

LONDON BOROUGH OF TOWER HAMLETS

RECORD OF THE DECISIONS OF THE LICENSING SUB COMMITTEE

HELD AT 6.30 P.M. ON THURSDAY, 15 JULY 2021

**MP701,7TH FLOOR, TOWN HALL, MULBERRY PLACE, 5 CLOVE CRESCENT,
LONDON, E14 2BG**

Members Present:

Councillor Shah Ameen (Chair)

Councillor Mohammed Ahabab Hossain (Member)

Councillor Mohammed Pappu (Member)

1. DECLARATIONS OF INTEREST

There were no declarations of interests made.

2. RULES OF PROCEDURE

The rules of procedure were noted.

3. MINUTES OF THE PREVIOUS MEETING(S)

The minutes from the 30th March, 13th and 27th April 2021 were agreed to be an accurate record of the meetings.

4. ITEMS FOR CONSIDERATION

**4.1 Licensing Act 2003 Application for a premises licence variation for 3AKE
204 Brick Lane, London E1 6SA**

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 the oral representations at the meeting virtually made by the Applicant's agent and the Licencing Authority who was objecting to the variation.

The Sub-Committee noted the Applicant was seeking to vary the licence to include the off sale of alcohol as part of its takeaway business. The Applicant had recently been using the temporary alcohol licensing provisions under the Business and Planning Act 2020.

The Sub-Committee noted the premises is in the Brick Lane 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 add to the cumulative issues already experienced within the CIZ.

The Sub-Committee noted the representations made by the Licensing Authority relating to the licensing objective of the prevention of noise nuisance. 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 as set out at page 115 of the agenda. It was noted that the application had been amended, and the hours for the off sale of alcohol were within the framework hours. The Sub-Committee was therefore satisfied that there would be no addition to the cumulative impact in the area.

The Sub-Committee was satisfied that exceptional circumstances existed in that it was a small premises, which was not alcohol led, intended to be operated during framework hours. The Sub-Committee decided to impose an additional condition that off-sale alcohol would only be sold ancillary to a substantial meal. This would ensure that its off sale business was not alcohol led and the risk of public nuisance and anti-social behaviour would be minimised.

The Sub-Committee was satisfied that the licensing objectives would be promoted by the granting of the application, and that the conditions imposed in relation to off-sales would effectively mitigate the risk of public nuisance and help alleviate the concerns raised by the Responsible Authority.

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 Premises Licence variation for 3ake, 204 Brick Lane, London E1 6SA be **GRANTED** with conditions.

Sale of Alcohol (Off Sales only)

Monday to Saturday from 10:00 hours to 23:00 hours

Sunday 12:00 hours to 22:30 hours

Conditions

1. Alcohol will only be sold for consumption off the premises in sealed containers, whatever the circumstances of the sale. This will include partly consumed bottles of wine or other alcoholic beverages sold for consumption on the premises.
2. An incident log will be maintained to record all incidents of crime and disorder occurring at the point of delivery, including when alcohol is delivered to a premises. The log will also record all refusals at the point of delivery as a result of acceptable Proof of Age ID not being shown to the driver, or the person being drunk, or appearing to be drunk. This log will be available for inspection at the premises by the police or authorised officer on request.
3. The premises licence holder will ensure that an age verification policy will apply not only for sales for consumption on the premises but also all off sales, including deliveries, whereby all delivery riders will be required to ask any customer to whom alcohol is delivered who appears to be under 25, to produce identification in the form of their passport, their photo driving licence, or other photo ID with an immediately recognisable photograph of the customer, their date of birth and a holographic mark. A training card will be shown to every rider when collecting an order including alcohol that demonstrates acceptable ID as described above and will sign a log to verify his/her understanding of 3AKE's age verification policy.
4. A warning will be displayed on the restaurant's digital platforms on which an order for alcohol can be placed, informing customers that they must be aged 18 or over in order to proceed, and advising that valid photographic ID must be shown on request when the delivery is made, and the alcohol will be withheld if the rider is not satisfied with the ID shown, or if no ID is provided, when requested.
5. The Licensing Authority will be notified of all digital platforms advertising alcohol for sale by 3AKE restaurant for consumption off the premises, and any changes made to their content on an ongoing basis.
6. Riders will not be permitted to congregate outside the premises or the immediate vicinity, smoke, raise their voices, play audible music whilst waiting for their order, or operate their bikes in any way that could constitute a noise nuisance. A reception desk is located just inside the entrance, and any employee manning the reception desk will be tasked with managing all delivery collections besides carrying out regular checks to ensure no nuisance or obstruction is being caused outside the premises by customers or riders.
7. Delivery of alcohol will be to residential addresses or places of work only.

8. Off-sale alcohol must only be sold ancillary to a substantial meal unless, the off-sale of alcohol is for online orders of sake and/or Japanese whisky for delivery only.

4.2 Licensing Act 2003 Application to Review the Premises Licence for 76 Brick Lane, London E1 6RL

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 the oral representations at the meeting virtually made by the supporters of the review, namely the Licensing Authority, Environmental Health and the Health & Safety Team.

The Sub-Committee noted the premises was in the Brick Lane Cumulative Impact Zone and that had in recent times it had been operated by Mr Abraham Mahmood as 'Kyice's Kitchen'. From the evidence provided, it was clear the Covid-19 restrictions and laws had been breached and that the licensing objectives had been undermined. The Sub-Committee noted that whilst attempts had been made to contact the director of Licence Holder, Mr Sultan Miah, and the Designated Premises Supervisor (DPS), Mr Akthar Miah, no meaningful response or communication had been received from them.

Evidence from the Licencing Authority showed that annual fees for years 2018 and 2019 had not been paid. Although fees had been paid for 2020, linked to an email address associated with Kyice's Kitchen, the fees for 2018 and 2019 remained outstanding. Accordingly, the licence remained suspended and the premises should not have been carrying out licensable activities. Correspondence, dated 12 November 2020, had been sent to the premises, the Premises Licence Holder and the DPS but no response was received.

The Sub-Committee noted that the Licence Holder and Designated Premises Supervisor had allowed the Premises to operate without a valid licence in breach of the relevant laws and contrary to the licensing objectives. Despite attempts by the Licensing Authority to engage with the Licence Holder, no efforts had been made by to co-operate or address the issues caused by the

Premises. The Sub-Committee was not satisfied that licensing conditions, suspension or removal of the Designated Premises Supervisor would adequately address the issues or promote the licensing objectives. The Sub-Committee concluded that the licence holder was not a suitable person to hold a premises licence and that revocation was the only appropriate remedy to promote the licensing objectives.

Therefore, Members made a decision and the decision was unanimous. Members agreed to GRANT the review and REVOKE the licence held by Blue Tiger Limited.

Accordingly, the Sub Committee unanimously

RESOLVED

That the application for review of the Premises Beefy and Birds (Kyice's Kitchen) 76 Brick Lane, London E1 6RL be granted and the Licence be revoked.

5. EXTENSION OF DECISION DEADLINE: LICENSING ACT 2003

There were no applications which required an extension to the decision deadline.

The meeting ended at 7.43 p.m.

Chair, Councillor Shah Ameen
Licensing Sub Committee