZ policy. She stated that if Members were minded to grant the application then additional conditions would be needed to promote the licensing objectives.

Ms Kathy Driver, Licensing Officer, explained that her objection was on the basis of public nuisance. She acknowledged that the hours were within the framework hours but noted that the application did not address the impact of the premises on the Cumulative Impact Zone (CIZ). She confirmed that the onus lay on the applicant to demonstrate how the premises would not negatively impact the area and the residents living in close proximity to the premises. She stated the premises plans did not show where alcohol would be stored and, in general, the application failed to adequately address the licensing objectives.

In response to questions the following was noted:

- The applicant would be selling premium wines at affordable prices.
- The applicant was happy to reduce the hours applied for.

- CCTV cameras would be installed at the premises in agreement with the Police.
- All spirits would be kept behind the counter in a glass cabinet.
- The store would be selling wines, spirits, craft beers, soft drinks, water etc.
- The applicant stated that no children under 16 years old would be served alcohol. When questioned further, he confirmed that he was unsure about the legal age to sell alcohol in the UK. He thought it was 16 years old but stated that he had got confused.
- The applicant was previously unaware that the premises was in the CIZ.
- The applicant presumed the issues in the area were under control.
- The applicant would employ door staff if the premises was having issues. He would also install a buzzer to let customers in and keep undesirable customers out of the premises.
- The applicant believed that the people who cause issues tend to drink cheap alcohol. He believed that the products sold at the premises would not attract people who are likely to cause issues.
- The applicant would install a panic button to notify the police.
- The premises would not sell alcohol without identification.
- The premises would operate the Challenge 25 policy.
- There were residents living above the premises and there were new developments being built in close proximity for residential housing.
- If customers are seen to be congregating outside the premises then they would be asked to move. If they failed to move, the applicant would call the police.

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 licencing 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 the representations at the meeting from the Applicant and the Officers representing the Licensing Authority and Environmental Health objecting to the application, with particular regard to the prevention of public nuisance and prevention of crime and disorder.

The Sub-Committee noted that the premises is in a cumulative impact zone (CIZ). The cumulative impact policy creates 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 it can demonstrate exceptional circumstances and that the granting of the application would not negatively add to the cumulative issues already experienced within the CIZ.

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 causes of concerns relating to licensed premises.

The Applicant was unaware of the extent of the issues experienced in the area and was unable to satisfactorily explain how the concerns regarding increased public nuisance could be mitigated. The Sub-Committee was concerned that the Applicant erroneously believed the age of alcohol sale in the United Kingdom was 16.

The Sub-Committee was not satisfied that the CIZ presumption had been rebutted as the Appellant was unable to demonstrate that the granting of the licence would not negatively add to the cumulative issues already experienced in the area. The Sub-Committee was particularly concerned that the addition of a further off-licence premises would lead to increased alcohol consumption in the area which would result in additional public nuisance. This would have a detrimental impact on local residents.

The Applicant suggested that the premises would only sell quality alcohol from small scale producers. The Sub-Committee was not satisfied that the Applicant's proposal amounted to exceptional circumstances which would justify a grant of the licence.

The Sub-Committee was not satisfied that the licensing objectives would be promoted by the granting of the premises licence.

Accordingly, the Sub Committee unanimously;

RESOLVED

That the application for a New Premises Licence for Shop, 36 Toynbee Street, London E1 7NE be **REFUSED**.

3.2 Application to Review the Premises Licence for Queens Head, 8 Flamborough Street, London E14 7LS

At the request of the Chair, Ms Corinne Holland, Licensing Officer, introduced the report which detailed the application for a review of the premises licence

for Queens Head, 8 Flamborough street, London E14 7LS. It was noted that the review had been triggered by Environmental Health and supported by the Licensing Authority, Metropolitan Police and local residents.

Ms Nicola Cadzow, Environmental Health Officer, referred to her review application on pages 98-99. She explained that the premises had previously been reviewed by the Licensing Sub-Committee in April 2019 and additional conditions were imposed.

Ms Cadzow confirmed that the noise team had recently received a number of complaints about the premises from residents regarding loud recorded music and customers shouting and causing disturbance. Following a complaint, two officers visited the premises on 18 July 2020. On their visit they witnessed a group of patrons with raised voices and heard loud music playing at the premises. The premises was in breach of a number of conditions on the licence, in particular the condition prohibiting regulated entertainment.

Ms Cadzow explained that Mr Steve Fairman, the current premises licence holder and Designated Premises Supervisor, was at the previously Licensing Sub-Committee hearing in April 2019 when the licence was reviewed. Therefore, he was fully aware of the conditions imposed on the licence. Ms Cadzow stated that many complaints had been received since 4 July 2020 when premises were allowed to open following the first pandemic lockdown. She explained that on visits to the premises music was clearly audible from 20 meters away, and on the balance of probability, the music was regulated entertainment (recorded music) which has caused public nuisance to local residents. She believed the premises was undermining the licensing objectives for prevention of public nuisance. She stated that there had been a lack of consideration for local residents and a blatant disregard for the law by management. Therefore, Environmental Health sought revocation of the licence.

Members then heard from Ms Kathy Driver, Licensing Officer, who explained that the premises was brought to their attention in October 2018 when management changed over and residents started to regularly complain to the Licensing Authority and Environmental Health. Following the review in 2019, it was agreed conditions were required and Mr Fairman took over as the Premise Licence Holder and DPS as there was various objections over the management by the previous owner Thomas Jeffries Senior who still holds the lease. Thomas Jefferies Junior (his son) lives at the premises and is a personal licence holder in Tower Hamlets.

After lockdown it was noted that complaints started being received again. Requests were made to view the CCTV footage but the footage was unavailable which was a breach of the licence conditions. The Licensing Authority was suspicious about the authenticity of the security invoice provided by the licence holder as its searches indicated that the security company was permanently closed. It was also noted that officers waited for CCTV engineers to arrive at the premises for two hours but no one came.

Ms Driver then referred to her representation on page 127 – 131 of the agenda and highlighted the number of complaints and visits made at the premises. She stated that it was evident that there was no management responsibility by the licence holder or any person managing it. She added that staff at the premises had shown contempt to officers on a number of occasions.

Members then heard from PC Mark Perry, Metropolitan Police, who referred to his statement on pages 153 – 156. He highlighted the noise nuisance reported by residents and confirmed that on 20 November, during lockdown, two officers visited the premises and witnessed two women drinking inside the premises. The women did not open the door for the officers and the CCTV was not working at the premises. PC Perry confirmed that there had been continual breaches of the licence conditions.

Members heard from Mr Asitha Ranatunga, Legal Representative on behalf of the resident objectors, who confirmed that the residents were seeking revocation of the licence. He noted that there was constantly loud music being played at the premises, it was open beyond its licensed trading hours, it was breaching many conditions of its licence and that there had been 19 complaints and 21 disturbances in July alone. There had been issues of unavailable CCTV footage and residents had experienced intimidation from the leaseholder. Mr Ranatunga concluded that the residents have been suffering for many years and are regularly being disturbed. He said that the conditions previously imposed have not helped. The premises has had enough warnings and the licence needs to be revoked.

Ms Sarah LeFevre, Legal Representative on behalf of the Premises Licence Holder, recognised that any review is of serious concerns and agreed that no further conditions could address the issues. She acknowledged that there was evidence of matters of concerns, but noted that the premises was a community asset. She highlighted the money and time invested in the premises but accepted that the current management had caused a split in the local community. Ms LeFevre confirmed that the premises was being marketed for sale and stated that more time was needed to sell the premises. She noted that the hospitality sector was under extreme pressure and indicated that selling a premises without a licence would be difficult.

Ms LeFevre suggested that the Licensing Authority suspend this licence for the maximum period of three months and remove Mr Fairman as the DPS. She confirmed that the premises would not be able to trade or sell alcohol without a DPS. She explained that, in order to appoint another DPS, the applicant would need to be vetted by the Police to be fit and proper. This proposal would help retain the pub as a community asset and ensure that the residents are no longer disturbed.

Ms LeFevre said that conditions were imposed at the review hearing in April 2019 by mutual agreement. She explained that Mr Fairman has had personal issues including multiple ongoing health issues. In June 2020, he had a heart bypass operation. As a result he has not been able to carry out his management duties which led to complaints.

Ms LeFevre acknowledged that there had been issues with the CCTV camera system and assured the Sub Committee that Roding Security System was in operation and Mr William Cole, director of the company, could confirm.

In response to questions the following was noted:

- The proposal for removal of DPS would mean that no retail sale of alcohol could be made at the premise.
- After the 3 months suspension period, the premise could start to operate again.
- Only the police can object to an application for a DPS. The only basis for objection is crime and disorder.
- Thomas Jeffries Junior could apply as the DPS, however, Ms LeFevre stated that this would be highly unlikely given the history of the premises.
- The premises was being actively marketed and the sellers were confident that it could be sold within the suspension period.
- Fears were expressed as to whether the sale of the premises was just to buy time.
- The role of the Licensing Sub-Committee was to promote the licensing objectives; it did not operate to protect the building or help aid future sales.
- Following the review application, the premises was found to be in breach of COVID regulations.
- Supporters of the review expressed their scepticism of the proposal that the premises would be sold. They noted that if the premises was sold then new owners would be able to apply for a new licence.
- Supporters of the review were concerned that the licence holder would resume trading once the three month suspension expired.
- The premise licence holder was not disputing breaches of conditions, however the women seen drinking at the premises during lockdown were cleaners and not members of the public.
- The Premises Licence Holder accepted that CCTV was not provided and recognised that there have been problems. Ms LeFevre believed the proposal offered could resolve this.

The Applicant and supporters of the review concluded that the Premises Licence Holder could not be trusted and there was no confidence that any further arrangements would be upheld. They believed that it was reasonable and proportionate to revoke the licence.

Ms LeFevre stated that the premises can be sold and that offers had already been received. A suspension of the licence would allow sufficient time to sell. She noted that a premises with a licence would be more attractive to potential buyers.

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 licencing 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 the oral representations at the meeting.

The Sub-Committee noted that the premises licence was reviewed in April 2019 and additional conditions were imposed to address the public nuisance issues caused by the premises. Since the licence review, the premises has breached its conditions on a number of occasions and caused serious public nuisance to local residents. Many complaints have been made by local residents about the premises since July 2020. Despite multiple warnings and attempts by Environmental Health, the Licensing Authority and the Police to engage with the licence holder, the issues have continued. The premises has demonstrated a lack of cooperation with Responsible Authorities and shown a disregard for the licensing objectives. The Sub-Committee was concerned about the poor management of the premises and the risk of further public nuisance to local residents.

The Sub Committee heard from the Legal Representative representing the Premises Licence Holder who accepted that there had been a number of the breaches and that there were no further conditions that could be added to the current premises licence. The Legal Representative stated that the property was being marketed for sale and the retention of the premises licence would make the property more attractive to prospective buyers. The Legal Representative suggested a three-month licence suspension and the removal of Mr Fairman as the Designated Premises Supervisor. Any new Designated Premises Supervisor would be subject to the approval of the Police.

The Sub-Committee confirmed that assisting the sale of the property was not a relevant consideration when considering a review application. The Sub-Committee was concerned that, under the proposal, Mr Fairman would remain the licence holder if the property could not be sold. He would retain responsibility for appointing and replacing the Designated Premises Supervisor and have the ability to influence the management of the premises. Given the history of poor management, the Sub-Committee believed that Mr Fairman was an unsuitable person to remain the licence holder of the premises.

The Sub-Committee believed that the revocation of the licence was necessary and proportionate due to the continued poor management of the premises and repeated breaches of the licence. The Sub-Committee was not satisfied

that the licensing objectives could be upheld by a three-month suspension and the removal of Mr Fairman as Designated Premises Supervisor.

Accordingly, the Sub Committee unanimously;

RESOLVED

That the application for a Review of the Premises Licence for Queens Head, 8 Flamborough Street, London E14 7LS be **GRANTED with the revocation of the premise licence.**

4. EXTENSION OF DECISION DEADLINE: LICENSING ACT 2003

Nil items.

The meeting ended at 7.45 p.m.

Chair, Councillor Eve McQuillan
Licensing Sub Committee