

LONDON BOROUGH OF TOWER HAMLETS

RECORD OF THE DECISIONS OF THE LICENSING SUB COMMITTEE

HELD AT 6.43 P.M. ON TUESDAY, 17 JANUARY 2023

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

Members Present in Person:

Councillor Suluk Ahmed
Councillor Asma Begum
Councillor Abdul Wahid

Members In Attendance Virtually and in Person:

PC Mark Perry – Metropolitan Police
Richard Williams – Resident
Colin Mitchell – Resident
Sue Huges – Resident
Leo Charalambides – Barrister
Chris Tyerman – Applicant
Mr Giacomo – Applicant
Kemal Seckin Balikel – Applicant
Robert Sutherland – RDS Law

Apologies:

There were no apologies.

Officers Present in Person:

Farzana Chowdhury Democratic Services Officer (Committees)

1. DECLARATIONS OF INTEREST

There were no Declarations Of Interest.

2. MINUTES OF THE PREVIOUS MEETING(S)

The minutes of the meeting for the 22 November 2022 and 13th December 2022 were agreed and approved as a correct record.

3. ITEMS FOR CONSIDERATION

**4. APPLICATION FOR A NEW PREMISES LICENCE FOR NOODLE & BEER,
UNIT 6, 31 BELL LANE, E1 7LA**

This application was withdrawn.

5. APPLICATION FOR A NEW PREMISES LICENCE FOR KILIKYA'S CAFE BAR AND RESTAURANT UNIT C4 IVORY HOUSE, EAST SMITHFIELD LONDON E1W 1AT

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 licencing objectives:

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

The Sub-Committee considered an application by Kemal Seckin Balikel for a new premises licence in respect of Kilikya's Café Bar Restaurant, Unit C4 Ivory House, St. Katharine's Dock, London, E1W ("the Premises"). The application sought the sale by retail of alcohol for consumption on and off the Premises from 12:00 hours to 23:00 hours Monday to Saturday and from 12:00 hours to 22:30 hours on Sundays. The application included an external area as part of the licensed premises and in respect of which a different terminal hour applied. That terminal hour proposed was 21:00 hours Sunday to Thursday and 21:30 hours on Friday and Saturday. The opening hours would be 07:00 hours to 23:00 hours seven days per week.

The application attracted twelve representations. Of those, nine were from residents and the Friends of St. Katharine's Dock (FOSKD) and, in general, opposed the application to a greater or lesser extent. The remainder of the representations were in support of the application.

The Sub-Committee initially had to deal with a debate between the applicant and the representative for FOSKD) as to the time allotted to the parties. Each party who had responded to the notices sent under Reg. 6 of the Licensing Act 2003 (Hearings) Regulations 2005 was permitted an equal amount of time in which to speak. The Sub-Committee determined not to hear from those appearing but who had not returned their notices, given the need to manage time effectively and that there were two other items for determination on the agenda. The Sub-Committee was reminded of its power to ask questions of any person appearing if it wished to do so.

Mr. Sutherland addressed the Sub-Committee. He explained that the applicant already held a licence in respect of Units C3 and C4, which had been granted around eleven years earlier. The application really sought to regularise the position and to reflect changes that had occurred since the last

licence was granted. The current licence did not include the external area shown to the right of Unit C4 on the plan. The Premises had operated with the benefit of the off-sales provision granted under the Business and Planning Act 2020 during the coronavirus pandemic.

The hours sought in the new application mirrored those of the existing premises licence. Ivory House had its own SIA-staff and the only issue that was really in dispute was the proposal to remove existing condition 6, which required alcohol to be served with a meal.

Mr. Charalambides addressed the Sub-Committee on behalf of FOSKD. He told the Sub-Committee that the FOSKD did not object to the application, but just wanted the right conditions in the right place. He told the Sub-Committee that the applicant had ignored the old premises licence and expanded into a shared space without the Sub-Committee's permission. There was a question mark over the capacity of that area, which in the view of FOSKD needed to be dealt with. There was no objection to the Premises operating as a restaurant. For that reason, condition 6 on page 164 was of critical importance. He said the Sub-Committee should make clear that this was not optional, by changing the word "may" to "must." All of the other premises operating under the Licensing Act in this particular area had table service and the supply of alcohol being ancillary to a table meal.

He noted the internal capacity to be twenty-four. With twelve covers to the front external area, this gave rise to the potential for as many as thirty-six intoxicated patrons outside. That was a concern. There was no opposition to the use of the external area for tea and coffee but there was concern about it becoming a bar. Mr. Charalambides suggested a maximum of six covers to the front and twelve to sixteen to the side and that all sales of alcohol should be ancillary to a table meal. He did not agree that the outside use was regulated or lawful.

Mr. Wilshire addressed the Sub-Committee. He said that there had been environmental issues in the past, which had been resolved. There had also been issues of businesses encroaching on to other land. He suggested that granting permission after the event was wrong and that to do so would be legitimising an unlawful position. He made reference to whether the planning permission for the estate allowed the use of the walkways for the purpose used by the applicant. He said that the walkways on both sides were narrow, which gave rise to obstructions for pedestrians and others.

He noted that the landlord might have given permission to the applicant to use the land but raised the question of whether or not the landlord could in fact give permission. Finally, he informed the Sub-Committee that the residents paid for the estate security through their service charges.

During questions, members explored the use of the outside area. Mr. Sutherland stated that there would be no increase in capacity. The photos provided, particularly 2 and 3, demonstrated the use of the area following the variation during the pandemic. The use of that area was effectively regulated as off-sales. There were issues with crime and disorder or noise and neither the police nor Environmental Health had objected to the application. None of the residents made specific reference to any particular problems.

Mr. Sutherland confirmed that his client was not willing to make any concession on the possibility of a table meal condition. It was not required under the current licence. Businesses in the hospitality sector had faced great difficulty during covid and the government at the time had actively encouraged the use of outdoor space, which his client had done. Mr. Sutherland also confirmed that his client was willing, if the application was granted, to surrender the current premises licence.

Mr. Sutherland confirmed the internal capacity at 24, 15 at the front of the Premises, and 20 to the side. This was disputed strongly by Mr. Charalambides. Ultimately, however, Mr. Sutherland noted that whether or not the application is granted, the numbers will not increase.

The parties made concluding remarks. Mr. Wilshire stated that one photo of the area to the right of the Premises showed three tables with eighteen covers, which he said was a huge increase. There were flats above that area and that for the applicant to suggest that there was no noise generated by the Premises in that area was simply not true.

Mr. Charalambides suggested that the applicant's attitude was that if they did not get what they wanted, they'd do it anyway. He asserted again that the use of the external area was in breach of the licence. FOSKD simply wanted the outside area regulated and six covers to the front and sixteen to the side was sufficient. The Premises said that they operated as a restaurant and would do so. What would keep the external area under control would be the imposition of appropriate conditions, namely table service, alcohol being ancillary to table meals, and patrons being seated. The applicant did not want to do that.

Mr. Sutherland disputed that the applicant's attitude was portrayed as Mr. Charalambides had suggested. Simply put, he asserted that they were already operating lawfully. That being so, the reality was that if not granted the business would still be able to operate as it has done. The use of the external area was of critical importance to the survival of the business. The lack of objections from the responsible authorities demonstrated that. The rationale for not requiring table meals before 21:30 hours was simply so that patrons could come and have a drink first before they thought about and decided upon whether or not to have a meal.

It should be noted at the outset that whether or not the use of the external area is a in contravention of the current licence is not for the Sub-Committee to determine. Whether or not offences have been committed is a matter for a court to decide. By the same token, whether or not the use of the outside area is or might be in breach of planning control or of the lease is outside of the licensing regime. If the Sub-Committee regularises the position so far as licensable activity is concerned, it does not give the licence holder permission to do anything that may contravene any other legislative or contractual requirement.

The Sub-Committee noted that, in large part, there was no real disagreement in general terms to the application. Moreover, even if someone making

representations would prefer the application to be refused, the Premises are already licensed. Whether or not and, if so, to what extent there was a contravention of the existing licence, the Premises would nonetheless continue to operate. The Sub-Committee considered that the new application allowed for greater clarity and regulation and that granting it was a better outcome than refusing the application.

In addition, the operating schedule conditions and the conditions agreed with the responsible authorities addressed the vast majority of any concerns and were appropriate and proportionate to mitigate any impact upon the licensing objectives. The only real issues in dispute between all the parties were whether or not to limit numbers in the external areas and whether or not to agree the applicant's suggested condition that alcohol only need be sold with a meal to persons arriving after 21:30 hours or, instead, to impose a table meal condition.

Ultimately, the Sub-Committee is required to consider the likely impact upon the licensing objective of the prevention of public nuisance and the prevention of crime and disorder. In the first instance, the Sub-Committee shared the concerns of the residents and FOSKD as to the use of the external area and that without appropriate conditions it had the potential to undermine those objectives. There was a possibility of larger numbers congregating in the external areas. The consumption of alcohol without food gave rise to a much greater risk of patrons becoming intoxicated. That in turn gave rise to a greater risk of increased noise disturbance and anti-social behaviour. The current licence prohibited the sale of alcohol without food and there was no evidence before the Sub-Committee that this condition had any impact upon the business.

The Sub-Committee accepted that if the applicant operated as a restaurant and intended to continue to do so, it was entirely appropriate and proportionate to impose conditions that ensured that and to prevent it from becoming a very different type of premises. The Sub-Committee was therefore satisfied that a table meal condition and a condition making clear that vertical drinking was prohibited would help to mitigate any impact upon the licensing objectives.

The Sub-Committee considered the suggestion that the numbers in the external areas be limited. It had some familiarity with the area and accepted that the walkway to the right of the Premises was rather narrow, with some obstructions. However, it did not consider that the reduction suggested on behalf of FOSKD was appropriate or proportionate. The permitted number to the front was feasible and the applicant would be limited to the area bounded by the plans. To the side, however, and given the availability of space and the overall potential for noise from the external areas, the Sub-Committee considered that this area should be limited to twenty patrons at any one time. Finally, the Sub-Committee slightly amended the condition dealing with the consumption of alcohol in the external areas so as to make it clearer and more precise.

RESOLVED

That the application for a New Premises Licence for Kilikya's Café Bar and Restaurant, Unit C4 Ivory House, East Smithfield Street London E1 1AT be **GRANTED** with conditions

The application is therefore granted for the hours sought and with the conditions as set out below:

1. Alcohol sold for consumption off the premises shall only be sold with food and when for delivery shall only be delivered to a residential or business address and not to a public place.
2. All off sales to be in sealed containers.
3. Alcohol may be supplied only by waiter/waitress service to persons seated at tables for consumption by persons so seated. There shall be no vertical drinking permitted on the premises.
4. The sale or supply of alcohol shall be ancillary to a table meal.
5. The permitted hours for the consumption of alcohol in the external areas marked on the plan shall be Sunday to Thursday 12:00 hours to 21:00 hours and Friday and Saturday 12:00 hours to 21:30 hours.
6. 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.
7. 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.
8. 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;
 - g) any refusal of the sale of alcohol;
 - h) any visit by a relevant authority or emergency service.
9. 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.

10. No music or amplified sound shall be generated on the premises to give rise to a public nuisance to neighbouring residents.
11. Loudspeakers shall not be located in the entrance lobby, or outside the premise building.
12. All windows and external doors shall be kept closed when regulated entertainment takes place, except for the immediate access and egress of persons.
13. After 21:00 hours, patrons permitted to temporarily leave and then re-enter the premises, e.g. to smoke, shall be limited to 5 persons at any one time.
14. The maximum number of patrons permitted to the front external area shall be limited to twelve at any one time. The maximum number of patrons permitted to the right external area shall be limited to twenty at any one time.
15. This licence shall not take effect until premises licence 145981 has been surrendered to the licensing authority.

6. APPLICATION FOR A NEW PREMISES LICENCE FOR JUNGLE ELECTRIC 467 ROMAN ROAD E3 5LX

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 licencing objectives:

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

The Sub-Committee considered an application by Christopher Tyerman for a premises licence in respect of Jungle Electric, 467 Roman Road, London, E3 ("the Premises"). The application sought the sale of alcohol from 08:00 hours to 22:30 hours Monday to Saturday and from 11:00 hours to 21:00 hours on Sunday. Regulated entertainment was also sought for the same terminal hours but commencing at 08:00 hours. The opening hours mirrored those for regulated entertainment. The application attracted one objection from a local resident.

The Sub-Committee heard from Mr. Steptoe, who explained that he and Mr. Tyerman owned the business. They'd been operating since September 2022 and the Premises operated primarily as a café. That would still be the case. The Premises were small, with about 25 covers inside. The purpose of the application was to allow local musicians to perform, perhaps three or four times per month. Entertainment was now largely deregulated and they wanted to be able to offer patrons a limited choice of alcohol whilst watching. They also wished to extend that to the daytime clientele.

In terms of the music events, this would be controlled by an online application, which recorded the names and addresses of those booking, and would be limited to 50 patrons. Mr. Tyerman had extensive experience of operating licensed premises and within the hospitality sector. A number of conditions had been agreed between the applicant and the police and the Environmental Health Service. They'd reached out to the one resident who objected, but had received no response. The area itself was not residential and they had no desire to upset the local residents.

During questions, the applicant confirmed that they would not be selling cask or draught beers, for example. It would mostly be a limited selection of bottled beers. They were agreeable to operate Challenge 25 rather than Challenge 21 as initially proposed. Members also explored security issues, such as whether SIA-staff would be used. Mr. Steptoe explained that the cost would be prohibitive given the small numbers of patrons. The police were content with the agreed conditions.

The applicant also confirmed that they were amenable to reduce the terminal hour for the sale of alcohol to thirty minutes before closing, which allowed for "drinking-up" time and that they were agreeable to a condition that the records from the ticketing app would be kept for twelve months and made available to the police or local authority officers on request. The Sub-Committee was told that the Premises had given Temporary Event Notices (TENs) as well. The resident making a representation did not attend but the Sub-Committee noted and took account of her representation.

The Sub-Committee noted the modest scope of this application as well as the physical size of the Premises, and the applicant's willingness to agree conditions with the responsible authorities. In addition, the applicant was amenable to further amendments suggested during the course of the hearing. This gave the Sub-Committee confidence that the Premises would not undermine the licensing objectives, particularly the prevention of crime and disorder and the prevention of public nuisance.

The Sub-Committee noted that the provision of regulated entertainment was now substantially deregulated in any event. Whilst the Sub-Committee noted the concerns of the resident, there was no information before it that would justify a refusal of the application.

The Sub-Committee did, however, have concerns as to the possibility that noise problems could arise. However, that could be mitigated by the imposition of an additional condition requiring a contact telephone number to

be displayed at the Premises. That would facilitate dialogue between the Premises and residents, should it be necessary.

RESOLVED

That the application for a New Premises Licence for Jungle Electric Roman Road, London E3 5LX be **GRANTED** with conditions

The application is therefore granted as sought, subject to the reduced terminal hour for the sale of alcohol which will be 22:00 hours Monday to Saturday and 20:30 hours on Sunday and with the conditions below:

1. Customers will not be permitted to take alcoholic drinks outside the premises
2. During occasional evening opening, no unaccompanied children will be permitted.
3. Loudspeakers shall not be located outside the licensed area of the premises.
4. No music or amplified sound shall be generated on the premises to give rise to a public nuisance to neighbouring residents.
5. No noise generated on the premises, or 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 nuisance.
6. Notices shall be prominently displayed at all exits requesting patrons to respect the needs of local residents and businesses and leave the area quietly.
7. When the premises is operation after 22:00 hours, all windows and external doors shall be kept closed after 22:00 hours, or at any time, except for the immediate access & egress of persons.
8. 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.
9. 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.
10. 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; g) any visit by a relevant authority or emergency service.
11. In the event that a serious assault is committed on the premises (or appears to have been committed) the management will 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; and
 - d) such other measures are taken (as appropriate) to fully protect the safety of all persons present on the premises.
12. 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.
13. 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 must show the outcome of the person who was intoxicated. 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.
14. When events requiring tickets are held, the premises licence holder or DPS shall retain all records from any ticketing application used for the sale of tickets for at least one year. These records shall contain, at a minimum, the name and address of the purchaser. The records shall be kept on the premises not less than twelve months and shall be made available to police or authorised officers of the local authority as soon as practicable upon written request and, in any event, within 72 hours of such request.

7. TEMPORARY EVENT NOTICE FOR (SHOREDITCH CREATIVITY), 82A COMMERCIAL STREET, LONDON E1 6LY

On the 17th January 2023, The Sub-Committee held a hearing to consider an objection raised under section 104 Licensing Act 2003 by the Metropolitan Police to a temporary event notice (TEN) given by Mr Giacomo on the 6th January 2023. The dates and times that have been applied for as follows: The sale by retail of alcohol, the supply of alcohol by or on behalf of a club to, or to the order of, a member of the club, the provision of regulated entertainment

21/01/2023, from 17:00 hours to 21:00 hours, known as Shoreditch Creativity
82a Commercial Street London E1 6LY.

DECISION

The application for a Temporary Event Notice is hereby **REFUSED**

REASONS

The Licensing Sub-Committee has considered the application for a Temporary Events Notice, The TEN itself was reasonably modest, being for Seventy-Five people on a Saturday from 17:00hrs to 21:00hrs. The Police objected based on public nuisance and crime and disorder. PC Mark Perry told the Sub-Committee, there have been previous problems with the premises TENS in the last year, had proceeded without objection, and resulted in complaints of noise nuisance. He was of the view the premises was wholly unsuitable for events of this nature.

He also expressed concerns about security. Mr Giacomo addressed the Sub-Committee, he said they had reduced the terminal hour in consequence of the previous complaints, the modest hours meant patrons would not become too intoxicated and if problems arose, they would deal with it. He confirmed it did have security arrangements, notwithstanding the hours it none the less sought the sale of alcohol combined with regulated entertainment.

The fact that the previous TENS has resulted in noise complaints and the police's view that events of this nature were wholly unsuitable for this premises. The Sub-Committee was satisfied that allowing the event to proceed would undermine the licensing objectives of the prevention of public nuisance. The Sub-Committee has therefore decided to issue a counter notice.

8. EXTENSION OF DECISION DEADLINE: LICENSING ACT 2003

There were no extension of deadlines

9. RULES OF PROCEDURE

The Rules of Procedure were noted.

The meeting ended at 9.55 a.m.

Chair, Councillor Kamrul Hussain
Licensing Sub Committee