

LONDON BOROUGH OF TOWER HAMLETS**RECORD OF THE DECISIONS OF THE LICENSING SUB COMMITTEE****HELD AT 6.30 P.M. ON TUESDAY, 27 SEPTEMBER 2022****THE COUNCIL CHAMBER, TOWN HALL, MULBERRY PLACE, 5 CLOVE
CRESCENT, LONDON, E14 2BG****Members Present:**

Councillor Rebaka Sultana (Chair)

Councillor Leelu Ahmed (Member)

Councillor Shubo Hussain (Member)

1. DECLARATIONS OF INTEREST

There were no declarations of interest.

2. RULES OF PROCEDURE

The rules of procedure were noted.

3. ITEMS FOR CONSIDERATION**3.1 Application for Review under Section 53 A of the Licensing Act 2003 for
Oval Space, 29-32 The Oval, London E2 9DA**

1. The Sub-Committee considered an application for review of the premises licence held by Oval Venues Ltd. in respect of Oval Space, 29-32 The Oval, London, E2 9DT ("the Premises"). The review was a review under s.53C of the Licensing Act 2003. At the conclusion of the hearing, the Sub-Committee's determination was to revoke the premises licence. In addition, the Sub-Committee determined that the interim step of suspension of the premises licence, which had been imposed by the Sub-Committee on 8th September 2022, was to continue. The Sub-Committee confirmed that its written reasons would follow. References in this decision to page numbers are to documents within the first supplemental agenda pack unless otherwise stated.
2. PC Perry took the Sub-Committee through the timeline of the events of 30th August 2022 (Pages 70-71). The suspected offenders are seen in the queue inhaling what appears to be nitrous oxide, without challenge by the security staff. There are interactions between some of the security staff and some of the suspects, suggesting that they know each other. The bag which is believed to contain the firearm is allowed

into the venue without being searched. Search wands and ID scanners are not being utilised.

3. Once inside the venue and on the main dancefloor, two suspects are seen to put on balaclavas at about 03:57 hours. They are seen to purchase drinks. They are not challenged by bar staff or security staff despite being masked for around ten minutes. Around 04:10 hours, police believe a shot to have been fired, which hit the victim. Unsurprisingly, this leads to pandemonium as patrons panic and try to leave.
4. PC Perry noted that one member of the security staff thought that one of the suspects was known to or part of the events team at the venue (Page 80). He also referred to information from an Operation Trident officer, who deals with gang-related crime. That officer (Page 68) stated that they were told by security staff that there were local youths who attended the venue. *“They believe these boys were from local gangs and had the capabilities to make things difficult for the security at the door. This leads to the security having a mutual agreement with them to keep the relative peace.”* The Trident officer confirms that the suspects are gang members and also refers to the security lapses which contribute to the events of this evening.
5. PC Perry expressed considerable concern that control of the venue had effectively been taken over by gangs. This had not been communicated to or shared with the police. The venue, in his submission, did nothing to address this very serious issue.
6. He submitted that this was not the first time that the venue had done nothing. He referred to several other incidents detailed within the papers:
 - Page 91 contained an extract from the venue’s incident log. A fight broke out at about 05:00 hours on 29th July 2022. One of the males involved went to his car and pulled out a Samurai sword. The police are not called nor is the incident reported later.
 - Page 87 the log refers to a male sexually harassing women at about 03:30 hours on 29th July 2022. Security did something in the sense of trying to find the man and ensuring that the victims got home safely. However, they failed to get the victims’ details or report the incident to the police.
 - On 19th February 2022 a fight breaks out at the venue, the perpetrators are ejected but the incident is not reported (Page 84).
7. PC Perry also referred to the representations from local residents in support of the review. He drew the Sub-Committee’s attention in particular to the second and third paragraphs on Page 37 and to the final paragraph of the letter at Page 39.

8. PC Perry noted that the violence appears to have escalated and that the Premises are being poorly-run. He noted that the number of refusals of sales of alcohol given the number of people in the Premises at any time strongly suggested that staff were selling alcohol to intoxicated patrons. He reminded the Sub-Committee of the failure to install and use Club Scan. The Premises had been reviewed last year over concerns of poor management and despite promises that the situation would improve, that has not happened. The recent incident combined with the failure to comply with their licence conditions now gave the police no confidence that the Premises could operate safely, especially as it now appeared to be controlled by gangs. He drew the Sub-Committee's attention to Page 81, which suggested that immediately after the shooting the DJ stated, "What ends is the baddest in London?"
9. Corinne Holland addressed the Sub-Committee on behalf of the Licensing Authority. She referred to the event of 29th to 30th August, which was said to have a dress code which included "no hoodies." Nonetheless, the suspects were allowed entry in breach of that. She too was concerned as to the possible involvement of the security staff, which was negligent at best. When the appeal against the previous review decision had been compromised, a condition had been added requiring one month's advance notice to have been given to the Licensing Authority if an event utilising the non-standard timings was to take place. No notices of any events had been received by the authority to date, nor had one been given for the night in question.
10. Ms. Holland also referred to the road closures, which were unauthorised (Pages 26-27). Finally, she referred to some of the photos produced in the second supplemental agenda pack, which showed large numbers of people in the area with no crowd management. She too reminded the Sub-Committee that this was the second review, the first having followed stabbings just over a year ago. That had highlighted poor management at the Premises and with the security staff. In her opinion, this latest review demonstrated that nothing had changed.
11. Paddy Whur, solicitor for the licence holder, and Dean James, one of the directors of the business, then addressed the Sub-Committee. Mr. Whur told the Sub-Committee that the failings were largely down to the security company, whose services would no longer be used, and that they would no doubt face sanctions from the Security Industry Authority.
12. Save for two matters, he did not take issue with the police timeline. Those issues were that he had reviewed the CCTV and could not see that the suspects had purchased drinks whilst wearing balaclavas and that the witness who had identified the gunshot (Pages 88-90) had

been speaking in respect of the shooting on Hackney Road and not within the club. He accepted, however, that the likelihood was that the gun had got into the venue and had been discharged inside.

13. He told the Sub-Committee that the owners had not been made aware by the managers until the expedited review was brought. The police had since been given assistance and the CCTV. They did not accept that the owners had allowed the Premises to be taken over by gangs; there was criminal neglect by the security company.
14. Mr. Whur outlined the history of the Premises, which had been taken over by Mr. James in 2015. Mr. James has extensive experience of running licensed premises. Prior to July 2021, there had been no problems. However, one of his senior staff, Archie McIntosh, ceased to be as extensively involved. That led to problems within the operation and, ultimately, to the review. The Sub-Committee had imposed a number of conditions, which were all accepted on appeal, and the appeal was really focused on the non-standard timings. At that time, the police were seeking a reduction to framework hours and were thus content that the Premises could operate safely to those.
15. A new manager and security company were appointed and things were running well. Mr. Whur referred to the representation on Pages 26-27 which stated that the Premises were being operated well from a policing perspective. In May 2022 the Council agreed the consent order that compromised the appeal arising from the first review. On 17th May 2022 PC Perry had emailed to say that there had been a "marked improvement in how the security is working."
16. Mr. Whur noted that there were no signs of nitrous oxide use or drug dealing at the visits detailed on Pages 26-27. There was nothing untoward until the incident of 30th August. When their new manager, Mr. Mellin, left at the end of June 2022, management and security thereafter was not as it ought to have been. It was not accepted that the Premises had become gang-led. The failings, however, were those of the security staff.
17. At Pages 219-220 there was an offer letter that had been made to the police, which effectively would stop the late-night events and allow the Premises to continue with corporate events to framework hours. Revocation would kill the business.
18. Mr. James apologised to the Sub-Committee. He reiterated some of the points made by Mr. Whur and stated that after the last review, when he had employed Mr. Mellin to manage the Premises, he'd been getting good feedback from the police and Licensing. He accepted that the business had been under considerable financial pressure in August as the business sought to recover from the pandemic and that, with hindsight, he should have stopped the business in August. The

proposal now being put forward would allow the venue to continue to trade and provide local jobs and other community benefits and the issues with which the reviews had been concerned did not arise at those earlier hours.

19. Finally, Mr. Whur drew the Sub-Committee's attention to the report of Mark Halton (Pages 153-183) of an unannounced visit to The Pickle Factory, 14 The Oval, London, E2. This is located over the road and is also operated by Mr. James' business. It was not possible to visit the Premises due to the suspension but he suggested to the Sub-Committee that this demonstrated that the Premises could be operated safely. He also asked the Sub-Committee to note that two of the residents who had made representations did not necessarily seek the closure of the Premises and that a change in the nature of the operation would reduce or negate any impact. Finally, he drew attention to the representation from the Night-time Industry Association, which he said would not support irresponsible operators, and to the considerable degree of support for the venue included within the supporting information.
20. During questions from Members, Mr. James said he believed that any problems had been resolved following the review last year. Everything had seemed to be fine until June 2022. It had taken him a while to find a decent manager and that appointment happened to have been made on the day that he found out about this review.
21. Regarding the road closures, Mr. James said he lived in the area and found them helpful. He explained that it was an access restriction rather than a road closure and that residents were always permitted access. PC Perry told the Sub-Committee he did not object to the restrictions in principle, but noted it needed to be done properly.
22. PC Perry did not consider that there had been any real change. Club Scan was not in use, and it was for the venue to buy it, not the security staff. He accepted that there had been improvements but that they had not been maintained. The incident logs highlighted a number of failings and should have been brought to the attention of management. Mr. Whur's explanation was that the managers had failed in their responsibility to bring issues to Mr. James' attention.
23. Mr. James was also asked whether he thought he had done enough following the stabbing in February 2020 referred to at Page 65. He considered that they had done and reminded the Sub-Committee that shortly after that the first Covid-19 restrictions were imposed, which meant that the venue, along with others, was closed to the public for some time.
24. This application engages the licensing objectives of the prevention of crime and disorder, public safety, and the prevention of public

nuisance. The Sub-Committee had read and taken account of all the information in the agenda packs as well as the helpful oral submissions.

25. The incident giving rise to this review is of the utmost seriousness. The victim of the shooting could have been killed. Equally, there was a real risk to innocent members of the public who were endangered by the discharge of a firearm in public places. Whilst Mr. Whur took issue with two discrete factual aspects of the police evidence, the critical facts were not in dispute.
26. This incident alone could have warranted a revocation even if the security staff had taken all reasonable measures to ensure that a weapon was not brought into the Premises. It was not in dispute, however, that that was not the case; the weapon had got in due to the failings of security staff. At best, they were utterly negligent; at worst, they were knowingly culpable. Combined with the breach of the Club Scan condition, this was an incredibly serious failing.
27. Whilst Mr. James points to the failings of the security staff, the Sub-Committee nonetheless takes account of the fact that he is a director of the business and ought to have had appropriate oversight, particularly in light of the history of the Premises.
28. The Sub-Committee was concerned by the history. The Premises may well have been run well at some point in the past but there are a number of serious incidents referred to in the report pack. These included a large fight on 16th November 2019 (Pages 65-66) and a stabbing on 16th February 2020 (Page 65), not to mention the subsequent review. The Sub-Committee considers it was likely that the reason no action was taken in respect of the February 2020 incident was the impact of Covid restrictions shortly after. There are the various other incidents referred to in the papers and by PC Perry, including failings in relation to the drugs logs and the storage of drugs. It all paints a picture of poor management over a long period of time, even if some of those issues are historic.
29. The main issue for the Sub-Committee, however, is the incidents of violence, particularly those giving rise to the reviews and the stabbing in February 2020. These demonstrate serious underlying problems with this Premises which have occurred with different management at different times. It is not enough that when the right person is managing there is an improvement; that the Premises fall below acceptable standards demonstrates that the licensing objectives are not being promoted. It was also not acceptable to suggest that the security and management were wholly to blame when they are, ultimately, under the control of the owners of the business.

30. This has to be combined with the fact that the conditions imposed following the last review, in particular the use of Club Scan and the requirement to give notice of use of the non-standard timings, were being breached. It was the operator's responsibility to purchase or hire Club Scan and Mr. James must have known that it had not been. If he did not know, he ought to have known.
31. Mr. James now proposes the licence be cut back to framework hours, which was the police position on the last review. However, the last review ought to have been warning enough and Mr. James, as an experienced operator, knew or ought to have known the consequences of coming before this Sub-Committee again. The Sub-Committee accepted PC Perry's submission that the venue being known to and frequented by gangs means it is hard to break that association. The Sub-Committee considered that violence is not confined to late hours but can flare up at any time. Given this association with gangs, that risk is not one that can be safely discounted.
32. The representations in support did not provide sufficient information to outweigh the evidence presented by the police and those in support of the review. Mr. Halton's report on the Pickle Factory was not considered to be relevant. It is a different premises, apparently of a different nature, with a much smaller capacity. It may be that the operator can run that venue without issue (although the Sub-Committee can make no finding either way); it does not follow that they can run this venue without issue. Indeed, the history strongly suggests that they cannot do so in the long-term.
33. The other issues raised in the representations by the residents would, at the very least, justify a reduction in hours. It paints a picture of public nuisance arising from noise and crowds; crime and disorder in respect of alleged drug-dealing and taking, highway obstruction, etc. and which attracts other problems such as unlicensed food sellers late at night. Combined with the serious crime and disorder at or associated with the Premises, it demonstrates the necessity for robust action.
34. The Sub-Committee has considered all possible options. Clearly taking no action would send entirely the wrong message. Conditions were imposed after the last review and were not complied with, which suggests that there is little point in imposing further conditions. There could be no confidence that these would be complied with. The Sub-Committee did not, in any case, consider that any conditions would assuage Members' concerns. Removing the DPS would achieve nothing given the previous changes in management which have not resulted in any sustained improvement.
35. If the Sub-Committee had been minded to accept the proposal put forward by Mr. Whur to reduce the hours and the operation, a suspension would certainly have been appropriate to allow those

changes to be made. As a final warning, the Sub-Committee did not think this would have any long-term impact, given the prior warnings.

36. Ultimately, the history of the Premises over the last two or three years gives the Sub-Committee no confidence that they will, in future, be operated in a way that promotes the licensing objectives. The Sub-Committee bears in mind the section 182 Guidance and, in particular, paragraphs 11.20 to 11.23. Our function is not to determine guilt or innocence; rather, it is to ensure the promotion of the licensing objectives. At 11.26 the Guidance states:

“It is important to recognise that certain criminal activity or associated problems may be taking place or have taken place despite the best efforts of the licence holder and the staff working at the premises and despite full compliance with the conditions attached to the licence. In such circumstances, the licensing authority is still empowered to take any appropriate steps to remedy the problems. The licensing authority’s duty is to take steps with a view to the promotion of the licensing objectives and the prevention of illegal working in the interests of the wider community and not those of the individual licence holder.”

37. These problems are not, in the Sub-Committee’s view, taking place despite the best efforts of the licence holder and staff. They have arisen because of failings on their part. The Sub-Committee is ultimately concerned with the safety of the wider public and we are satisfied that the only appropriate and proportionate action is to revoke the premises licence.

Review of interim steps

38. In light of our decision to revoke the premises licence, the Sub-Committee was satisfied that the interim step of suspension needed to continue. It would be inconsistent with, and would undermine, the necessity of revocation to then remove the suspension of the licence.

Accordingly, the Sub Committee unanimously;

RESOLVED

That the application for a review under Section 53A of the Licensing Act 2003 for Oval Space, 29-32 The Oval, London E2 9DA be **GRANTED to REVOKE the premises licence.**

- 3.2 Application for a New Premise Licence for Taste of Jaipur, 74 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:

The Prevention of Crime and Disorder;
Public Safety;
The Prevention of Public Nuisance; and
The Protection of Children from Harm.

Consideration

The Sub-Committee considered an application for a new premises licence to be held by Shams Uddin in respect of Taste of Jaipur, 74 Brick Lane, London, E1 ("the Premises"). The application sought the sale by retail of alcohol (on-sales only) from 12:00 hours to 00:00 Monday to Wednesday, from 11:00 hours to 02:00 hours Thursday to Saturday, and from 12:00 hours to 23:00 hours on Sunday. Authorisation for the provision of late-night refreshment was also sought from Monday to Saturday, with the terminal hour being the same as that proposed for the sale of alcohol. Non-standard timings were sought in respect of New Year's Eve.

The application attracted representations from the Licensing Authority, the police, Environmental Health, Health and Safety, SPIRE, and one resident. The representations were concerned with the licensing objectives of the prevention of crime and disorder, the prevention of public nuisance, and public safety. The objections were primarily concerned with the Premises being located in the Brick Lane CIZ, that the application proposed the use of a roof terrace which could pose a safety risk to patrons, and that the Premises would add to the cumulative impact of licensed premises upon the local area.

Mr. Dadds, on behalf of the licence holder, informed the Sub-Committee that his client was content to reduce the terminal hour sought from Thursday to Saturday to 01:00 hours, closing thirty minutes later to allow for dispersal. He had also proposed additional conditions to address the concerns of those making representations, which included conditions prohibiting touting and prohibiting the use of or access to the roof space by patrons.

Mr. Dadds told the Sub-Committee that Mr. Uddin operated Monsoon, 78 Brick Lane, to the same hours. There had been no problems that he was aware of in the preceding five years, such as reports of noise and drunkenness. As regards to dispersal, there were never problems and after midnight there would usually be fewer than fifty patrons. He also addressed the Sub-Committee on the statutory guidance and the approach to be taken, and that the onus remained on the objectors to provide evidence that the operation of the Premises would add to the impact of licensed premises in the area.

Ms. Driver, on behalf of the Licensing Authority, confirmed that the proposed conditions and amendment went some way to assuaging the Authority's concerns although the hours were still of some concern. She also referred to a previous prosecution for touting.

PC Perry also confirmed that the amendment and proposed conditions addressed some of the police concerns. The terminal hour remained the main concern, given the Premises' location within the CIZ. The area still suffered a high level of ASB and the framework hours were there for applicants to demonstrate that they had earned the right to operate to later hours.

Mr. Olere addressed the representation made on behalf of the Environmental Health Service. He too confirmed that the amendments and proposed conditions were welcomed but remained of the view that there was still insufficient information to set out how the licensing objective of the prevention of public nuisance would be promoted. He did not, however, suggest what, if anything, might do so.

The Sub-Committee discussed dispersal issues with the applicant. Mr. Dadds explained that his client anticipated there would only be around fifteen patrons present after midnight and that they tended to leave gradually. He asserted that his client had already proved that he could operate in the area without adding to the cumulative impact.

PC Perry confirmed that there were no reports of restaurants on Brick Lane adding to the impact. He noted, however, that the impact of Covid meant that venues on Brick Lane had suffered and so there were not the levels of crime and ASB that there were pre-pandemic. However, the concern remained regarding the issue of patrons leaving in the early hours.

The Legal Adviser to the Sub-Committee suggested some amendments to the proposed conditions put forward by Mr. Dadds and sought the views of the parties, in the event that the Sub-Committee was minded to grant the application. He suggested that condition 1 simply read "within 500 metres of the premises" rather than within a 500 metre radius, so that it applied from any point on the boundary rather than from the centre point of the Premises.

Condition 6 would be clearer if the words "at all times that the premises are open to the public" were added. In relation to the dispersal policy, it was suggested that it include "This shall be submitted to the Licensing Authority and the Police within seven days of the grant of this licence and, in the event of any updates, within seven days thereof." These were generally acceptable to the parties although Mr. Dadds suggested a time period of twenty-one days in respect of condition 7 and Ms. Driver suggested that it require agreement from the police and Licensing Authority and that the licence should not be permitted to take effect until that time. Mr. Dadds objected to that latter point.

The Legal Adviser also suggested a condition that alcohol sales be ancillary to a table meal, which ensured that the Premises could not become a bar or a venue where alcohol could be purchased without anything else. This was welcomed by the responsible authorities. Mr. Dadds did express some reservation as to the precise wording but did not object in principle.

This application engaged the licensing objectives of the prevention of public nuisance and the prevention of crime and disorder. The concerns of public

safety had fallen away as a result of the condition prohibiting the use of the roof terrace. The Sub-Committee had read and taken account of the representations made by those who were not present. It noted that these were generally about the CIZ policy and expressed concern at the risk of revellers migrating to the Premises as a late-night venue.

The Sub-Committee had carefully considered the application. It did not accept that Mr. Uddin's operation of a premises two doors away rebutted the presumption of cumulative impact; the CIZ policy specifically states that the fact that a premises will be well-run or managed or that the operator operates similar premises elsewhere is not exceptional. Moreover, the point remains that the policy is concerned with the additional impact of another licensed premises on an already stressed area.

However, the policy does allow for exceptions. These include small capacity premises and premises that are not alcohol-led. Although this application does not strictly fall within the first suggested exception to the policy, those exceptions are not exhaustive. The Premises did nonetheless meet some of those criteria, such as on-sales of alcohol only. As the Premises are a restaurant, they are not alcohol-led. Similarly, there was nothing before the Sub-Committee to suggest that people would be likely to gravitate to the Premises for drinking. The conditions proposed, with the Legal Adviser's suggested amendments, would help to ensure that this would not happen and that the Premises could not change from a restaurant to a bar or other drinking-led venue.

The Sub-Committee also accepted that restaurants did not generally cause the same problems that other venues such as bars and clubs did. The Sub-Committee was therefore satisfied that granting this application with the amendments, conditions suggested in the operating schedule, and the conditions as below will not add to the cumulative impact in the area.

Accordingly, the Sub Committee unanimously;

RESOLVED

That the application for a New Premises Licence for Taste of Jaipur, 74 Brick Lane, London E1 6RL be **GRANTED with conditions.**

Sale of alcohol

Monday to Wednesday	12:00 hours to 00:00 hours
Thursday to Saturday	11:00 hours to 01:00 hours
Sunday	12:00 hours to 23:00 hours

Provision of late-night refreshment

Monday to Wednesday	23:00 hours to 00:00 hours
Thursday to Saturday	23:00 hours to 01:00 hours

Non-standard timings

On New Year's Eve from the end of permitted hours to the start of permitted hours on the following day (or, if there are no permitted hours on the following day, midnight on 31st December)

Conditions

1. No person shall be employed to solicit for custom or be permitted to solicit for custom for business for the premises in any public space within 500 metres of the premises as shown edged in red on the attached plan.
2. Clear signage is to be placed in the restaurant windows stating that the premises support the Council's "No Touting" policy.
3. The roof area will not be accessible to members of the public nor will it be used for licensable activities or other outside use.
4. Vertical drinking shall not be permitted on the premises.
5. The maximum capacity shall be 80 patrons.
6. After 23:00 hours there shall be a personal licence holder present at all times that the premises are open to the public.
7. The premises shall have a dispersal policy. This shall be submitted to the Licensing Authority and the Police within 14 days of the grant of this licence and, in the event of updates, within 14 days thereof.
8. The premises shall operate as a restaurant where the sale of alcohol is by waiter or waitress to customers seated at a table and ancillary to a table meal.

4. 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:
Wicked Fish Queens Yard Whitepost Lane	31/12/22
Kilikya's Café Bar Restaurant, Unit C4, Ivory House, East Smithfield, London, E1W 1AT	31/12/22

The meeting ended at 10.23 p.m.

Chair, Councillor Rebaka Sultana
Licensing Sub Committee