

LONDON BOROUGH OF TOWER HAMLETS**MINUTES OF THE LICENSING SUB COMMITTEE****HELD AT 2.30 P.M. ON TUESDAY, 27 APRIL 2021****ONLINE 'VIRTUAL' MEETING - [HTTPS://TOWERHAMLETS.PUBLIC-I.TV/CORE/PORTAL/HOME](https://towerhamlets.public-i.tv/core/portal/home)****Members Present:**

Councillor Mohammed Pappu (Chair)

Councillor Rajib Ahmed

Councillor David Edgar

Officers Present:

David Wong

– (Legal Services)

Corinne Holland

– (Licensing Officer)

Simmi Yesmin

– (Democratic Services Officer,
Committees, Governance)**Representing applicants****Item Number****Role**

Ewen Macgregor

3.2

(Legal Representative)

Ben McLoughlin

3.2

(Applicant)

Representing objectors**Item Number****Role**

Kathy Driver

3.2

(Licensing Authority)

Ibrahim Elias

3.2

(Environmental Health)

John Fortune

3.2

(Community Safety)

Apologies

None

1. DECLARATIONS OF INTEREST

No declarations of disclosable pecuniary interests were declared.

2. RULES OF PROCEDURE

The rules of procedure were noted.

3. ITEMS FOR CONSIDERATION

3.1 Application for Variation of a Premises Licence for Milk Float Sweet Trade Water Mooring Hackney Wick London E9 5EN

This application was deferred and will be considered at a future Licensing Sub Committee meeting.

3.2 Application for a Provisional Statement for Boxpark Shoreditch, Unit 37-41, 2 - 10 Bethnal Green Road, London E1 6GY

At the request of the Chair, Ms Corinne Holland, Licensing Officer, introduced the report which detailed the application for a provisional statement for Boxpark, Shoreditch, Unit 37-41, 2-10 Bethnal Green Road, London E1 6GY. It was noted that objections had been received by officers on behalf of Licensing Authority, Environmental Health and Community Safety.

At the request of the Chair, Mr Ewen MacGregor, Legal Representative on behalf of the Applicant explained that the objections related to concerns of public nuisance and not one of crime and disorder, so prevention of crime and disorder should not be a relevant consideration, as the Police had not objected, and they were the main source for reporting crime and disorder. Mr MacGregor highlighted the issues around planning permission and stated that planning permission for the premises had been granted. He then referred to the relevant regulations that supported planning matters having some bearing on licensing applications. He said that there was no distinction between planning and licensing in relation to the role of Planning Officers, who would have also been asked to review the application as it is done with licensing applications.

Mr MacGregor gave a background of the Boxpark Shoreditch units, an independent business offering units to established independent businesses. Reference to the conditions offered by the applicant and those agreed in consultation with the Police were highlighted. It was noted that there would be no vertical drinking, no off sales of alcohol except with delivery orders, these were small premises with approximately 39 covers indoors and 8 covers for the outside area. Mr MacGregor stated that these features pointed to the exceptional circumstances mentioned in paragraph 19.8 of the London Borough of Tower Hamlets Licensing Policy, rebutting the presumption against grant. He said that it was not possible to have conditions to manage patrons when they had left and were not in the immediate vicinity of the premises, limiting conditions to what happened when patrons enter, remain on and leave the premises and its immediate vicinity.

It was noted that there would be no takeaway sales except with delivery orders, and the Applicant was agreeable to the conditions suggested by the Environmental Health Officer. Mr MacGregor concluded that it was better to have a licensed premises with conditions in place to regulate and have accountability.

Members then heard from Ms Kathy Driver, Licensing Officer who explained that the venue was within the Brick Lane Cumulative Impact Zone (CIZ). She acknowledged the applicant's offer of conditions, but expressed concern that this was an area with high levels of anti-social behaviour. It was noted that there had been 183 reports of anti-social behaviour over the last year, in January to December 2019, and there had been 483 reports of anti-social behaviour near the premises, making the area a hotspot for anti-social behaviour. She stated that it was not just licensable premises, but other events in and around the area which attracts anti-social behaviour and has an adverse effect on the area. It was also noted that this particular area was a particular anti-social behaviour hotspot area, since portable toilets were introduced in Slater Street as part of the late-night levy scheme in order to alleviate acts of public nuisance, particularly public urination.

Members then heard from Mr Ibrahim Elias, Environmental Health Officer. He referred to the objection letter on page 137 of the agenda pack, and explained that Environmental Protection did not support the provisional statement application for units 37-41 Boxpark, as there was a great likelihood of disturbance to residential premises, given the fact the premises was in the Brick Lane Cumulative Impact Zone. He said that if Members were minded to grant the application, then they should impose the conditions suggested in the letter, seeking to limit the number of smokers outside, and seeking to mitigate noise emanating from the premises.

Members also heard from Mr John Fortune, Community Safety Manager, who highlighted the concerns and issues that residents suffered in the area and detailed some of the experiences suffered by residents. He said another set of licensed premises would attract more people into the area, which already experiences high levels of crime and disorder, public nuisance and anti-social behaviour.

In response to questions, the following was noted;

1. That the tenant/operator of the units will have experience, as the premises would not be leased out to a start-up company, but to an independent operator with experience, operating a company already established and wanting to expand.
2. The licence would be primarily for a restaurant, and alcohol would be served with food, but did not want a restriction, as they would like the flexibility to allow someone to join a restaurant customer for a drink.
3. That the premises would be food led.
4. The capacity of the premises following a fire risk assessment was between 50-60 people.
5. That it would be a small set of premises, not alcohol led and hours applied for were within the Council's framework hours, with the amenity aspect already reviewed by Planning Officers.
6. That 5 retail units would be put together to form the entire premises, 50% of the area would be the kitchen and staff area, and 50% would be for tables and chairs with a maximum of 50 covers.
7. Tenants/operators for the venue would be vetted and would have to have a minimum of 1-2 sites as part of a growth strategy.

8. Immediate neighbours would be Boxpark and any breach of condition would allow the termination of the lease.
9. It was noted that planning and licensing were different in the hours, the permission that can be granted and the different types of representation that can be made for an application.
10. Concerns were raised as to why there was no offer of a condition for alcohol to be served ancillary to a meal only.
11. Why was there was no evidence of anti-social behaviour complaints.
12. That the premises were small, hours would be within council framework hours, the premises would not be alcohol led, would operate as a restaurant, there would be no vertical drinking, there were no police representations, the premises have planning permission, and the applicant had offered significant conditions.

Concluding remarks were 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:

- The Prevention of Crime and Disorder;
- Public Safety;
- Prevention of Public Nuisance; and
- The Protection of Children from Harm

Consideration

Each application must be considered on its own merit. The Sub Committee had carefully considered all of the evidence before them and considered written and verbal representation from both the applicant and his legal representative and from the officers representing the responsible authorities objecting to the application with particular regard to the licensing objectives of the prevention of public nuisance, and the prevention of crime and disorder.

The Sub-Committee noted that the premises in question are situated in the cumulative impact zone and when a representation is received, the application will be refused. However, the effect of this special cumulative impact policy is to create a rebuttable presumption.

The Sub-Committee noted that the applicant can rebut the presumption if they can demonstrate that their application, if granted, would not undermine any of the four licensing objectives.

The Sub-Committee considered that the onus lay upon the applicant to show this through the 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 that the cumulative impact of the number, type and the density of licensed premises in the area may lead to serious problems of nuisance and disorder; and that the cumulative impact zone did not act as an absolute prohibition on granting or varying new licences within that zone.

The Sub-Committee heard oral representations from the objectors regarding the impact of the premises on the Cumulative Impact Zone. The Sub-Committee noted objectors' concerns relating to the existing levels of noise nuisance and anti-social behaviour in the area; and noted objectors' concerns about increased noise nuisance, and the likely increased numbers of clientele in the area if the application were to be granted, and thereby the likely impact on the cumulative impact zone (CIZ).

The Sub Committee noted the applicant's representation that the impact of the premises licence if granted, would be mitigated by the proposed conditions agreed in consultation with the Metropolitan Police. However, the Sub Committee were not satisfied that they had heard sufficient evidence that rebutted the presumption against a grant of the application. Members acknowledged that the applicant had explained how the premises would primarily operate as a restaurant and was a relatively small premises, but were not satisfied that these in themselves constituted exceptional circumstances to justify a grant of a provisional statement. Members did not consider that their concerns were alleviated in relation to a large number of people being attracted to the area, entering and leaving the area at similar times. The Sub Committee were not satisfied that there was evidence there would be sufficient measures in place to mitigate noise disturbance from customers when they would leave the venue and go onto the streets.

The Sub-Committee was concerned about the impact of another licensed premises in this particular area and the likelihood of this venue attracting a significant number of people into the area which already experiences a high volume of crime and disorder, public nuisance and anti-social behaviour. The potential increased footfall arising from any grant of the application in this instance requires a particularly robust operating schedule, which should demonstrate particular measures at the premises to address the likely impact of increased clientele and potential alcohol fuelled disorder arising there from. The Sub-Committee was not satisfied that they heard enough at the Sub-Committee meeting that met this requirement.

The Sub Committee was therefore not satisfied with the application and were of the view that the applicant had failed to successfully demonstrate that they had rebutted the presumption against granting an application relating to premises in a cumulative impact zone, in that it was considered the applicant failed to demonstrate that their application would not undermine any of the four licensing objectives.

Accordingly, the Sub Committee unanimously

RESOLVED

That the application for a Provisional Statement for Boxpark Shoreditch, Unit 37-41, 2-10 Bethnal Green Road London E1 6GY be **REFUSED**.

4. EXTENSION OF DECISION DEADLINE: LICENSING ACT 2003

Nil items.

The meeting ended at 4.25 p.m.

Chair, Councillor Mohammed Pappu
Licensing Sub Committee