

LONDON BOROUGH OF TOWER HAMLETS**RECORD OF THE DECISIONS OF THE LICENSING SUB COMMITTEE****HELD AT 6.34 P.M. ON TUESDAY,****THE COUNCIL CHAMBER, TOWN HALL, MULBERRY PLACE, 5 CLOVE
CRESCENT, LONDON, E14 2BG****Members Present:**

Councillor Suluk Ahmed (Chair)

Councillor Gulam Kibria Choudhury (Member)

Councillor Peter Golds (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 a new premises licence for Broadwick Venues Oval Studios 29-32 The Oval, London E2 9DT**

The Sub-Committee considered an application by Broadwick Venues Ltd. for a new premises licence for Broadwick Venues, Oval Studios, 29-32 The Oval, London, E2 9DT ("the Premises"). The application originally sought authorisation for the sale by retail of alcohol (on and off the Premises), late night-refreshment, and various forms of regulated entertainment. The starting times varied but the proposed terminal hour for all licensable activity was 01:30 hours every day, with non-standard timings for Christmas Eve and New Year's Eve.

Representations against the application were received from the Metropolitan Police, the Licensing Authority, and the Environmental Health Service as well as ten residents. The representations predominantly referred to the licensing objectives of the prevention of crime and disorder and the prevention of public nuisance. The Sub-Committee was informed that as a result of engagement between the applicant and those making representations, some of the representations had been withdrawn, including that of the police. This engagement had resulted in a reduction in the permitted hours for licensable activity to:

Monday to Wednesday	07:00 hours to 23:30 hours
Thursday to Saturday	07:00 hours to 01:00 hours

Sunday 07:00 hours to 22:30 hours
Late-night refreshment, however, would be provided from 23:00 hours to 00:00 hours Monday to Wednesday and from 23:00 hours to 01:30 hours Thursday to Saturday.

The proposed modified opening times would be from 06:00 hours every day and closing thirty minutes after the cessation of licensable activity. A considerable number of conditions had been proposed which were acceptable to some of those making representations and the Sub-Committee had been provided with those in advance of the hearing.

Mr. Whur addressed the Sub-Committee on behalf of the applicant. He explained that there was no connection between the former operator and the applicant. The applicant held a number of licences in different areas, including some within this Borough. There had never been issues with the regulatory authorities in respect of the other venues. The two operators were very different and the representations had been taken on board, which had resulted in the applicant reducing the hours and offering a considerable number of conditions that could be imposed on the licence if granted.

This point was emphasised by the operator, who said it was his view that the Premises had been run completely inappropriately by the old operator. Mr. Whur drew the Sub-Committee's attention to the proposed conditions, most of which were not objected to. The most important in his view was condition 26, which prohibited events whereby tickets were sold to the public. He told the Sub-Committee that he had sought to agree conditions with the Environmental Health Officer. Two conditions were agreed. The general principle of two others (Ms. Cadzow's conditions 4 and 5 on Page 91) were agreed and it was a matter of the precise wording, and in respect of the use of the terrace area, the only issue was the cut-off time. Ms. Cadzow sought 21:00 hours, the applicant sought to use it to 22:30 hours.

Mr. Whur urged the Sub-Committee to consider the significant differences between this and the other operator and that there would not be any negative impact. The representations against the application were, in general, due to the previous operator and their operation at later hours as well as some of the other issues that had arisen.

Kathy Driver addressed the Sub-Committee on behalf of the Licensing Authority. Her main concern was the history of the Premises. The previous operator had also sought to operate as a multi-purpose event space but was forced to use it for club events in order to generate revenue.

Ms. Driver referred to a photo in her representation at Page 94, of a large crowd of people outside the Premises, on the Oval itself. The Licensing Authority wanted to avoid future occurrences, given the capacity for up to 900 patrons. She noted that the Authority had not seen key documentation such as the Alcohol Management Plan or the Venue Operating Plan. It was not clear how security would be assessed for each event.

Ms Driver referred to the security and stewards and reminded the Sub-Committee that the previous operator had these. They used to illegally close off the road, which also added to the disturbance. She remained concerned that similar issues would arise and that local residents would experience further noise disturbance and public nuisance.

Ms. Driver also queried the maximum capacity of the terrace, which was proposed to hold as many as 150 people to 22:30 hours. This too gave rise to a risk of disturbance and these issues had not, in her view, been addressed by the applicant. The tubes tended to stop running around midnight and the use of taxis or other vehicles to leave the Premises would also give rise to public nuisance.

Ms. Driver also suggested that there ought to be no off-sales of alcohol. She noted that proposed condition 12 dealt in part with this. Nicola Cadzow from Environmental Health spoke briefly to her representation. She noted the conditions offered and the reduction in hours. She addressed the Sub-Committee in respect of the three disputed conditions. She was amenable to agree to 21:30 hours for the use of the terrace but maintained that 150 people on the terrace until 22:30 hours was far too late. In respect of the noise limiter condition, she considered that the proposed amendment by the applicant was not strong enough given that it meant that the operator would determine what sound levels were reasonable.

Several of the residents who had made representations also addressed the Sub-Committee. Ms. Colvin said that she had been disturbed most weekends and that sleep deprivation led to health impacts. She was concerned that there would be noise every evening. She suggested that alcohol combined with music would most likely give rise to problems, particularly when there could be some 700 people coming and going from the Premises. She referred to the Premises as not having suitable sound-insulation.

Mr. Robinson noted that the application was similar to the last application that had been granted. He noted that the police representation had been withdrawn and considered it would have been helpful to have heard from the police as to why they had done so. He could not see what was going to be different with this application compared to the last licence. The main problem was people leaving late at night given that that this was a residential area and noted the venue's capacity to hold around 900 people.

Mr. Shaw told the Sub-Committee he lived in Hackney. Sound travelled and he had been affected by the operation of the Premises. He referred to the space outside having been taken over by the previous operator and that he had been threatened by security when he challenged them over their closing off the road. He told the Sub-Committee that the venue treated the area as part of their space. He considered that dispersal policies were ineffective because they didn't deal with the problems that tend to arise as people disperse from a venue. The terrace ought only to be used for small numbers of people. Having heard the applicant, his concerns were not assuaged. He suggested that this type of venue was simply not suited to the area.

Ms. Satikova told the Committee that the flats in the Empress Works building faced the venue and from 20:00 hours the vibration from the Premises could be felt in the flats. She referred to difficulties in getting the noise assessed by the Council.

Finally, the Sub-Committee heard from Mr. Fernandez. He noted that most of his concerns had been addressed by others. He too referred to the problems with vibration and that this was likely to be a problem even if a noise limiter was to be installed.

The Sub-Committee explored and discussed the issues raised. Some of the disputed matters were resolved during this. Having heard the concerns about the terrace, the applicant agreed to Ms. Cadzow's compromise proposition of use ceasing at 21:30 hours. The applicant also agreed to the noise limiter condition if the Sub-Committee was minded to grant the application. The Legal Adviser suggested that the responsibility for setting a suitable level ought to rest with the Environmental Health service, which Ms. Cadzow agreed could be done. Similarly, if off-sales of alcohol were to be a particular concern for the Sub-Committee, Mr. Whur confirmed that his client was willing to accept off-sales being excluded.

Ms. Driver was concerned that some of the conditions would be unenforceable as the Licensing Authority would not know what plans and procedures would be in place for any given event. It was suggested by our Legal Adviser that if the application were to be granted, the relevant condition could be modified so as to require the Event Safety Management Plan and the Venue Operating Plan to be provided to and approved by the Licensing Authority, which would give a degree of oversight and control as to how the venue would operate. Ms. Driver confirmed it would assist to a degree, especially if it addressed issues such as queuing and entry.

Members also discussed security arrangements and were told that the applicant had their own security firm. Each event would be risk-assessed. This application engaged the licensing objectives of the prevention of public nuisance and, to a lesser degree, the prevention of crime and disorder. The Sub-Committee recognised that the applicant was unconnected with the previous operator and was encouraged by the applicant's willingness to try to work with the responsible authorities and the residents both before the hearing and during the course of it. The Sub-Committee noted that some of the representations had been withdrawn in advance of the hearing. Whilst that meant that those specific individuals or bodies were content, the Sub-Committee did not consider that it undermined those representations which remained.

The Sub-Committee took account of what it had been told of other similar premises run by the applicant without problems. However, each application must be determined on its own merits and even similar premises and similar areas will have their own differences which will give rise to different impacts upon the licensing objectives. The Sub-Committee could not presume that a lack of problems elsewhere was more likely than not to lead to a similar outcome here.

The Sub-Committee accepted that many of its concerns and those of residents could be addressed by the imposition of conditions, such as by a restriction on the hours when the terrace area could be used. Whilst some residents expressed concern about noise and vibration from music, the Sub-Committee understood that this could be addressed by the use of a sound limiter, possibly with an appropriate equalising device to mitigate bass noise. The Sub-Committee further understood that if the Premises were not suitably sound-insulated, the noise limiter would likely be set at a much lower level than if the Premises were properly sound-insulated. However, the main area of concern for the Sub-Committee was the potential impact of as many as 900 hundred people, some of whom would very likely be intoxicated, leaving the venue late at night and entering into what is a densely-populated residential area. The Sub-Committee considered that nuisance was almost inevitable as a result.

Even if patrons did disperse as quickly and as quietly as possible, there would still be noise from footfall, from voices, and from vehicles such as taxis. It was not clear to the Sub-Committee how that would or could be controlled. If, as had happened in the past, large numbers of patrons gathered on the Oval itself, there would clearly be noise nuisance as security staff tried to move them on. Whilst the Sub-Committee had no doubt that the applicant would not want this to happen and would try to avoid it, it was to some extent out of their control. Further, as people did disperse they would be out of the control of the applicant and the nuisance arising from dispersal would not be limited to the immediate vicinity of the Premises.

The Sub-Committee could also not ignore the previous history. Whilst each application must be considered on its own merits, the track record under previous operators is a relevant consideration, especially where the proposed licensable activities and the operation are so similar. The Sub-Committee noted that there are differences too, such as the condition prohibiting publicly-ticketed events and the reduced hours; however, at the heart of this application and the previous operation is the use of the Premises as an event space for as many as 900 people. That previous operation caused serious crime and disorder and intolerable public nuisance to the local residents and ultimately resulted in the revocation of the licence. The Sub-Committee was not satisfied that this application could be granted without there being a real likelihood of further public nuisance being experienced by the residents on a regular basis from both patrons and others then attracted to the area by the large crowds, such as the nitrous oxide sellers and illegal food vendors. The representations from the residents indicated the problems that they had experienced as a result of the previous operation and the nuisance was not limited to noise from patrons or the venue but included litter and drug-dealing. The Sub-Committee was told that the Premises would not be operating every single night. However, if the application was granted the Premises could operate every night. The Sub-Committee was not given any indication as to how often events finishing at closing time were to be held. Even if the intention now was not to operate daily, that intention could well change in the future.

Ultimately, the Sub-Committee could not be satisfied that the likely impact of public nuisance on the surrounding area as patrons left the Premises could be mitigated, despite the best efforts and intentions of the applicant. The sheer numbers alone meant that impact was inevitable. The Sub-Committee did not consider that there were any further conditions that could be imposed that would address those concerns. The Sub-Committee therefore considered that the only appropriate option to ensure the promotion of the licensing objectives was to refuse the application.

4. Application for a Premises Licence The Shell French Seafood Restaurant Ltd, ground floor & basement 3 Discovery Dock East South Quay Square London E14 9RU

The Sub-Committee considered an application by the Shell French Seafood Restaurant Ltd. for a new premises licence to be held in respect of 3 Discovery Dock East, South Quay Square, London, E14 9RU (“the Premises”). The application originally sought authorisation for the sale of alcohol and provision of regulated entertainment from 11:00 hours to midnight Monday to Saturday and from 11:00 hours to 23:00 hours on Sunday. The proposed times at which the Premises would be open to the public mirrored the proposed times for licensable activity.

Several representations were received against the application from local residents. These were in the main concerned with the licensing objective of the prevention of public nuisance.

The Sub-Committee heard from the applicant and was told that as a result of the representations the application had been amended. The application now sought licensable activity until 22:00 hours seven days per week and the closing time would be amended to 22:30 hours every day. Some of those making representations had withdrawn their representation as a result. The applicant had not heard from the others.

The applicant confirmed that the Premises would be run as a restaurant and that the music sought would be classical. It would not be dance or rock music. It was further clarified following a question from the Legal Adviser that the music would be played at background level and the Sub-Committee was advised that if so, it would not be licensable during the hours sought. Various conditions had been agreed with the responsible authorities.

Two of those making representations, Mr. Polin and Ms. Jacquens, attended online. They confirmed that as a result of the amendments they were satisfied that their concerns as to public nuisance were assuaged.

The Sub-Committee noted that this application engaged the licensing objective of the prevention of public nuisance. The Sub-Committee noted the representations, many of which appeared to be identical to all intents and purposes, which expressed concern as to the possible nuisance that might arise from a Premises operating to midnight in a residential area. Most had suggested that other restaurants in the area closed at around 22:30 hours and that the applicant should seek to do the same.

In light of the amendments proposed by the applicant along with the agreed conditions, the Sub-Committee was satisfied that the licensing objectives would not be undermined by granting the application. The application is therefore granted with the hours and conditions as set out below. In light of the fact that the Premises did not intend to carry on the provision of recorded music and which is, due to the deregulation provisions, not licensable in these circumstances, the Sub-Committee has excluded it from the scope of the licence.

Sale by retail of alcohol (on-sales only)

Monday to Sunday 11:00 hours to 22:00 hours

Hours the premises are open to the public

Monday to Sunday 11:00 hours to 22:30 hours

1. The DPS will keep an up to date written record showing the names of all staff members who are authorised to sell alcohol on the premises.
2. Evening events will be pre booked events with numbers carefully controlled along with those who are invited guests only.
3. Any children in the bar area must be accompanied by an adult after 21:00 hours.
4. 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.
5. 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.
6. 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.

7. 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;
 - d) such other measures are taken (as appropriate) to fully protect the safety of all persons present on the premises.
8. 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.
9. The premises shall only operate as a restaurant where the sale of alcohol is ancillary to the sale of alcohol.
10. The supply of alcohol at the premises shall only be to a person seated taking a table meal there and for consumption by such a person as ancillary to their meal.
11. Notices shall be prominently displayed at all exits requesting patrons to respect the needs of local residents and businesses and leave the area quietly.
12. Loudspeakers shall not be located in the entrance lobby, or outside the premise building.
13. All windows and external doors shall be kept closed when regulated entertainment takes place, except for the immediate access & egress of persons.
14. Patrons permitted to temporarily leave and then re-enter the premises, e.g. to smoke, shall be limited to 8 persons at any one time.
15. No noise shall emanate from the premises nor vibration be transmitted through the structure of the premises, which gives rise to a public nuisance.

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:
Suvlaki 161 Brick Lane, London E1 6SB	28/02/23
Chicos London Ltd, 28 Osborn St London Aldgate East London, E1 6TD	28/02/23
Sainsbury's 70 Wapping Lane, London E1 2RD	28/02/23
Chaiiwala 55 Brick Lane E1 6PU	28/02/23

The meeting ended at 9.03 p.m.