

LONDON BOROUGH OF TOWER HAMLETS**MINUTES OF THE LICENSING SUB COMMITTEE****HELD AT 6.30 P.M. ON TUESDAY, 25 JANUARY 2022****THE COUNCIL CHAMBER, TOWN HALL, MULBERRY PLACE, 5 CLOVE
CRESCENT, LONDON, E14 2BG****Members Present:**

Councillor Kevin Brady (Chair)

Councillor Shad Chowdhury
Councillor Eve McQuillan**Officers Present:**

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

| Representing applicants | Item Number | Role |
|--------------------------------|--------------------|-------------|
| Jessica Collins | 4.1 | (Applicant) |
| Paul Unsworth | 4.2 | (Applicant) |

| Representing objectors | Item Number | Role |
|-------------------------------|--------------------|--------------------------------|
| Lavine Miller-Johnson | | (Licensing Officer) |
| Nicola Cadzow | | (Environmental Health Officer) |
| David Wong | | (Legal Services) |
| Mohshin Ali | | (Senior Licensing Officer) |

Apologies**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 23rd November 2021, 7th and 16th December 2021 were agreed and approved as a correct record.

4. ITEMS FOR CONSIDERATION

4.1 Application for a New Premises Licence for Monks, 32 Cheshire Street, London E2 6ER

At the request of the Chair, Mr Mohshin Ali, Licensing Officer, introduced the report which detailed the application for a new premises licence for Monks, 32 Cheshire Street, London E2 6ER. It was noted that objections had been received from Officers representing the Licensing Authority and Environmental Health.

At the request of the Chair, Ms Jessica Collins, Applicant explained that initially she had thought the premises was in a good location. However, upon visiting the premises, she found it to be in bad condition, not fit for purpose and had poor sound insulation as she could hear the neighbours who lived above the premises. She expressed strongly that she would not comply with some of the conditions proposed by the responsible authorities and that the premises were not suitable to operate as a bar.

Ms Collins also explained that she did not wish to agree to a condition for drinks to be consumed whilst seated and could not accept a condition prohibiting vertical drinking either, as she wanted to operate as a bar and therefore wanted customers to drink at the bar. She also wanted to have live music performances at the premises. Due to the nature of the intended business, Ms Collins told the Sub-Committee that she foresaw there would be complaints and problems with neighbours as there was no sound proofing at the premises. Ms Collins did state that she would be willing to install CCTV cameras at the premises as agreed in consultation with the Police.

At this juncture the Chair suggested to Ms Collins that if she were in so much doubt about the suitability of the premises for her business, its fitness for purpose, and her willingness to comply with conditions likely to be attached to the premises licence if granted, she might wish to consider withdrawing her application.

Ms Collins was adamant that she wished to continue with the premise licence application, but repeated that she did not agree with a prohibition on vertical drinking. However, she did agree to install CCTV cameras and adhere to a condition to limit the number of smokers to smoke outside the premises. She said the walls were thin and noise would most definitely emanate from the premises. Ms Collins concluded that the hours applied for were modest between 4pm to 10pm, and her business would be operating as a bar and playing live music, with a capacity for 25 people.

Members then heard from Ms Lavine Miller-Johnson, Licensing Officer., She said that the premises was in the cumulative impact zone (CIZ) and told the

Sub-Committee that on a balance of probability, the Authority was concerned by the addition of another set of premises selling alcohol, potentially adding to the existing anti-social issues in the area, particularly through access and egress.

The Sub-Committee noted Ms. Miller-Johnson's concerns that Ms. Collins did not accept some of the conditions proposed by the responsible authorities. She acknowledged that the hours were within the framework hours. However not much information was provided about the applicant's experience or knowledge of operating a licensed venue, which was a particular concern as the premises were in the CIZ. She also highlighted the fact that from the plans, it was clear that the basement would not form part of the licensed area. Ms Miller-Johnson stated that the premises was in a residential area which experiences high levels of public nuisance, and crime and disorder.

Ms Nicola Cadzow, Environmental Health Officer referred to her representations on page 97 on the agenda, and explained that her objection related to the prevention of public nuisance and noise that could cause disturbance from within and outside the premises. She stated that the premises was in the Brick Lane Cumulative Impact Zone and that there was insufficient information in the operating schedule to show how the applicant would promote the licencing objective of preventing of public nuisance, especially given the likely increased footfall in the CIZ.

She expressed her concern about live music being played at the premises, and the potential noise outbreak from the premises which would likely disturb the occupants of nearby residential properties. Ms Cadzow asked Members to consider imposing the conditions she proposed in her representation if the Sub-Committee were minded to grant the application.

In response to questions from Members, the following was noted :-

- That the applicant was not willing to install sound proofing as she had a short lease and did not want to invest any money in the premises.
- The applicant said she would approach the landlord to see if sound insulation works could be carried out by him.
- The applicant said she was not confident that she would be able to promote the licensing objectives, in particular public nuisance as the premises were located in a small road, and any noise would bounce off the walls, causing noise nuisance.
- Upon questioning the applicant, she confirmed that she was not willing to comply with all the proposed conditions set by the responsible authorities such as a prohibition of vertical drinking, installation of noise limiters etc.
- The Chair gave Ms Collins a further opportunity to withdraw the application, but she stated that she did not wish to withdraw the application, yet expressed that she would not commit to all of the conditions proposed if the application were granted, despite the Chair pointing out to Ms Collins that if the application were granted, Ms Collins could be prosecuted if any conditions of the licence were not complied with.

- That live music would involve only acoustic music being played and not amplified music.
- That the applicant was agreeable to allow drinking up time and stopping serving alcohol half an hour before closing.

There were no concluding remarks made by any of the 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. The Prevention of Public Nuisance; and
4. The Protection of Children from Harm.

Consideration

The Sub-Committee considered an application by Jessica Collins for a new premises licence in respect of Monks, 32 Cheshire Street, London E2 6ER ("the Premises"). The application sought to permit the sale of alcohol and the provision of regulated entertainment by way of recorded music to 22:00 hours Wednesday to Sunday. The application attracted objections from Environmental Protection and from the Licensing Authority.

The Sub-Committee heard from Ms. Collins that the Premises had no sound insulation, was poorly designed and would cause noise nuisance to neighbouring residents, if she was to be granted a licence and operated as a bar. She accepted the issues raised by the responsible authorities and was of the view that the premises were unsuitable for the business she intended to operate, a small bar with live acoustic music events. She also stated that she did not accept some of the suggested conditions proposed by the responsible authorities, in particular the condition for no vertical drinking, as Ms. Collins wanted customers to be able to enjoy a drink whilst standing at the bar.

The Sub-Committee also took into account that Ms. Miller-Johnson, on behalf of the Licensing Authority, told the Sub-Committee that on a balance of probability, the Authority was concerned by the addition of another premises selling alcohol, potentially adding to the existing anti-social issues in the area, particularly through access and egress. The Sub-Committee noted Ms. Miller-Johnson's concerns that Ms. Collins did not accept some of the conditions proposed by the responsible authorities.

The Sub-Committee took into consideration, Ms. Cadzow's concerns along the same lines, as well as Ms. Cadzow's concerns as to the lack of insufficient information in the operating schedule showing how the premises would be operated in such a way as to uphold the licensing objectives.

The Sub-Committee was very concerned about the Applicant's lack of commitment and effort in upholding and promoting the licensing objectives. The Sub-Committee acknowledged the fact that the premises may require added features installed at the premises in order for it to be fit for purpose but no commitment to carry out any works to the premises was demonstrated by the Applicant. The Sub-Committee were also very concerned that the Applicant repeatedly indicated that were she to be granted her application, she would not comply with conditions sought by the responsible authorities, even though the Chair pointed out that in the event of a grant of the licence sought, all of those conditions might be attached and any non-compliance could then result in Ms. Collins' prosecution.

The Sub-Committee noted that whilst the Chair repeatedly gave the Applicant opportunity to consider withdrawing the application, on the basis from her comments, the Applicant did not appear to be serious about supporting the licensing objectives and what it took to make her application work, the Applicant was adamant about proceeding with her application, despite the responsible authorities' concerns that operating a premises licence at that particular premises would give rise to public nuisance.

The Sub-Committee were therefore not satisfied that the Applicant would uphold and promote the licensing objectives, particularly since she had expressed that if the application were granted, she would not comply with conditions likely to be attached to the licence. The Sub-Committee therefore decided to refuse the application.

Accordingly, the Sub Committee unanimously;

RESOLVED

That the application for a new Premises Licence for Monks, 32 Cheshire Street, London E2 6ER be **REFUSED**.

4.2 Application for a New Premises Licence for Kahalia, 135 Brick Lane, London E1 6SB

At the request of the Chair, Mr Mohshin Ali, Licensing Officer, introduced the report which detailed the application for a new premises licence for Kahaila, 135 Brick Lane, London E1 6SB. It was noted that objections had been received from the Licensing Authority and Environmental Health. Mr Ali highlighted the fact that the Applicant had been in touch and wanted to change the nature of the application to sale of alcohol in general, not limited to mulled wine and Baileys hot chocolate during the winter months as stated in the original application.

At this juncture, the Chair sought legal advice on this matter and asked the Applicant if he wished to withdraw his application and put in a new application with the change requested, or proceed tonight with the application as originally drawn up, with the option of submitting a further application to cover the sale of alcohol in general after any grant of the application as drawn up.

The reason for this was that the applicant now sought verbally to change fundamentally the nature and scope of what had been sought in the application as originally submitted.

Mr Paul Unsworth, Applicant confirmed that he wished to carry on with the application as it stood, and would consider a variation application in future if the application were to be granted.

At the request of the Chair, Mr Unsworth gave a brief history of the premises and explained that there was no intention of turning this premises into a bar. It was a café, which helped ex-offenders to rehabilitate and work in a café, learning new skills such as baking and cooking. It was noted that all proceeds from the café were reinvested into community development and upskilling people.

Mr Unsworth clarified that the purpose of the application was to enable an increase in income during the winter months to help increase the profit earned to help the community. Mr Unsworth was aware that the premises was in the CIZ (Cumulative Impact Zone), and believed that the application as drawn, addressed the concerns of the premises being in the CIZ, hence he believed that the application by its nature would not add to the cumulative impact on the area, especially with the additional effect of conditions, both those offered by the Applicant and those put forward by the responsible authorities with which the Applicant was happy to agree, except for condition 7 proposed by the Licensing Authority for the sale of alcohol to be ancillary to a meal, which Mr Unsworth considered unnecessary where provision for only the sale of mulled wine and Baileys hot chocolate was sought.

Members then heard from Ms Lavine Miller-Johnson, Licensing Officer, who referred to her representations on pages 163-167 of the agenda. She said that the application as drawn sought to enable the sale of only mulled wine and Baileys hot chocolate during the winter months, so her representations were limited only to addressing that, not the sale of alcohol generally. She said that the premises remained in the CIZ and that the application, if granted, would lead to an additional set of licensed premises in a saturated area, adding to the cumulative impact in the area.

Ms Nicola Cadzow, Environmental Health Officer, referred to her representations on page 169 of the agenda and stated that the premises were in the cumulative impact zone. She was aware that the premises would operate within the Council's framework hours, but raised concerns about the impact upon the area with customers accessing and egressing the premises. She also believed that there would be a great likelihood of disturbance to residential premises during the hours sought, and there was insufficient information in the operating schedule as to how the applicant proposed to prevent public nuisance.

In response to questions, the following was noted;

- That the Applicant was agreeable to allow drinking up time and stopping serving alcohol half an hour before closing.

- That the general sale of alcohol may attribute to the cumulative impact area.
- That the premises had the capacity for 60 people, and was a café style operation selling sandwiches, and snacks. It would remain as a café.
- The Applicant was happy to have a condition that no vertical drinking is to be allowed.
- In order to reduce noise nuisance, notices would be displayed asking customers to leave quietly, there would be no more than 5 customers allowed to smoke at any one time, and there would be no loud music.

Concluding remarks were made by both 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. 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 the evidence before them and heard oral representation at the meeting by the Applicant and from the Environmental Health Officer and Licensing Officer objecting to the application.

The Sub-Committee noted that the Applicant was seeking a new premises licence for the sale of alcohol, specifically stating that it would not be selling spirits but only offering mulled wine and Baileys hot chocolate during the Winter months. This was expressed in the application as the main reason for the application and also as a mitigation of any cumulative impact which might arise from having one more set of licensed premises in the cumulative impact zone. During the course of the meeting, it was noted that the Applicant wanted to change the application, and seek an application for general sale of alcohol throughout the year, no longer wanting to restrict it to mulled wine and Baileys hot chocolate during the Winter months.

The Sub-Committee took into account that following legal advice received by the Sub-Committee, the Chair informed the Applicant that the above presented a fundamental change to the nature of the application, and that the Chair had therefore offered the Applicant the choice of either withdrawing the application and coming back with a new application, or continuing with the application as originally set out in the report with the option that if granted, the applicant could subsequently submit an application to vary the licence to

include any wider provision of alcohol sought by the Applicant. The Sub-Committee heard from the Applicant that he wished to continue with the application as set out in the report.

The Sub-Committee noted the concerns of objectors, whose primary concerns were that the additional licensed premises in the Brick Lane Cumulative Impact Zone would likely lead to noise nuisance arising from customers frequenting the premises.

The Sub-Committee noted the representations from Environmental Health regarding the impact of the premises in the Brick Lane Cumulative Impact Zone (CIZ) and in particular, the concerns relating to an additional set of licensed premises in a CIZ. However, the Sub-Committee also noted the applicant's representation that the impact of the premises licence if granted, would be mitigated by the proposed conditions put forward by the applicant and those accepted by the applicant, such as not allowing vertical drinking. It was also noted from the representations made by the Applicant that the premises was a charity and community led coffee shop wanting to add sale of alcohol to increase profit and for those proceeds to go back into the community, so from that evidence not alcohol led, with hours well within the framework hours.

The Sub-Committee was therefore satisfied that there would be no addition to the cumulative impact in the area and the conditions proposed would alleviate concerns about noise nuisance.

The Sub-Committee was satisfied that the licensing objectives would be upheld, and that the conditions imposed in relation to a non-alcohol led business would effectively mitigate the risk of public nuisance and help alleviate any concerns raised by the Responsible Authorities.

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 new Premises Licence for Kahalia, 135 Brick Lane, London E1 6SB be **GRANTED with conditions.**

Sale of Alcohol (On Sales only)

Monday to Sunday from 09:00 hours to 18:30 hours

Opening Hours

Monday to Sunday from 09:00 hours to 19:00 hours

Conditions

1. The premises shall install and maintain a comprehensive CCTV system as per the minimum requirements of the Tower Hamlets Police Licensing Team. All entry and exit points will be covered enabling frontal identification of every person entering in any light condition. The CCTV system shall continually record whilst the premises is open for licensable activities and during all times when customers remain on the premises. All recordings shall be stored for a minimum period of 31 days with date and time stamping. Viewing of recordings shall be made available immediately upon the request of Police or authorised officer throughout the entire 31 day period.
2. A staff member from the premises who is conversant with the operation of the CCTV system shall be on the premises at all times when the premises are open. This staff member must be able to provide a Police or authorised council officer with copies of recent CCTV images or data with the absolute minimum of delay when requested.
3. When the designated premises supervisor is not on the premises, any or all persons authorised to sell alcohol will be authorised by the designated premises supervisor in writing. This authorisation shall be made available on request by the Police or any authorised officer.
4. No vertical drinking on the premises shall be permitted.
5. No beers or spirits shall be permitted. No alcohol shall be supplied save for mulled wine, and Baileys blended with hot drinks only.
6. Loudspeakers shall not be located in the entrance lobby or outside the premises building.
7. 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.
8. A record shall be kept detailing all refused sales of alcohol. The record should include the date and time of the refused sale and the name of the member of staff who refused the sale. The record shall be available for inspection at the premises by the police or an authorised officer at all times whilst the premises is open.
9. 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.
10. Patrons permitted to leave temporarily leave and then re-enter the premises e.g. to smoke, shall be limited to 5 persons at any one time.
11. No noise generated on the premises, or by its associated plant or equipment, shall emanate from the premises nor vibration be transmitted

through the structure of the premises which gives rise to a public nuisance.

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.

4.3 Application for a Temporary Event Notice for Colour Factory, Unit 8 Queens Yard, 43 Whitepost Lane, London E9 5EN

This item was withdrawn prior to the meeting.

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: |
|--|---------------------|
| Hummingbird Bakery, 11 Frying Pan Alley, London E1 7HS | 31/03/22 |
| Gopuff 89 Hemming Street London | 31/03/22 |
| Oval Café, 11 – 12 The Oval, London E2 9DU | 31/03/22 |
| The Vaults Ivory House St Katherine's Dock East Smithfield London E1W 1BP | 31/03/22 |
| Adult Gaming Centre) - Palace Amusements, 450 Bethnal Green Road London E2 0HG | 31/03/22 |
| Organic Grocery Store, 284-286 Poplar High Street, London E14 0BB | 31/03/22 |
| Lime Store, 568 Commercial Road, London, E14 7JD | 31/03/22 |
| Ona's Bento & Sushi, 486 Roman Road, London E3 5LU | 31/03/22 |

The meeting ended at 8.25 p.m.

Chair, Councillor Kevin Brady
Licensing Sub Committee