

LONDON BOROUGH OF TOWER HAMLETS

MINUTES OF THE LICENSING SUB COMMITTEE

HELD AT 6.35 P.M. ON TUESDAY, 20 DECEMBER 2022

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

Members Present in Person:

Councillor Peter Golds (Leader of the Conservative Group)
Councillor Gulam Kibria
Choudhury
Councillor Rebaka Sultana

Joel West
Democratic Services Team
Leader

Jonathan Melnick
Principal Enforcement Lawyer

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 Temporary Event Notice for Space 289, Railway Arch 289 Cambridge Heath Road, London E2 9HA

The Sub-Committee held a hearing to consider an objection raised under section 104 Licensing Act 2003 by the London Borough of Tower Hamlets Environmental protection to a temporary event notice (TEN) given by Mr Harry Follett on the 6th December 2022. The TEN would extend the hours for licensable activities (namely (i) the supply of alcohol by retail and (ii) the provision of regulated entertainment for New Year's Event, at a premises known as Space 289, Railway Arch 289, Cambridge Heath Road London E2 9HA. The dates that have been applied for are as follows: 1st January 2023. The times that have been applied for are as follows: 00:00 hours to 06:00 hours.

DECISION

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

REASONS

The Licensing Sub-Committee has decided to issue a counter notice. The premises user did not attend, despite being given notice of the hearing. Miss Cadzow from Environmental Protection had sought to agree a modification of the TEN, the premises user did not engage with her. Her view was that allowing the event to proceed until 0600 with as many as 220 people leaving the premises around the same time gave rise to unacceptable risk of public nuisance, particularly in respect of noise disturbance to nearby residential properties.

The Sub-Committee is familiar with the area which is heavily residential and with lots of new developments in close proximity. The fact that the premises user was not here to explain how those concerns could be managed meant that the Licensing Sub-Committee was of the view that the licensing objectives, particularly the prevention of public nuisance would be undermined, the Licensing Sub-Committee considered imposing the premises licence considerations on the TEN, but was not satisfied in the absence of the premises user that these could suffice to allay its concerns.

3.2 Temporary Event Notice for Suvlaki - shoreditch, 161 Brick Lane, London E1 6SB

The Sub-Committee held a hearing to consider an objection raised under section 104 Licensing Act 2003 by the London Borough of Tower Hamlets Environmental protection and Metropolitan Police to a temporary event notice (TEN) given by Mr Ismail Yalgi on the 8th December 2022. The TEN would extend the hours for licensable activities (namely (i) late night refreshment for restaurant and take-away, at a premises known as Suvlaki Shoreditch 161 Brick Lane London E1 6SB. The times that have been applied for are as follows: Monday to Wednesday from 23:00 to 03:00 hours. Thursday to Saturday from 23:00 hours to 04:00 hours.

DECISION

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

REASONS

The Licensing Sub-Committee has decided to issue a counter notice. The premises user did not attend, despite being given notice of the hearing and having indicated that they would attend. The Sub Committee heard from Mark Perry of the Metropolitan Police and Nicola Cadzow from Environmental Protection. PC Perry explained the premises user did not have a licence currently. The hours sought mirrored the hours sought in their current licence application. He expressed concern that they were effectively testing those ours on the busiest period of the year in an area that has one of the busiest

night time economies in Europe. No real measures were proposed by the premises user to mitigate the impact on the licensing objectives, such as use of SIA staff. Whilst the applicant claimed to have experience of operating premises, there was no detail in the TEN. The failure to attend meant that the Licensing Sub-Committee could not explore that any further. Similarly, Miss Cadzow was concerned at the potential for noise disturbance, particularly from intoxicated patrons standing outside the premises as well as when they arrived and when they left. Whilst a busy night tie hub, it is still a residential area as well and there would be inevitable impact on the residents. Given that there is no premises licence in place, no conditions can be imposed on the TEN which is a matter of grave concern for the Licensing Sub-Committee. For those reasons, and because we did not have the benefit of hearing from the premises user, the Sub-Committee is satisfied that the only decision open to it is to issue a counter notice.

3.3 Application for a New Premises Licence, Jack the Chipper 96 Whitechapel High Street, London E1 7RA

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

Each application must be considered on its own merits. The Chair confirmed that the Sub-Committee had carefully considered all of the evidence before them and heard the oral representations at the meeting virtually and in from the Applicants agent David Dadds, and Resident and Chair of SPIRE Randal Thiell.

The Sub-Committee considered an application by Recep Turhan for a new premises licence to be held in respect of Jack the Chipper, 96 Whitechapel High Street, London, E1 7RA ("the Premises"). The application sought authorisation for the sale by retail of alcohol for consumption on the premises from 11:00 hours to 23:30 hours Monday to Saturday and from 11:00 hours to 22:30 hours on Sunday. Authorisation for the provision of late-night refreshment was also sought Monday to Saturday with the same terminal hour as for the sale of alcohol. Opening hours were 07:00 hours to 00:00 hours Monday to Saturday and 07:00 hours to 23:00 hours on Sunday.

Representations against the application had been made by the Licensing Authority and SPIRE, a local residents' group. This latter representation was based predominantly upon the potential impact on the licensing objectives of

the prevention of crime and disorder and the prevention of public nuisance as well as the fact of the Premises being located within a Cumulative Impact Zone (CIZ). The applicant had subsequently reached an agreement with the Licensing Authority in respect of additional conditions to be imposed if the licence was granted. The Licensing Authority's representation was withdrawn in consequence.

Applicant

The Sub-Committee heard from David Dadds on behalf of the applicant. He explained that the Premises was a fish and chip shop. A number of conditions had been proposed within the operating schedule and agreed with the responsible authorities, including alcohol sales to be ancillary to a meal. The applicant sought to operate within framework hours. The applicant held a premises licence in respect of a smaller premises located at 74 Whitechapel High Street, which would be surrendered in the event of this application being granted.

Mr. Dadds referred to the fact that there were no representations from the responsible authorities or from any other person. He reminded the Sub-Committee that its decision needed to be evidence-based and proportionate and, in his view, the application was not going to undermine the licensing objectives. He acknowledged the Premises' location within the CIZ and submitted that the applicant had demonstrated that it had met the burden to show that there would be no impact upon the licensing objectives.

Resident Chair of SPIRE

The Sub-Committee heard from Randall Thiel, Chair of SPIRE. Having given the Sub-Committee some background about SPIRE and his involvement with local bodies such as the Safer Neighbourhoods Panel, he commented that he had not seen before an application for a restaurant with 100 covers which would be located in Whitechapel at the heart of an area known for considerable anti-social behaviour (ASB). He noted that it was within the ward with the highest level of ASB and that the Safer Neighbourhood Panel spent time every two months trying to find ways to combat the ASB. He submitted that this application was against the CIZ, notwithstanding the agreement to surrender the premises licence held in respect of number 74.

During questions from Members there was discussion as to whether the applicant had rebutted the presumption. Mr. Dadds again referred to the various conditions agreed and that there were no other representations. Mr. Thiel again referred to the ward crime statistics, which showed what a hotspot the area was for ASB. The precise statistics were not before the Sub-Committee. It was the ward with the highest rates of ASB in the borough, and that had doubled in the last year. He was supportive of the amendments and conditions agreed but his concern remained of a premises of this size serving alcohol in this area.

Mr. Dadds pointed out that the Premises were already licensed to 00:30 hours with no issues and that this was therefore a reduction. The Sub-Committee

was told that there had been dialogue between the applicant and SPIRE around the use of SIA-staff although that had not been something they had managed to agree. Mr. Dadds told the Sub-Committee that the Licensing Authority did not consider the use of SIA-staff to be necessary. Mr. Dadds also referred to the prices and told the Sub-Committee that fish and chips with a drink would be around £18.00 and with a second drink would be around £22.00.

The Legal Adviser asked if the existing licence for the Premises would be surrendered if the application were granted. Mr. Dadds explained that his client was not the licence holder and he did not believe him to have any connection to the licence holder. However, he stated also that the layout had been substantially changed since that licence had been granted and so it could not be used in any event.

The application engaged the licensing objectives of the prevention of crime and disorder and the prevention of public nuisance. The Sub-Committee noted the lack of representations from other residents or responsible authorities. However, that was far from determinative and there were any number of reasons for that. Mr. Dadds was correct in stating that the Statutory Guidance indicated that the responsible authorities will usually be the main source of advice in respect of matters falling within their field. It does not, however, say that they are the only sources of advice. SPIRE, being a large local residents' association, clearly have their own local knowledge, as does Mr. Thiel from his work with other groups concerned with tackling ASB in the area and of course the Members have their own local knowledge. The lack of other representations did not mean that the Sub-Committee was bound to find that the presumption had been rebutted.

The Sub-Committee noted the offer of a surrender of another licence but for a smaller premises. However, whilst the number of licences would not change, the application was still a potential addition to the impact on the CIZ. Further, the CIZ is not concerned solely with the overall number of licences. The number of covers accommodated would be 100, which meant the potential for larger numbers of people to leave the Premises and enter into and potentially remain within the wider night-time economy or to come into conflict with others within it. Mr. Dadds had suggested that the Premises operated to 00:30 without complaint but this was at odds with his statement that the existing licence could not be used given the variation that had been made to the layout. For completeness, however, that licence was relatively modest and operated on the ground floor only. The application here, however, included the basement and first floor.

The Sub-Committee took account of the conditions restricting alcohol with meals and Mr. Dadds' inference that the prices were sufficiently high so as to deter high levels of alcohol consumption. The Sub-Committee did not consider the prices to be so high as to have that effect.

The Sub-Committee accepted that this was in a hotspot of high ASB, one referred to by Mr. Thiel as the "hottest" hotspot. Whilst the Sub-Committee accepted that Premises would not have the impact of a bar, for example, it did not accept that there would be no negative impact nor did it accept that the

conditions sufficed to negative that impact. The Sub-Committee was satisfied that some impact was inevitable, most likely that of large numbers of patrons leaving the Premises late at night and the risk of their adding to the impact on an already stressed area or of becoming victims of crime or anti-social behaviour themselves.

The Council's Licensing Policy gives examples of what may constitute an exception to the CIZ. These include:

- applications for licences for small premises (fifty persons or less) operating within framework hours and which are licensed for late-night refreshment and alcohol for on-sales only and have arrangement to prevent vertical drinking;
- applications for licences where the applicant has recently surrendered a licence for another premises of a similar size and providing similar licensable activities in the same CIA Area.

Neither of these were applicable as the application was for a restaurant with the capacity to seat one hundred persons and the licence to be surrendered in respect of 75 Whitechapel High Road was not of a similar size. Whilst it might be the case that the applicant currently operated nearby without problems, the Policy specifically states this will not be a relevant consideration, nor will the fact that the Premises will be well-managed and run, which is what the Sub-Committee expects of all licensed premises.

DECISION

That the application for a New Premises Licence for Jack The Chipper, 96 Whitechapel High Street, London E1 7RA be **REFUSED**

The Sub-Committee considered all the options available to it and whether those options could mitigate the impact. There were no additional conditions that would suffice. Whilst the Sub-Committee could have considered curtailing the hours or the capacity, neither of these were explored or suggested as realistic possibilities by either party. Having regard to everything it had heard, the Sub-Committee was not satisfied that the applicant had demonstrated that it had rebutted the presumption against the grant of the licence and the decision of the Sub-Committee is to refuse the application.

The meeting ended at 9.30 p.m.

Chair, Councillor Peter Golds
Licensing Sub Committee