

LONDON BOROUGH OF TOWER HAMLETS**RECORD OF THE DECISIONS OF THE LICENSING SUB COMMITTEE****HELD AT 6.30 P.M. ON TUESDAY, 26 OCTOBER 2021****COUNCIL CHAMBER, TOWN HALL, MULBERRY PLACE, 5 CLOVE CRESCENT,
LONDON, E14 2BG****Members Present:**

Councillor Peter Golds (Chair)

Councillor Shad Chowdhury (Member)

Councillor Ayas Miah (Member)

1. DECLARATIONS OF INTEREST

There were no declarations of interest made.

2. RULES OF PROCEDURE

The rules of procedure were noted.

3. ITEMS FOR CONSIDERATION**3.1 Application for a Variation of a premises licence for (Pasha's Peri Peri)
637 Commercial Road, London E14 7NT****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

The Sub-Committee considered an application by Kasim Chaudry to vary the premises licence held in respect of Pasha's Peri Peri, 637 Commercial Road, London, E14 7NT ("the Premises"). The current licence authorises the provision of late night refreshment to 01:00 hours on Sunday, 02:00 hours Monday to Thursday, and to 04:00 hours on Friday and Saturday. The

variation sought to permit the provision of late night refreshment to 04:00 hours seven days per week. The application attracted objections from the police and from the Licensing Authority. The objections alleged that the Premises had been operating outside of its hours and that complaints had been received about noise and litter from customers.

Mr. Hopkins told the Sub-Committee that the Premises had operated for about twenty years. He asserted that the allegations were unsubstantiated and were over a year old. Some of the matters referred to by the responsible authorities were hearsay. He accepted that the online platforms showed the Premises appearing to take orders beyond the permitted hours but told the Sub-Committee that these platforms were operated by third parties such as Uber Eats and Just Eat. His client had tried to contact them to get these hours corrected. He denied that the operator had provided late night refreshment in breach of its licence. The applicant denied that the Premises generated noise or litter but conditions had been offered up to address that, including sweeping the road to 25 metres of either side of the Premises.

Ms. Miller-Johnson, on behalf of the Licensing Authority, told the Sub-Committee that there had been complaints about noise and litter. Residents already endured late hours from the Premises and permitting the Premises to operate until 04:00 hours every day would not be acceptable. She referred to the fact that staff had, when asked, said that the Premises were open until 03:00 hours on 21st May 2020. On 3rd June 2020 staff had told officers that they had witnessed anti-social behaviour outside the Premises. She suggested that if the Sub-Committee was minded to grant the application, consideration should be given to ensuring that it was for delivery only and not for takeaway or collection.

PC Mark Perry echoed Ms. Miller-Johnson's concerns. He considered it unlikely that the website operators got it wrong, especially as the staff appeared to corroborate this. He reiterated that there had been complaints from residents. Further, the Premises were located on a busy road and that people purchasing food at those late hours were more likely than not to be intoxicated. That there were not more complaints was not the point; on the balance of probabilities, later hours were likely to lead to further problems.

During questions Mr. Chaudry stated that he had spoken to Just Eats to correct the website but that this was over the telephone. He had no record of it. He told members that if an order came in after 02:00, it would not be delivered until the next day. He told the Sub-Committee that they would limit the number of drivers in the Premises to two at any one time; the Premises did not have its own drivers.

The Sub-Committee understands that its role is not to determine guilt or innocence. It accepted, as did PC Perry, that there was no actual evidence of sales outside of permitted hours. As to the assertion that some of the evidence was hearsay, the Sub-Committee is entitled to receive hearsay evidence and the issue is simply as to the weight to be attached to it. Mr. Hopkins suggested that staff, when asked about closing time, might have simply meant to when they would be closing up after cleaning and did not

meant that they would be trading until that time. It was just as likely that staff did in fact mean they were open to the public. Similarly, whilst it was possible that Just Eat and Uber Eats had posted incorrect information, it was also possible that they had been given this information by the operators. The Sub-Committee considered that this painted a rather confused picture and indicated that staff were not fully aware of the licence and the obligations it imposed regardless of whether or not actual breaches of the licence could be proved.

The Sub-Committee was concerned by the extension in hours sought which, if granted, would permit an additional nine hours per week. Whilst it understood that the pandemic had affected this business as it had many others, the Sub-Committee needed to make its decision with a view to the promotion of the licensing objectives. The Sub-Committee was aware that although the Premises were located on a busy road, there were many residential properties nearby. It considered that a proportion of potential patrons would be those who have been out in the night-time economy and intoxicated. The Premises being open to 04:00 hours all week was also likely to attract passing vehicles which would not have stopped otherwise. There would also be more delivery drivers in the area as a result. All of this would, in the Sub-Committee's view, inevitably lead to an increase in public nuisance in the form of noise and litter. The Sub-Committee also noted that as ambient noise levels tend to be lower at night, noise that might arise from patrons, vehicles and delivery drivers would sound louder.

Section 14 of the Council's Licensing Policy sets out the framework hours. Whilst these provide guidance, each application is decided on its own merits. However, the longer and later the hours sought, particularly having regard to the nature of the premises and the area, the greater the likely impact on the licensing objectives. In particular, paragraph 14.9 makes clear that greater attention will be paid to those types of premises that are more likely to contribute to late-night anti-social behaviour.

The Sub-Committee, whilst welcoming the conditions proposed, did not consider that these would suffice to overcome the likely impact of the variation upon the licensing objectives. The Sub-Committee therefore decided to refuse the application.

Accordingly, the Sub Committee unanimously;

RESOLVED

That the application for a Variation of the Premises Licence for Pasha's Peri Peri, 637 Commercial Road, London E14 7NT be **REFUSED**.

3.2 Application for a New Premise Licence for Toynbee Hall, 28 Commercial Street, London, E1 6LS

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

The Sub-Committee considered an application by Toynbee Hall Trading Ltd. for a new premises licence to be held in respect of Toynbee Hall, 28 Commercial Street, London, E1 6LS ("the Premises"). The application originally sought authorisation for the sale of alcohol for consumption on and off the Premises from 07:00 hours to 23:00 hours seven days per week. This was subsequently amended to 11:00 hours to 23:00 hours Monday to Saturday and to 11:00 hours to 22:30 hours on Sunday. The Sub-Committee was informed that a number of conditions had been agreed with the police.

The application attracted one representation against the grant of a licence. This was from the Environmental Health Service on the basis of public nuisance and that the Premises are located in the Brick Lane Cumulative Impact Zone (CIZ).

The Sub-Committee heard from Whitney Warren and Howard Jackson on behalf of the applicant. The Sub-Committee was told that the aim of the application was to maximise the income of the Premises so that it could be redistributed to help meet their charitable objectives. The application would permit them to hold more weddings and other events, which would generate more revenue. The client base was mostly corporate and commercial clients.

Ms. Warren appreciated that the Premises were located within the CIZ but told the Sub-Committee that the nature of the Premises and the fact that alcohol could be brought in by patrons in any event meant that there would be no additional impact. She also informed the Sub-Committee that measures proposed, such as a condition prohibiting loudspeakers being placed outside, ensured that there would be no additional impact. Patrons would be monitored during ingress and egress. They were willing to have no off-sales at weddings and private events. Ms. Warren said that they did not sell to the general public. Events were pre-planned and risk-assessed.

Nicola Cadzow, on behalf of the Environmental Health Service spoke to her representation. Whilst the application sought framework hours, she considered that there was some ambiguity within the application. For example, a condition dealing with noise and vibration was, she felt, expressed in very general terms. She did not consider that the application had properly addressed issues of noise disturbance from ingress and egress or to prevent people loitering outside the Premises. In respect of further conditions offered

by the applicant (at Page 139 of the report pack) Ms. Cadzow suggested some amendments in the event that the Sub-Committee was minded to grant the application. These were:

- Condition 1 Loudspeakers not to be located in the entrance lobby or outside at any time rather than outside of office hours;
- Condition 2 To apply when regulated entertainment was being carried on rather than “when loud noise is occurring”
- Condition 4 To limit the number of smokers to five to eight persons
- Condition 5 That there be no noise rather than that reasonable efforts be made to ensure that there was no noise.

These amendments were discussed with the applicant who expressed that there could be difficulty with some e.g. the garden in front of the Premises was public property. Mr. Jackson said that they would do what they could to minimise noise but was concerned that in some respects they would be required to ensure that something did or did not happen.

The Council’s legal adviser discussed the matter of sales of consumption off the Premises as it was unclear, if there would be no off-sales at weddings or private parties or to the general public, when there would be off-sales. The applicant confirmed that if the Sub-Committee was minded to permit sales for consumption on the Premises on this would not be an issue.

The Sub-Committee carefully considered the application, which engaged the licensing objective of the prevention of public nuisance. It noted that the application was for framework hours and that the Premises would not be alcohol-led. The location of the Premises within the CIZ meant that it was for the applicant to demonstrate that there would be no additional impact upon the licensing objectives in an already saturated area. Notwithstanding the nature of the Premises, the grant would most likely result in more events taking place at the Premises. Many of those patrons would no doubt be drinking. This in itself gave rise to a greater likelihood, after some of those events, of patrons exiting the Premises and entering other venues in the night-time economy.

Similarly, notwithstanding efforts and conditions to mitigate the potential impacts, the Sub-Committee considered that some impact was likely. Although the Premises would not be operating in the same way that a pub or club might, the Sub-Committee noted that this was not a small venue. The venue would be used for events of a celebratory nature and where large numbers of the patrons present were likely to be drinking. The events would accommodate up to 300 patrons and at such events there was a greater likelihood of people dispersing in masses at the end of the event. This was, in the Sub-Committee’s view, very likely to impact upon the area in the form of noise nuisance, especially when some of those patrons would most likely be intoxicated. Outside of the immediate vicinity of the Premises they would be outside the control of the Premises.

The Sub-Committee did not consider that the impact on the CIZ could be effectively mitigated by the imposition of conditions and it has determined that

the only appropriate and proportionate step for the promotion of the licensing objectives was to refuse the application.

Accordingly, the Sub Committee unanimously;

RESOLVED

That the application for a New Premises Licence for Toynbee Hall, 28 Commercial Street, London E1 6LS be **REFUSED**.

4. **EXTENSION OF DECISION DEADLINE: LICENSING ACT 2003**
5. **APPLICATION FOR A TEMPORARY EVENT NOTICE FOR 93 FEET EAST, 150 BRICK LANE, LONDON E1 6QL**

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

The Sub Committee heard from PC Mark Perry who explained that Halloween was one of the busiest nights of the year with limited police resources and transport links. PC Perry accepted that the operator is of good standing and had no specific concerns about the operation of the premise. He accepted that problems of nitrous oxide canisters were common in London and elsewhere and were not specifically related to the premises.

Mr Jason Zeelof (applicant) noted that there was no specific issues raised in the representations or heard before the Sub Committee as to how they operated the premises. It was also noted that three separate Temporary Event Notices were granted in July, September and October 2021 for the premise which did not cause any problems or generate any complaints.

The Sub Committee were not satisfied it heard enough to issue a counter notice. The premise licence contained numerous robust conditions and given the operators track record and recent temporary event notices, the Sub Committee were satisfied that the appropriate step was not to issue a counter notice but for all conditions on the premises licence to be applied to the temporary event notice.

Accordingly, the Sub Committee unanimously;

RESOLVED

That the application for a temporary event notice for 93 Feet East, 150 Brick Lane, London E1 6QL be **GRANTED with all conditions on the premises licence.**

6. APPLICATION FOR A TEMPORARY EVENT NOTICE FOR WADADLI KITCHEN, UNIT HAMLET INDUSTRIAL ESTATE, 96 WHITEPOST LANE, LONDON E9 5EN**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

The Sub Committee heard from PC Mark Perry who explained that Halloween was one of the busiest nights of the year with limited police resources and transport links and that the premises in question was located in a densely residential area. Given the limited amount of public transport and information in the application, PC Perry considered that there would be an inevitable impact on the licensing objective for the prevention of public nuisance.

Mr Sacha Henry, Manager and representing the applicant told the Sub Committee that the premises was simply operating as a restaurant and the intention was to extend the hours to allow for drinks and music. However it became clear during his representation that the premises would only be operating as a restaurant until 20:00 hours and it was going to become much closer to a party after that. The Sub Committee were also told that it was organised by the owner for friends and family, therefore clearly the need for a temporary event notice and guest list was inconsistent with that intention.

The Sub Committee were not satisfied that there would be no impact on the licensing objectives as the licence itself contained very few conditions that could be imposed. The Sub Committee agreed with the Police objection and will issue a counter notice.

Accordingly, the Sub Committee unanimously;

RESOLVED

That the application for a temporary event notice for Wadadli Kitchen, Unit Hamlet Industrial Estate, 96 Whitepost Lane London E9 5EN be **REFUSED**.

The meeting ended at 9.30 p.m.