

LONDON BOROUGH OF TOWER HAMLETS

RECORD OF THE DECISIONS OF THE LICENSING SUB COMMITTEE

HELD AT 6.30 P.M. ON TUESDAY, 27 JULY 2021

**COMMITTEE ROOM ONE - TOWN HALL, MULBERRY PLACE, 5 CLOVE
CRESCENT, LONDON, E14 2BG**

Members Present:

Councillor Mohammed Pappu (Chair)

Councillor Victoria Obaze (Member)

Councillor Amina Ali (Member)

1. DECLARATIONS OF INTEREST

There were no declarations of interest.

2. RULES OF PROCEDURE

The rules of procedure were noted.

3. MINUTES OF THE PREVIOUS MEETING(S)

The minutes of the meeting held on 1st June 2021 were agreed and approved as a correct record.

4. ITEMS FOR CONSIDERATION

**4.1 Application for Variation of a Premises Licence for Iberian Connections,
2-10 Ezra Street, London, E2 7RH**

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 made by the Applicant at the meeting and by the resident objector virtually present at the meeting with particular regard to the prevention of public nuisance. The written representations of those not in attendance were read and considered by the Sub-Committee.

The representations were all very concerned with issues of cumulative impact. However, the premises were not located in a cumulative impact zone and so the normal presumption in favour of granting the application applied. This was not a new licence but a variation of an existing licence which, in effect, simply sought to move the permitted hours for the sale of alcohol. Members noted also that a number of conditions were offered if the variation were granted; the licence was currently subject only to the mandatory conditions.

Given the modest scope of this application, Members were satisfied that the moderate adjustment in hours would not have a negative impact on the area or contribute to the public nuisance already being experienced in the area and that any impact would be appropriately mitigated by the imposition of the conditions proposed. Members noted the concerns raised by the objector but noted that these were not specific to the premises itself. Indeed, there was no objection to the premises per se nor any concerns raised about the way in which the business operated.

Members welcomed the efforts made by the Applicant in offering some robust conditions. These conditions gave Members assurance that the licensing objectives would be promoted and also help alleviate concerns arising from the local resident objectors and reduce the risk of disturbances.

Therefore, Members made a decision and the decision was unanimous. Members granted the application with conditions.

Accordingly, the Sub Committee unanimously

RESOLVED

That the application for a Variation Premises Licence for Iberian Connections, 2-10 Ezra Street, London E2 7RH be **GRANTED** with conditions.

Sale of Alcohol (off sales only)

Sunday from 10:00 hours – 17:00 hours

Seasonal variations during November and December for the Christmas Markets – between 16:00 hours to 21:00 hours

The Floor Plan to be changed.

Conditions

1. An incident log shall be kept at the premises, and made available on request to an authorised officer of the Council or the Police, which 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. any faults in the CCTV system
 - f. any visit by a relevant authority or emergency service.
2. CCTV shall be installed, operated and maintained at all times that the premises is open for licensable activities, so as to comply with the following criteria;
 - a) The licensee will ensure that the system is checked every two weeks to ensure that the system is working properly and that the date and time are correct. A record of these checks, showing the date and time of the person checking, shall be kept and made available to police or authorised council officers on request.
 - b) The police must be informed if the system will not be operating for longer than one day of business for any reason
 - c) One camera will show a close-up of the entrance to the premises, to capture a clear, full length image of anyone entering
 - d) The system will provide coverage of any exterior part of the premises accessible to the public
 - e) The system shall record in real time and recordings will be date and time stamped
 - f) Recordings will be kept for a minimum of 31 days and downloaded footage will be provided free of charge to police or authorised council officers on request, (subject to the Data Protection Act 1998) within 24 hours of any request, and
 - g) At all times the premises are open for licensable activity, there will be a person on the premises who can operate the system sufficiently to allow police or authorised council officers to view footage on request.
3. Signage stating that CCTV is in operation at the premises will be clearly displayed at the premises.
4. No high strength beer, lager or cider in cans or plastic bottles of 6.5% abv or above shall be sold.
5. All sales of alcohol for consumption off the premises shall be in recyclable containers only and shall not be consumed on the premises.
6. A record shall be kept detailing all refused sales of alcohol. The record should include the date and time of the refused sale, a description of the person who was refused service and the name of the member of staff who refused the sale. The record shall be available for inspection

at the premises by authorised officers of the council and the Metropolitan Police upon request.

7. The Licensee shall instruct members of staff to make regular checks of the area immediately outside the premises and remove any litter emanating from the premises. A final check should be made at close of business.
8. The premises will provide a bin or bins which will be subject to regular emptying.
9. A 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
10. All staff members engaged, or to be engaged, in selling alcohol on the premises shall receive full training pertinent to the Licensing Act, specifically in regard to age-restricted sales, and the refusal of sales to persons believed to be under the influence of alcohol or drugs.
11. All such training is to be fully documented and signed by not only the employee but the person delivering the training. Training records shall be kept at the premises and made available upon request to either Police Officers or an authorised officer of the council. Staff employed to sell alcohol shall undergo training upon induction. This shall include, but not be limited to;
 - The premises age verification policy
 - Dealing with refusal of sales
 - Proxy purchasing
 - Identifying attempts by intoxicated persons to purchase alcohol
 - Identifying signs of intoxication
12. Such training sessions are to be documented and refreshed every twelve months. All training sessions are to be documented in English. Records of training shall be kept for a minimum of one year and be made available to an authorised officer of the council and the Metropolitan Police upon request.
13. 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.

4.2 Application for a New Premise Licence for Travel Goods, 79 Wentworth Street, London, E1 7TD

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 the oral representations at the meeting from the Applicant's Legal Representative and from officers representing the Licensing Authority and Environmental Health with particular regard to the prevention of public nuisance.

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 unless the Applicant can demonstrate that the application will not negatively impact the CIZ.

The Applicant stressed to the Sub-Committee that the premises were food-led, with a small number of covers and that they therefore met the exception within the Council's Policy at paragraph 19.8.

The Applicant also emphasised that the police had withdrawn their representation following a reduction in the hours to Framework Hours and agreement to a number of conditions. No residents had objected. In addition, some other local authorities, as a result of the pandemic, had suspended or relaxed their CIZs.

The written representation from the Licensing Authority referred to the CIZ and that the original operating schedule provided very little detail as to the proposed conditions. It particularly noted the lack of regard to the potential impact on the CIZ, especially with respect to public nuisance, and given that there are a number of residential properties in the immediate vicinity. Ms. Driver, in her oral submissions, drew the Sub-Committee's attention to the reference in the application to the basement area of the premises and what that might be used for. She also considered that the terminal hour of 23:00 hours agreed with the police for the use of the outside area was too late and also risked giving rise to public nuisance.

Nicola Cadzow, on behalf of Environmental Health, was also concerned with the potential for noise disturbance and public nuisance and the potential for the use of the basement for private parties. The use of the outside area as

well, and the potential that had to give rise to noise disturbance to nearby properties, was a concern. Ms. Cadzow too highlighted the operating schedule set out in the application itself, which had only one condition to address public nuisance.

During the discussion, Members sought clarification on the use of the outside area and whether the Applicant was willing to reduce the time at which alcohol could be consumed outside. The time of 21:00 hours was suggested. The Sub-Committee was informed that this would be addressed within the context of a pavement licence under the Business and Planning Act 2020 and that if, which the Applicant understood to be the case, that licensing authority imposed such hours, the Applicant would abide by. However, Ms. Cadzow pointed out that Rose Court, where the Sub-Committee understood the tables and chairs would be, was in fact included in the plan for the licence.

Although the application referred to the basement, this area was not recorded on the plan. When asked what use was specifically intended the Sub-Committee was told that it might be used for things such as demonstrations by chefs.

The Sub-Committee noted that the exceptions to the CIZ referred to within the Policy, are merely examples of exceptions that may apply; they are not stated to be examples that will apply and the burden upon applicants remains. Similarly, that the premises are well-run, which should be the case in any event, or that the Applicant operates similar premises elsewhere, are specifically stated not to be considered exceptional.

That the police had agreed conditions with the Applicant was simply one factor to be weighed in the balance and could not be considered in any way determinative of the merits of the application. Given that the operating schedule originally proposed was rather sparse, especially given the premises' location within a CIZ, it was therefore unsurprising that the police had sought to agree conditions and a reduction in hours. However, that alone could not, in the Sub-Committee's view, mitigate the likely impact nor did that trump the other objections to the application

In addition, the original operating schedule did not give the Sub-Committee confidence that the Applicant had properly considered the potential impact of the licence upon the CIZ and the licensing objectives. Some of the answers given during the course of the hearing similarly gave the Sub-Committee no reassurance. It was suggested, for example, that noise outside could be adequately addressed by a condition requiring the use of a noise meter. Such a condition was inappropriate to address noise from patrons, which is entirely different from music noise played at a relatively constant level. It would also not be able to differentiate between noise sources or take account of background noise. The lack of clarity in respect of the basement area again suggested to the Sub-Committee that the application had not been fully thought through with regard to the CIZ.

The suggestion that alcohol only be served to seated patrons similarly did not address the Sub-Committee's concerns. The Sub-Committee was told that

this was a restaurant although the application itself referred to a restaurant and bar. The agreed conditions did not prevent patrons attending the premises and sitting outside drinking until 23:00 hours.

The Sub-Committee had had regard to Mr. Newman's report. However, it did not provide the Sub-Committee with any particular assistance. Whilst the pandemic has no doubt had an impact on the area, a single visit on a Saturday night did nothing more than to give a snapshot of that particular evening; it could not be said to be in any way demonstrative of the area in general nor did it suffice to satisfy the Sub-Committee that the application would not have a negative impact.

The Sub-Committee was not satisfied that the imposition of conditions additional to those already agreed would suffice to mitigate the potential impact upon the CIZ. The application did not give the Sub-Committee confidence that that applicant had properly considered and understood the area in which it sought to operate. Whilst the Sub-Committee had noted the agreed conditions and the reduction in hours, Members did not consider that this was enough to mitigate against the potential to add to the nuisance and anti-social behaviour already experienced in the area and which had given rise to the imposition of the CIZ. Accordingly, the Sub-Committee was satisfied that the only appropriate and proportionate step that could be taken was to refuse the application.

Accordingly, the Sub Committee unanimously

RESOLVED

That the application for a New Premises Licence for Travel Goods, 79 Wentworth Street, London E1 7TD be **REFUSED**.

4.3 Application for a New Premises Licence for Hyatt Place London City East Black Lion House 45 Whitechapel Road London E1 1DU

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 from the Applicant's Legal Representative and the officer representing the Licensing Authority objecting to the application.

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 regarding the risk of noise nuisance from the premises. It also noted the concerns about the existing levels of noise nuisance and anti-social behaviour, and the risk of increased noise nuisance and disturbance if the premises licence was granted.

The Sub Committee welcomed the efforts made by the Applicant in offering some robust conditions. The Applicant had removed off-sales of alcohol from the scope of the licence. Having heard how the premises would be operated, particularly as entry to the premises was tightly controlled and restricted to hotel guests and their guests, as well as the small scale of the food and drink offering, the Sub-Committee was satisfied that the premises were not alcohol-led and would not negatively impact upon the CIZ. The Sub Committee was satisfied that suitable and sufficient conditions and measures were in place to adequately address concerns regarding possible public nuisance and anti-social behaviour. Further, the nature of the premises themselves, being a hotel, also went a considerable way to reassuring Members that there would be no negative impact were the licence to be granted.

The Sub-Committee was therefore satisfied that the CIZ presumption had been rebutted as the Applicant had demonstrated that the granting of the licence would not negatively add to the cumulative issues already experienced in the area. The Sub-Committee was satisfied that there were exceptional circumstances to justify a grant of the licence as the premises were not alcohol-led and were primarily a hotel catering for its own guests.

Accordingly, the Sub-Committee unanimously

RESOLVED

That the application for a New Premises Licence for Hyatt Place, London City East Black Lion House, 45 Whitechapel Road, London E1 1DU be **GRANTED with conditions.**

The provisions of regulated entertainment including Plays (indoors), Films (indoors & outdoors), Live Music indoors & Outdoors), (Recorded Music Indoors & Outdoors, Performance of Dance (Indoors & Outdoors) Anything of a similar nature to Live and Recorded Music or Performance of Dance

Monday -Sunday from 08:00 hours to 00:00 hours (midnight)

The Provision of Late Night Refreshment (Indoors & Outdoors)

Monday to Sunday from 23:00 hours 00:00 hours (midnight)

The Sale of Alcohol – (On & Off Sales)

Monday to Sundays from 08:00 hours to 00:00 hours (midnight)

The opening hours of the premises

24 Hours a day

Conditions

- 1.1 The premises shall install and maintain a comprehensive digital CCTV system. All public areas of the licensed premises, including all public entry and exit points, and the street environment will be covered, enabling facial identification of every person entering in any light condition. The CCTV cameras shall continually record while the premises are open to the public and recording shall be kept available and unedited for a minimum of 28 days with the date and time stamping.
- 1.2 A staff member who is conversant with the operation of the CCTV system shall be present on the premises at all times when they are open to the public and must be able to produce/download/ burn CCTV images upon request by a police officer or an authorised officer of the licensing authority. Any footage must be in a format that can be played back on a standard personal computer or standard DVD player. Where the recording is on a removable medium (ie. compact disc, flash card etc), a secure storage system to store those recording mediums shall be provided.
- 1.3 The premises licence holder will risk assess the need for door supervisors at the premises and/or deploy such supervisors at such time and in such numbers as deemed necessary by the risk assessment and/or at other times at the request of the police.
- 1.4 An incident log (which may be electronic) shall be kept at the premises for at least six months, and made available on request to an authorised officer of the licensing authority, which will record details of incidents and refusals.

- 1.5 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:
- α) all crimes reported to the venue;
 - β) all ejections of patrons;
 - γ) any complaints received concerning crime and disorder
 - δ) any incidents of disorder;
 - ε) all seizures of drugs or offensive weapons;
 - φ) any faults in the CCTV system, searching equipment or scanning equipment;
 - γ) any refusal of the sale of alcohol;
 - η) any visit by a relevant authority or emergency service.
- 1.6 In the event that a serious assault is committed on the premises (or appears to have been committed) the management will immediately ensure that:
- α) the police (and, where appropriate, the London Ambulance Service) are called without delay;
 - β) all measures that are reasonably practicable are taken to apprehend any suspects pending the arrival of the police providing the staff are not in danger;
 - γ) the crime scene is preserved so as to enable a full forensic investigation to be carried out by the police; and
 - δ) such other measures are taken (as appropriate) to fully protect the safety of all persons present on the premises
- 1.7 All windows and external doors shall be kept closed when regulated entertainment takes place, except for the immediate access and egress of persons.
- 1.8 No noise shall emanate from the premises nor vibration be transmitted through the structure of the premises that gives rise to a nuisance.
- 1.9 The sale of alcohol shall not be permitted after 24:00 except to hotel residents and their bona fide guests or persons attending a pre-booked function/event.
- 1.10 No collections of waste or recycling materials (including bottles) from the premises shall take place between 22:00 hours and 07:00 hours on the following day.
- 1.11 No deliveries to the premises shall take place between 22:00 hours and 07:00 hours the following day.
- 1.12 Notices shall be prominently displayed at all exits requesting patrons to respect the needs of local residents and businesses and leave the area quietly.

- 1.13 No music or amplified sound shall be generated on the premises to give rise to a nuisance to neighbouring residents.
- 1.14 Loudspeakers shall not be located in the entrance lobby or outside the entrance to the premises
- 1.15 The external terrace area on the 9th floor shall be closed at 23.00 daily
- 1.16 The external terrace will operate a no smoking policy at all times
- 1.17 The designated smoking area will be the Courtyard adjacent to the Orangery Restaurant which will be adequately monitored by staff and CCTV to ensure that guests using that area do not cause a nuisance.
- 1.18 All food and beverage staff will undergo internal training on induction as to the requirements under the Licensing Act 2003 including underage sales and the hotel's proof of age policy and will receive refresher training at least annually.
- 1.19 The Challenge 21 policy must be operated to ensure that any person who appears to be under the age of 21 shall provide documented proof that he/she is over 18 years of age. Proof of age shall only comprise a passport, photo card driving licence, an EU/EEA national ID card or similar document, an HM Forces warrant card, or a card bearing the PASS hologram.
- 1.20 In addition all staff will receive training on Modern Slavery and Child exploitation and the premises will operate The © Queen's Printer and Controller of HMSO 2009 Continued from previous page... Metropolitan police "Operation Make Safe" or equivalent policy.

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:
La Luna Italian Pizza & Deli), Unit E, 43a Commercial Street, London E1 6BD	31/10
Degustation, 21a Ezra Street E2 7RH	31/10
Cabbys Rum Bar, Arch 411 St Pauls Way, London E3 4AG	31/10
Oval Space, 29-32 The Oval, London E2	31/10

The meeting ended at 9.30 p.m.