

LONDON BOROUGH OF TOWER HAMLETS**MINUTES OF THE LICENSING SUB COMMITTEE****HELD AT 5.30 P.M. ON TUESDAY, 12 JANUARY 2021****THE COUNCIL CHAMBER, TOWN HALL, MULBERRY PLACE, 5 CLOVE
CRESCENT, LONDON, E14 2BG****Members Present:**

Councillor Amina Ali (Chair)
 Councillor Amina Ali (Chair)
 Councillor Mohammed Pappu
 Councillor David Edgar

Officers Present:

David Wong	– (Legal Services)	
Mohshin Ali	– (Senior Licensing Officer)	
Simmi Yesmin	– (Democratic Services Officer, Committees, Governance)	

Representing applicants	Item Number	Role
Sam Shearman	4.1	(Applicant)
Kevin Maple	4.2	(Trading Standards Officer)
PC Mark Perry	4.2	(Metropolitan Police)

Representing objectors	Item Number	Role
Corinne Holland	4.1	(Licensing Officer)
Nicola Cadzow	4.1	(Environmental Health Officer)
Ashok Thakur	4.2	(Premise Licence Holder)

Apologies

None.

1. DECLARATIONS OF INTEREST

There were no declarations of interest made.

2. RULES OF PROCEDURE

The rules of procedure were noted.

3. MINUTES OF THE PREVIOUS MEETING(S)

The minutes of the meeting held on 10th, 17th and 24th November were agreed and approved as a correct record.

4. ITEMS FOR CONSIDERATION

4.1 Application for a New Premises Licence for (Alcotraz), 212 Brick Lane, London E1 6SA

At the request of the Chair, Mr Mohshin Ali, Licensing Officer, introduced the report which detailed the application for a new premises licence for Alcotraz, 212 Brick Lane, London E1 6SA. It was noted that objections had been received on behalf of officers representing the Licensing Authority and Environmental Health.

At the request of the Chair, Mr Sam Shearman, Applicant, explained that the business concept involved an immersive theatrical experience in which guests purchase tickets in advance to attend and take part. The experience is based on popular Hollywood films and TV and brings to life a prison story with guests as the inmates instructed to conduct a covert mission whilst behind bars. As part of the experience, guests are encouraged to bring their own bottle of alcohol whilst enjoying a theatrical storyline that unfolds around them involving actors.

It was noted that the premises had a capacity of 40 people per session due to Covid 19 and that the premises had been operating since 2017. Mr Shearman explained that each session was for 1¾ hours, and tickets would have to be purchased online in advance. Mr Shearman also confirmed that there were 10 members of staff on the premises, and on Saturdays, they would have multiple sessions with 30-40 minute intervals.

Mr Shearman referred to the conditions that he had proposed such as having a first aider, having SIA accredited door staff, and operating a Challenge 25 policy. It was also noted that the venue had been closed for most part of 2020, and so far into 2021, but the intention was to attempt to unlock a new revenue stream to help the survival of the business by introducing a delivery option for craft cocktails and drinks via third parties such as UberEATS and Deliveroo.

He explained that the hours were within the framework hours, the premises had a small capacity of 40 customers, it would have a staggered entrance and egress system, and the staggering of people leaving would involve having customers disperse in small groups. Mr Shearman said that notices would be displayed around the premises asking everyone to leave quietly and respect the needs of local residents. In conclusion, Mr Shearman said that the premises did not negatively add to the Cumulative Impact Zone and was able to rebut the presumption against granting an application relating to premises

in a Cumulative Impact Zone by demonstrating exceptional circumstances, as it was a unique business model, involving small premises with a capacity of under 50 people, the hours were within the framework hours, and the business was not alcohol led, focused more on a theatrical experience.

Members then heard from Ms Corinne Holland, Licensing Officer who acknowledged the reduced capacity of 40 and asked if alcohol would be sold after the experience concluded? She explained that the reason for the objection was because the premises was in a Cumulative Impact Zone and the written application made no reference regarding the effects of an additional licensed premises in a Cumulative Impact Zone. She raised concerns that customers may stay on and consume more alcohol, and then leave in high spirits, affecting residents. There was no mention of how and when deliveries would be made. There was insufficient information in the application on how the venue would not add to public nuisance already impacting a Cumulative Impact Zone. She said that if Members were minded to grant the application, then the conditions proposed by the Licensing Authority in the papers should be imposed.

She added that if Members were minded to grant the application, conditions should be imposed in relation to no idling of vehicles and no patrons congregating outside the premises.

In response to questions, the following were noted:-

1. That it was a small venue providing a unique experience.
2. That deliveries would be between the hours of 5pm-9pm.
3. That they would be offering mixologist created craft cocktails.
4. That delivery drivers would already be in the area for deliveries to other premises, so would not add to the volume of delivery drivers in the area.
5. That customers would be able to wait inside the premises for taxis.
6. That only background music was used,.
7. The policy for staggered leaving of customers would continue after Covid-19 ended.
8. Staggered leaving of customers in small groups would help minimise any noise disruption to residents.
9. That the metal barriers outside the premises was for structured queuing, but can be moved closer to the premises in order to lessen the amount of the footway taken up.
10. That the policy of no re-admission once any customer left the premises would continue, so there would be no exit followed by re-entry, if customers left for a smoking break, mitigating noise disruption to residents.

Concluding remarks were then made by all parties.

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 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 Members heard from the Applicant that the premises offered a unique theatrical and experience led venue, would have a maximum of 40 guests in the venue at each time, would be open for limited hours within the Council's framework hours, and was not alcohol led. It was noted that the premises had been trading where customers bring their own alcohol and now wanted to be able to provide a service to sell alcohol during the experience and offer a takeaway service. The Members were satisfied upon questioning the Applicant, that granting a premises licence for the nature of business the Applicant intends and with the conditions proposed and accepted by the Applicant would not negatively add to the CIZ.

The Sub-Committee considered the Council's Licensing Policy, in particular the Special Cumulative Impact Policy - Section 19.8;

“This policy will be strictly applied and where relevant representations are received it is the view of the Council that the application will be used. Applicants will need to demonstrate that there are exceptional circumstances and that granting their application will not negatively add to the cumulative effect on the licensing objectives within the brick lane and Bethnal green CIZ if they wish to rebut this presumption.

Examples of factors the Licensing Authority may consider as exceptional may include;

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

The Sub-Committee considered that this was application had exceptional circumstances due to size of the premises, the customer capacity was less than 50 persons and it was not an alcohol led premises.

The Sub-Committee noted the representations from the Licensing Authority, and Environmental Health regarding the impact of the premises on the Brick Lane CIZ, and the concerns relating to the likely disturbance to residents nearby. However the conditions proposed by the Applicant with the addition of a SIA door supervisor to manage customers entering and leaving the premises, and the conditions proposed by the Licensing Authority, in particular alcohol only being sold to guests who have purchased a ticket in advance as well as other conditions relating to off sales and no idling of vehicles outside the premises, gave the Sub Committee the assurance that this venue would not negatively impact on the CIZ.

The Sub-Committee was satisfied that the licensing objectives would be upheld, and that the conditions imposed would help alleviate any concerns raised by the responsible authorities.

Decision

Accordingly, the Sub Committee unanimously;

RESOLVED

That the application for a new premises Licence for Alcotraz, 212 Brick Lane, London E1 6SA be **GRANTED** with conditions.

Sale of Alcohol (on and off sales)

Monday and Tuesday (no licensable activities)
Wednesday and Thursday, from 12:00 hours to 23:30 hours
Friday and Saturday, from 12:00 hours to 00:00 hours (midnight)
Sunday, from 12:00 hours to 22:30 hours

The provision of regulated entertainment – Indoors (Plays)

Monday and Tuesday (no licensable activities)
Wednesday to Friday, from 17:00 hours to 23:00 hours
Saturday, from 12:00 hours to 23:00 hours
Sunday, from 16:00 hours to 19:00 hours

Late Night Refreshment - Indoors

Monday and Tuesday (no licensable activities)
Wednesday and Thursday, from 23:00 hours to 23:30 hours
Friday and Saturday, from 23:00 hours to 00:00 hours (midnight)

The opening hours of the premises

Wednesday and Thursday, 12:00 hrs to 00:00 hrs (midnight)
Friday and Saturday, from 12:00 hrs to 00:30 hrs the following day
Sunday, from 12:00 hrs to 23:00 hrs

Conditions

1. Alcohol shall only be sold/supplied, on the premises, to customers who have purchased a ticket in advance.
2. All sales of alcohol for consumption, off the premises, shall be in sealed containers only, and shall not be consumed on the premises.
3. A standard age verification check shall be undertaken on entering the website when purchasing alcohol online. A signature at the point of delivery must be obtained. No delivery shall be left without a signature. Every third party courier delivery box shall be labelled with the words "Age Restricted Product".
4. Alcohol shall only be delivered to a residential or business address and not to a public place.
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 idling of vehicles of either patrons, taxis or delivery vehicles outside the premises whilst the premises is in operation.
7. All tickets will be sold online where age verification takes place. Additionally at the physical premise door supervisors shall carry out ID checks for all attendees and their guests.
8. At least one SIA accredited door supervisor on the premises at all times at least 30 minutes prior to guests arrival and 30 minutes after guests leave to help close.

9. Front door to be manned by the above door supervisor during opening hours.
10. Clear terms & conditions shall be associated with ticket purchases to refuse entry to anyone intoxicated and operate strict policies to remove disorderly guests.
11. All staff shall be fully trained on safety procedures with guests entering and exiting as well as their behaviours during the experience. Vigilance in preventing the use and sale of illegal drugs - signage on entrance and in toilets and immediate removal if caught.
12. Guests shall be strictly instructed that there is no re-admission, with the ambition that guests are not loitering outside for any reason, keeping guests contained within the premise.
13. Guests shall be strictly instructed upon exit to head towards the nearest taxi rank or tube station by security staff.
14. The actors and staff shall be trained to keep noise to a minimum when entering and exiting the premises, encouraging the guests to do the same.
15. Tickets shall be purchased in advance online, requiring over 18 proof to open credit cards. Admission for over 18s only.
16. Strict Challenge 25 policy on the door. Only a passport, driving licence or Proof of Age issued under the PASS scheme shall be accepted as proof of age.
17. A register of refusals book shall be kept.
18. CCTV System is installed to monitor entrance/exits, and other parts of the premises in order to monitor and help prevent crime;
19. A clear and legible notice shall be displayed at the premises entrance indicating the normal hours under the terms of the premises licence during which licensable activities are permitted.
20. Clear and conspicuous notices warning of potential criminal activity, such as theft, that may target customers will be displayed.
21. Clear signage on the desired behaviours of guests during the experience shall be displayed.
22. Customers shall be subjected to random searches of body and bags as per operational risk assessment
23. There shall be no admission to the venue, even with pre-purchased tickets for anyone displaying intoxication or drug use.

24. Customers will not be sought by means of personal solicitation outside or in the vicinity of the premises.
25. There shall be bi-monthly staff training on public safety measures.
26. Guests shall be organised in a queue and maintained quiet by staff whilst entering the premises.
27. The street shall be swept and cleared of any litter throughout opening hours and at the end of every day.
28. The premises shall be fitted with adequate soundproofing.
29. No loud music shall be played, and the sound system used to play background effects shall be fitted with an industry standard limiter.
30. Notices shall be placed at exits and there shall be verbal instructions from staff to remind guests to leave quietly and quickly.
31. A dispersion policy shall be employed at all times to ensure guests leave via Bethnal Green Road quietly.
32. Guests will be told on ticket emails about the closest car parking, and be prompted to take public transport to minimise congestion at the busiest times of the year.

4.2 Application to Review the Premises Licence for (Stop N Shop) 59 Commercial Street, London E1 6BD

At the request of the Chair, Mr Mohshin Ali, Licensing Officer, introduced the report which detailed the application for a review of the premises licence for Stop N Shop, 59 Commercial Road, London E1 6BD. It was noted that the review had been triggered by Trading Standards and supported by the Metropolitan Police. Mr Ali also informed the Sub-Committee that there had been an application for a transfer of licence and a variation, but this was invalid as there were pending review proceedings.

At the request of the Chair, Mr Kevin Maple referred to his review statement contained in the agenda on pages 158-161 and detailed the two incidents that led to the review application.

He explained that as part of a test purchase programme, the premises were visited on 18 September 2019, when a test purchase of cigarettes was carried out to ascertain whether the premises was selling illicit cigarettes, these defined as being either counterfeit or which have been imported without duty being paid or which fail to display the correct labelling for the UK market. The premises was found to have illicit cigarettes.

The premises were visited again on 27 September 2019, when there was the discovery and subsequent seizure of illicit tobacco products and also nitrous oxide (NOx) charger canisters. During the search of the premises, officers found the following items:-

1. Twenty (20) packets each comprising one hundred and four (104) (Total: 2,080 cigarettes) of various branded illicit non-UK cigarettes, and forty-one (41) packets (Total: 1,840 grams) of illicit hand rolling tobacco.
2. Twenty-four (24) boxes of Twenty-four (24) cream charger canisters containing (NOx) nitrous oxide (Total: 576 canisters)

Officers seized the tobacco products as they were non-UK and they did not display the required health warnings for the UK market. In addition, officers seized the nitrous oxide canisters as they were of the opinion that considering the quantity of the NOx canisters (cream chargers) and their location (i.e. behind the counter), it was highly likely the trader was supplying them to the public for recreational misuse. It was noted that whilst cream chargers are a legal product when sold for their legitimate use in the catering industry, the supply, or offer to supply or possession with intent to supply, of such items for recreational misuse (i.e. by inhaling the nitrous oxide gas inside for its psychoactive effect) was an offence.

In the statement of Officer Grier, he stated that during questioning, Mr Ashok Thakur (Premises Licence Holder) confirmed that he had full knowledge that he was selling foreign cigarettes at £4.00 per packet and that it was illegal to sell. Mr Thakur further explained he was given foreign cigarettes from tourists as part of his business to hold their luggage, for which he accepted illicit cigarettes as payment. The Sub-Committee heard that when questioned on the possession of the nitrous oxide (NOx) chargers, Mr Thakur said he was selling them to nearby coffee shops, but had been unable to verify which local coffee shops these were.

Mr Maple also highlighted a history of previous non-compliance with the law by Mr Thakur. Council records showed that Mr Thakur had previously failed a test purchase of alcohol, when he sold alcohol outside licensable hours, for which Mr Thakur was prosecuted and fined.

Mr Maple was of the view that the NOx was being sold with an intention to supply for recreational use as a psychoactive drug. Mr. Maple suggested that if Mr Thakur was selling it to coffee shops, he should have been able to verify which coffee shops they were.

In conclusion, Trading Standards Service were of the opinion that there were serious concerns in relation to crime & disorder, public safety, public nuisance and the safeguarding of children. Accordingly, Trading Standards had no confidence in the ability of the management of the premises to uphold the licensing objectives, and so respectfully requested Members revoke the premises licence.

Members then heard from PC Mark Perry, representing the Metropolitan Police, who stated that the current business owner could not be trusted, having displayed a total disregard for the law and peoples' safety by selling dangerous products that can be harmful to people who use them.

PC Perry also raised concerns that whilst Mr Thakur had had over 500 nitrous oxide canisters stored behind the counter, his explanation that these were for local coffee shops was seriously undermined by the fact he could not identify these coffee shops. Therefore, it was the opinion of the Police that the management of the premises could not be trusted to uphold any of the licensing objectives, the breaches of the law being so serious, that the proportionate response was revocation, rather than imposition of any conditions placed on the premises licence.

In response to remarks about this by the Chair, Mr Ashok Thakur, Premises Licence Holder began by apologising to the Sub Committee for the incidents which had been mentioned by the officers, and said he regretted what had happened, also expressing that he had unknowingly broken the law.

With regard to the NOx, Mr Thakur said he got it for a local coffee shop who had asked him to get these for them to buy, if they ran out of stock, so he purchased these from a wholesaler in Petticoat Lane and kept it behind the counter, but never ended up selling it. He apologised profusely, and said he regretted his actions.

In response to questions the following were noted:-

- That Mr Thakur had no proof of purchase or sales of the NOx canisters.
- Mr Thakur asserted that the NOx canisters were kept behind the counter for whenever coffee shops wanted it.
- That he thought one of them was a coffee shop called Modern Coffee
- That NOx substance misuse was a key priority for the Council to address in the borough
- Assurance was given by Mr Thakur that this would not happen again.

Concluding remarks were then made by all parties.

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 merits. The Sub Committee had carefully considered all of the evidence before them, including written and

verbal representations from Kevin Maple representing Trading Standards as the Applicant, and PC Mark Perry from the Metropolitan Police who had supported the review application with particular regard to all four of the licensing objectives.

The Sub Committee carefully considered all evidence before them and had no doubt that the premises had undermined the licensing objectives of the prevention of crime and disorder, public safety and the protection of children from harm.

The Sub-Committee Members were extremely concerned that there had been repeated breaches of legislation, amounting to the commission of criminal offences, in particular the shop was found during a test purchase to have illicit cigarettes for sale, whilst during another visit, Council officers seized illicit non-UK tobacco products and nitrous oxide (NOx) charger canisters. Members also noted the background of trading outside licensing hours, and the past prosecution and as well as pending prosecution against Mr Ashok Thakur, the Premises Licence Holder (PLH).

Members noted Mr Thakur's apology for the matters mentioned by Trading Standards, which led to the review application, and his acceptance of the fact that those breaches of the law had taken place. The Members had no confidence in the credibility of the explanation given by Mr Thakur, when he asserted that the nitrous oxide canisters were for sale to coffee shops, as he could not produce evidence to support that, when asked. The Sub Committee were of the opinion that these repeated breaches of the law demonstrated that the PLH had total disregard for upholding the law, hence there was no confidence that Mr Thakur would uphold the licensing objectives.

Members were satisfied that there were no conditions that could be imposed on the licence to promote the licensing objectives, given the evident serious mismanagement of the premises, from the failures to comply with the law on not having for sale, illicit non-UK tobacco products, nor nitrous oxide canisters. Members believed that there was no other course of action that would satisfy and maintain and uphold the licensing objectives as there was a clear lack of confidence in the Premises Licence Holder to uphold the licensing objectives.

In reaching their decision, Members had regard to paragraph 11 of the Guidance Issued by the Secretary of State for the Home Office under Section 182 of the Licensing Act 2003 in relation to reviews, and in particular paragraph 11.28 of the statutory guidance relating to reviews;

"Where reviews arise and the licensing authority determines that the crime prevention objective is being undermined through the premises being used to further crimes, it is expected that revocation of the licence- even in the first instance- should be seriously considered".

The Sub-Committee considered that there were clear issues of crime and disorder, issues of public safety, and issues over the protection of children

from harm. They therefore felt it was necessary and proportionate to revoke the premises licence.

Accordingly, the Sub Committee unanimously;

RESOLVED

That the application for a Review of the Premises Licence for Stop N Shop, 59 Commercial Street, London E1 6BD be **GRANTED with the revocation of the premises licence.**

5. EXTENSION OF DECISION DEADLINE: LICENSING ACT 2003

Members agreed to extend the decision deadlines for the applications below to the dates stated; 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, it was in the public interest to do so, and did not require representation from parties to the applications.

Premises	Extended to:
Jack the Chipper, 74 Whitechapel High Street, London E1 7QX	02/03
Adana, 267 Bethnal Green Road, London E2 6AH	16/03
Morleys 60-62 Brick Lane London E1 6RF	16/03
Da Nonna, Unit 2 New Crane Place London E1w 3TS	30/03

The meeting ended at 7.15 p.m.

Chair, Councillor Amina Ali
Licensing Sub Committee