

LONDON BOROUGH OF TOWER HAMLETS

RECORD OF THE DECISIONS OF THE LICENSING SUB COMMITTEE

HELD AT 2.00 P.M. ON TUESDAY, 19 APRIL 2022

**THE COUNCIL CHAMBER, TOWN HALL, MULBERRY PLACE, 5 CLOVE
CRESCENT, LONDON, E14 2BG**

Members Present:

Councillor Peter Golds (Chair)

Councillor Rajib Ahmed (Member)

Councillor Victoria Obaze (Member)

1. DECLARATIONS OF INTEREST

There were no declarations of interest made.

2. RULES OF PROCEDURE

3. MINUTES OF THE PREVIOUS MEETING(S)

The minutes of the meetings held on 8th and 22nd March 2022 were agreed and approved as a correct record.

4. ITEMS FOR CONSIDERATION

**4.1 Application for a New Premises Licence for an Adult Gaming Centre for
Palace Amusements, 450 Bethnal Green Road, London E2 0HG**

The Licensing Objectives

Consideration

The Sub-Committee considered an application by East Kent Leasing Ltd. (“the Applicant”) for a new premises licence to be held in respect of Palace Amusements, 450 Bethnal Green Road, London, E2 0HG (“the Premises”). The Premises would operate as an Adult Gaming Centre (AGC) and would do so for 24 hours per day.

The application attracted representations from the Ward Councillor, Councillor Kevin Brady, and from two local residents.

The Sub-Committee heard from Philip Kolvin QC on behalf of the Applicant. He explained the Applicant’s track record and ability to comply with the licensing objectives under the Gambling Act 2005. The Sub-Committee was

told that members of the management team visited all their premises at least twice-weekly and that when a new premises is opened, one of them would be present every day for an initial period. Staff were trained regularly, risk assessments were carried out, and there were strict policies in place, such as Challenge 25 and independent verification checks by mystery shoppers. The Applicant had never been subject to a review and was experienced at operating in challenging areas.

Mr. Kolvin explained the nature of the Premises and the differences between it and a betting shop. These included a staff presence on the floor and no TVs or communal seating. The number of customers at any given time tended to be small. This meant that crime and disorder was not an issue. Mr. Kolvin also informed the Sub-Committee that no other AGC in the area had any additional conditions imposed on their licence. The Applicant, however, had volunteered a number of conditions, which would be complied with, and which potentially raised standards in the area.

Mr. Kolvin addressed the representations briefly, which in his view were arguably not relevant to the licensing objectives. They were focused on need, which was relevant to planning rather than to gambling. Fundamentally, however, there was no evidence that the grant of this application would undermine the licensing objectives. No other similar premises had the conditions being offered, and he submitted that there was no basis on which the Sub-Committee could refuse the application.

Cllr. Brady addressed the Sub-Committee and explained that he did not believe that the Premises would meet the licensing objectives. The area suffered from anti-social behaviour (ASB), with drinking establishments and homelessness hostels nearby, as well as a number of schools. He attended the local Police Safer Neighbourhood Team meetings, which confirmed the problem with ASB in the area. ASB issues were also referred to by one of the other objectors.

Members queried the proximity of the Premises to schools and within the Bethnal Green Cumulative Impact Zone. Mr. Kolvin commented that AGCs were inevitably located on High Streets and that staff training and conditions, such as no alcohol being permitted within the Premises, meant that issues were not likely to arise. Children walking past a gambling premises was not of itself a problem. A family going to the seaside would inevitably go into family entertainment centres, which had arcade games and penny falls. An AGC was completely different and children simply did not want to go into them. Even if they did, however, they would be noticed by staff and promptly challenged. Cllr. Brady confirmed that he did not believe that children would go into the Premises, but that children would see it and see gambling as acceptable. Similarly, he was concerned that curious teenagers might be encouraged to gamble by, for example, parents going in to such a premises and leaving their children outside.

During the course of the hearing members queried whether there could be a limit on the number of people smoking outside the Premises. Mr. Kolvin explained that this tended not to be an issue with AGCs as it might be with a

pub, but if the Sub-Committee was minded to impose a condition it was not objected to and he suggested a limit of three. There was also discussion as to whether or not it would be appropriate to require that gambling not be visible from the exterior. Mr. Kolvin commented that there was no consistency between authorities and that if the Sub-Committee were minded to impose such a condition, the Applicant did not object.

The Sub-Committee paid careful attention to the oral and written representations made by the parties, including those from the residents who had not attended the hearing. The Sub-Committee understood that the starting point of the legislation was that it should “aim to permit” the use of the premises for gambling and that a refusal of the application would be a measure of last resort when no other measure would suffice to ensure that the licensing objectives were not undermined.

To the extent that the representations made reference to the need for another gambling premises, they were disregarded by the Sub-Committee. None of the responsible authorities had objected to the application. Whilst this was not determinative, the Sub-Committee would have expected there to have been some representations if premises of this nature gave rise to concerns.

Similarly, the Premises’ location within the CIZ and the ASB issues that might arise generally within the area were not matters that the Sub-Committee could take into account, unless and to the extent that they related to the Premises and would or would be likely to adversely impact upon the licensing objectives.

Notwithstanding the references in the representations to the number of gambling premises in the area, none of the representations evidenced any issues arising in connection with any of those premises. That being so, there was no basis on which the Sub-Committee could reasonably conclude that these Premises would give rise to any problems. Insofar as the representations expressed concern about the possible impact upon the licensing objectives, the Sub-Committee considered that these were far too speculative and unsupported by evidence. Further, even if it could be satisfied that the grant of this licence would or was likely to give rise to problems, the conditions volunteered by the Applicant would address those.

The Sub-Committee considered that it was appropriate in the circumstances to impose two additional conditions as discussed. Whilst the Sub-Committee noted that nuisance generally was not a licensing objective under the 2005 Act, there was a possibility that some patrons would exit temporarily to smoke and that this had the potential, especially later in the evening, to give rise to noise nuisance or to add to the existing problems within the CIZ. It was proportionate to require this to apply only between certain hours and the hours during which voluntary conditions 7 and 8 applied (22:00 hours to 04:00 hours) seemed appropriate. The Sub-Committee was satisfied that this condition was in accordance with the requirements of paragraph 9.31 of the Gambling Commission’s Guidance to Local Authorities as this directly related to the premises, the locality, the local risks, and the type of licence applied for.

Similarly, the Sub-Committee considered, in all the circumstances, that it was appropriate to impose a condition that gambling should not be visible from the exterior of the Premises, so as to minimise the risk of children or vulnerable people being tempted to enter and gamble when they might not otherwise be minded to do so.

Having considered the options available to it, the Sub-Committee decided to grant the application as sought and with the imposition of the additional conditions volunteered by the applicant and the additional conditions discussed during the course of the hearing:

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 an Adult Gaming Centre for Palace Amusements, 450 Bethnal Green Road, London E2 0HG be **GRANTED with conditions.**

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 copies of recent CCTV images or data with the absolute minimum of delay when requested.
- 3) A Think 25 policy 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.
- 4) Staff shall have a clear view of the entrance from the sales desk, if one exists, and shall circulate the premises to enable good visibility and supervision of the machines and premises.

- 5) Refresher training shall take place every six months, all training shall be documented, and records kept at the premises. These records shall be made available to the Police and/or Local Authority upon request and shall be kept for at least one year.
- 6) A magnetic locking device, commonly referred to as a Maglock shall be installed and maintain on the main entrance/exit to the premises which shall be operated thought out the day by staff at their discretion.
- 7) When the hours are trading between the hours of 22:00 hours and 04:00 hours the entrance will be locked with admittance to the premises only by video and buzzer using the maglock.
- 8) There shall be two or more members of staff on the shop floor when the premises are trading between 22:00 hours and 04.00 Monday to Sunday.
- 9) The licensee shall refuse entry to customers who appear to be under the influence of alcohol or drugs.
- 10) Signage shall be displayed in the front window, informing if they are seen drinking alcohol or taking drugs outside the venue, they will be refused entry.
- 11) Between 22:00 hours and 04:000 hours no more than three patrons at any one time shall be permitted to smoke outside the premises.
- 12) Gambling taking place within the premises shall not be visible from outside the premises.

4.2 Application for a New Premise Licence for Kill the Cat 14 Market Street London E1 6DT

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 Bishops Square S.A.R.L ("the Applicant") for a new premises licence to be held in respect of Kill the Cat, 14 Market Street, London, E1 6DT ("the Premises"). The application

sought the sale by retail of alcohol for consumption on and off the Premises from 08:00 hour to 23:00 hours Monday to Saturday and from 08:00 hours to 22:30 hours on Sundays. The application received two representations against it, from the Licensing Service and from the Environmental Health Service. The representations related to the Premises' location within the Brick Lane Cumulative Impact Zone (CIZ) and to the potential impact on the licensing objectives of the prevention of public nuisance.

The Sub-Committee heard from Stephen Walsh QC on behalf of the Applicant. He noted that the representations were based solely on policy and submitted that the licence, if granted, would not add to the problems within the CIZ.

The Applicant was the owner of the Spitalfields Estate. It would not be operating the Premises itself; the operator would have a lease of the Premises. Local residents' groups had been consulted and there had been no objections by SPIRE or any of the residents neither had the police objected on the basis of crime and disorder. The Applicant held a licence at 43 Brushfield Street, also within the CIZ, and that would be surrendered in the event that the Sub-Committee granted the application. The overall number of licences within the CIZ would therefore remain the same. Mr. Walsh confirmed that the Applicant was willing to agree to a condition that the licence could not take effect until the licence for 43 Brushfield Street had been surrendered and was not capable of being reinstated.

The Premises would only sell craft beer. There would be no products that one would expect to find on a supermarket shelf. There would be a small food offering but the Premises would not be operating as a restaurant. The operator had been trading from other premises in Brick Lane for some years, with no cause for concern. The main concern of the responsible authorities related to the use of the external area and the potential for that to give rise to public nuisance. An acoustic report had been commissioned and that showed that the use of this area was not likely to result in public nuisance.

Mohshin Ali, Licensing Officer, expanded briefly on his representation. There were two conditions in the Brushfield Street licence which the Applicant had not included on this application, namely alcohol being ancillary to food, and the use of the external area being limited to 21:00 hours.

Nicola Cadzow, on behalf of the Environmental Health Service, confirmed that she had initially asked the Applicant to agree a condition that the external area would not be used after 22:30 hours save only for use by not more than eight smokers. The Applicant had agreed to this. However, after that and after speaking to Mr. Ali, she reconsidered and determined that 22:30 hours was too late and that 21:00 hours was more appropriate. With regard to public nuisance there were only two options likely to minimise it. Those were to keep the numbers down or to reduce the hours of use.

During questions from Members, Mr. Walsh explained that the licence for 43 Brushfield Street had been utilised. It had been intended to be used as a restaurant and thus had conditions appropriate to a restaurant. As regards the

use of the external area, he noted that Ms. Cadzow's position had only changed after she had spoken to Mr. Ali. His client was willing, however, to reduce the time on the use of the external area to 22:00 hours. Whilst the Applicant acknowledged Ms. Cadzow's concerns, they had provided evidence, in the form of an acoustic report, which demonstrated that there was not likely to be any impact on the public nuisance licensing objective and that ceasing use of that area from 22:00 hours would suffice. Further, from 21:00 hours to 22:00 hours the Applicant was willing to limit the number of patrons using this area to twelve.

There was also some discussion about the need for off-sales and the risk of people buying alcohol from the Premises that would then be consumed on-street. Mr. Walsh told the Sub-Committee, however, that the prices of the products meant that this was not at all likely and that there had been no experience of that within the Spitalfields Estate.

This application engages the licensing objective of the prevention of crime and disorder. The operating schedule contained a number of conditions and there had been further conditions agreed between the parties. The real issues for determination were whether alcohol should be ancillary to food and when the use of the outside area should cease (save for use by smokers) and whether the Applicant had demonstrated that they would not adversely impact upon the CIZ.

Whilst the Premises would be alcohol-led rather than food led, the Sub-Committee was satisfied that the focus was on the tasting experience rather than on drinking in order to become intoxicated. This was borne out by the prices of some of the products on offer. The problems that might occur were the Premises to be a bar or club would therefore not occur.

The application and the representations referred to this application as replacing or reinstating a previous licence at 12 Market Street. This was not an accurate way of addressing matters; the application was nonetheless for a new premises licence. Whilst some regard might need to be paid to the previous licences, especially with regard to the conditions, the application needed to be considered in its context. Whilst 43 Brushfield Street had been intended to operate as a restaurant, this Premises is not so intended. Given the nature of the operation and, in particular, the pricing of the products on offer, the Sub-Committee was satisfied that there was no need to impose a condition that alcohol be sold as ancillary to food.

Further, the Sub-Committee noted that the licence at 43 Brushfield Street would be surrendered. Whilst it is not purely a matter of simple arithmetic, the fact that the overall number of licences within the CIZ would not increase was a matter the Sub-Committee considered relevant. Further, the operator had experience of operating within Brick Lane and the Sub-Committee understood them to be moving from that location to this. Again, this meant that there was no addition to the CIZ.

As regards the external area, the Sub-Committee was satisfied that the concessions proposed by the Applicant would suffice to ensure that there was

no adverse impact on the licensing objectives. Whilst it noted the concerns raised by Environmental Health, the report from RBA Acoustics provided evidence that there would be no impact from the use of the external area. Further, the 50% reduction in the maximum number of patrons from 21:00 hours until 22:00 hours and the cessation of use of that area after 22:00 hours except for smoking ensured that as ambient noise levels reduced so too would the use of this area.

The Sub-Committee was therefore satisfied that the application could be granted as an exception to the CIZ and is granted as sought, with the agreed amendment to the non-standard timing on New Year's Eve and with the conditions as set out below. The Sub-Committee noted that there was no condition preventing the nature of the premises or the products sold from changing. Given that these matters were fundamental to the Sub-Committee's decision, it was considered appropriate and proportionate to impose a condition that the Premises only operate as a craft beer tasting room and bottle shop and supply only premium branded products:

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 Kill the Cat, 14 Market Street, London E1 6DT be **GRANTED with conditions**.

Sale of Alcohol (on and off sales)

Monday to Saturday from 08:00 hours to 23:00 hours
Sunday from 08:00 hours to 22:30 hours

Hours premises are open

Monday to Saturday from 08:00 hours to 23:30 hours
Sunday from 08:00 hours to 23:00 hours

Non-standard timings

The non-standard times for licensable activity on New Year's Eve shall be from the end of permitted hours on New Year's Eve until 03:00 hours on New Year's Day.

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 copies of recent CCTV images or data with the absolute minimum of delay when requested.
3. 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:
 - 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) all seizures of drugs or offensive weapons;
 - f) any faults in the CCTV system, searching equipment or scanning equipment
4. Deliveries to the premises shall only take place between 08.00 and 22.00 hours except for deliveries of bread and baked goods which may be delivered between 07.00 and 22.00 hour
5. Collections of waste or recycling materials from the premises shall only take place between 08.00 and 22.00 hours.
6. There shall be a physical barrier acting as demarcation between the premises outside area and the pavement.
7. No open containers of alcohol shall be allowed to be taken off the premises by customers except for any designated external customer area.
8. Notices shall be prominently displayed at all exits requesting patrons to respect the needs of local residents and businesses and leave the area quietly.
9. No noise shall emanate from the premises nor vibration be transmitted through the structure of the premises, which gives rise to a nuisance.
10. Loudspeakers shall not be located in the entrance lobby or outside the premise building.
11. 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 8.0 Conditions Agreed/Requested by Responsible Authority

12. From 21:00 hours to 22:00 hours a maximum of twelve persons shall be permitted within the external area. The external area shall not be used after 22:00 hours, except for persons permitted to temporarily leave the premises e.g. to smoke, and shall be limited to eight persons at any one time.
13. When the designated premise 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 shall be available on request by the Police or any authorised officer.
14. In the event that a serious assault is committed on the premises (or appears to have been committed) the management will if safe to do so, immediately ensure that:
 - a) the police (and, where appropriate, the London Ambulance Service) are called without delay;
 - b) all measures that are reasonably practicable are taken to apprehend any suspects pending the arrival of the police;
 - c) the crime scene is preserved so as to enable a full forensic investigation to be carried out by the police;
 - d) and such other measures are taken (as appropriate) to fully protect the safety of all persons present on the premises
15. Alcohol consumed outside the premises building shall only be consumed by patrons seated at tables
16. Notices shall be prominently displayed at any area used for smoking requesting patrons to respect the needs of local residents and use the area quietly.
17. 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.
18. The premises licence holder shall ensure that any patrons drinking and/or smoking outside the premises do so in an orderly manner and are supervised by staff so as to ensure that there is no public nuisance or obstruction of the public highway.
19. This licence shall not take effect until such time as the premises licence for 43 Brushfield Street, London, E1 6AA (no. 138889) has been surrendered to the licensing authority and is no longer capable of being reinstated pursuant to section 50 of the Licensing Act 2003.
20. The premises shall operate only as a craft beer tasting room and bottle shop. Only premium branded products may be sold or supplied.

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:
The Space Spitalfields, 44 Commercial Street, London E1 6LT	31/07/2022
Unit A1.1.1, 10 Park Drive, Canary Wharf E14	31/07/2022
Brussels Wharf, Wapping Wall, London, E1W 3SG	31/07/2022
Space 289, Railway Arch 289, Cambridge Heath Road, London E2 9HA	31/07/2022
The Breakhouse Café, Unit 17 Bloc Riverbank, 455 Wick Lane London E3 2TB	31/07/2022

The meeting ended at 4.20 p.m.