

LONDON BOROUGH OF TOWER HAMLETS
MINUTES OF THE LICENSING SUB COMMITTEE
HELD AT 6.40 P.M. ON TUESDAY, 18 JULY 2023
COUNCIL CHAMBER - TOWN HALL, WHITECHAPEL

Members Present in Person:

Councillor Ana Miah
Councillor Suluk Ahmed
Councillor Shahaveer Shubo
Hussain

Apologies:

There were no apologies for absence.

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3.1 Application for variation of a Premises Licence for Wapping Tavern, 78-80 Wapping Lane, London, E1W 2RT - WITHDRAWN

This application was withdrawn.

3.2 Application for a new premises licence in respect of Snack N That 381 Bethnal Green Road E2 0AN

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 meeting.

The Sub-Committee noted from the report, that this was an application for a new premises licence for Snack N That, 381 Bethnal Green Road, London, E2 0AN, located in the Brick Lane Cumulative Impact Zone.

The Sub-Committee noted that the applicant described the premises as: A grocery shop specialising in American sweets and alcohol, and that the hours applied for were:-

Sale of alcohol (off sales)

Monday to Sunday 10:00 hours - 23:00 hours

Hours open the public

Monday to Sunday 10:00 hours - 23:00 hours

The Sub-Committee noted that the applicant was targeting a market in specialist alcoholic drinks, mostly craft beers and American beers, and that he had had feedback from existing customers to specialise in this type of business. The Sub-Committee noted the applicant presenting his shop as a family run business, always manned by two people, against whom there had been no complaints.

The Sub-Committee recognised that the applicant had presented an operating schedule, which would suffice for premises not situated in a cumulative impact zone.

However, the Sub-Committee could not ignore the fact that the premises are in a cumulative impact zone. The Sub-Committee was concerned that the applicant had overlooked the following.

Paragraph 19.6 of the London Borough of Tower Hamlets' Statement of Licensing Policy, which the applicant and the general public could view on the Council's website says, "The Special Cumulative Impact policy creates a rebuttable presumption that where relevant representations are received by one or more of the responsible authorities and/or other persons against applications within the CIZ zones the application will be refused."

Paragraph 19.7 of the same says, "Where representations have been received in respect to applications within the CIZ zones the onus is on applicants to adequately rebut the presumption. Applicants will need to demonstrate in their applications why the granting of their application will not negatively add to the cumulative already experience within the CIZ Zones. Applicants may wish to address the following in their applications:

- Genuinely exceptional circumstances,
- Relevant good practices they employ (for example, this could include details of membership of local Pubwatch/other trade groups,
- Accreditation of Award Schemes (as applicable), and any participation in Police/Council initiatives),
- Other good operational/practice arrangements in respect of any outside drinking and smoking to control potential impact in the area,
- Measures used to promote the licensing objectives (for example, any relevant conditions to control noise, dispersal, litter and other anti-social issues.”

Paragraph 19.8 of the same says, “This Policy will be strictly applied and where relevant representations are received it is the view of the Council that the application will be refused. Applicants will need to demonstrate that there are exceptional circumstances and that granting their application will not negatively add to the cumulative effect on the Licensing Objectives within the Brick Lane and Bethnal Green CIZ if they wish to rebut this presumption.

Examples of factors the Licensing Authority may consider as exceptional may include, though are not limited to:

- small premises with a capacity of fifty persons or less who only intend to operate during Framework Hours,
- premises which are not alcohol led and operate only within Framework Hours, such as coffee shops,
- instances where the applicant has recently surrendered a licence for another premises of a similar size and providing similar licensable activities in the same Special Policy Area.

Examples of factors the Licensing Authority will not consider as exceptional include:

- that the premises will be well managed and run,
- that the premises will be constructed to a high standard,
- that the applicant operates similar premises elsewhere without complaint. “

The Sub-Committee felt that where premises are in a cumulative impact zone, applicants seeking a licence under the Licensing Act 2003 should be mindful of all the above implications and should address that in their proposed operating schedule. For the avoidance of doubt, an operating schedule which would be sufficiently robust for premises outside a cumulative impact zone, would not automatically suffice for premises in such a zone, if it does not address how a grant of the application will not result in an adding to the cumulative impact of crime and disorder and public nuisance in that zone. The Sub-Committee reflected that it is open to applicants to seek professional advice on this, and that when asked, the applicant said he had not done so.

The Sub-Committee noted the applicant confirming at the hearing that he had not heard of cumulative impact zones. The Sub-Committee were concerned to note the applicant saying that he had no understanding of the implications of seeking a licence to sell alcohol in a cumulative impact zone, nor experience of selling alcohol in premises in a cumulative impact zone.

The Sub-Committee considered that if they granted the application, they could not be confident that, it would not lead to an addition to the cumulative impact in the area.

Therefore, Members made a unanimous decision to refuse the application.

Accordingly, the Sub-Committee unanimously;

RESOLVED

That the application for a new premises licence in respect of Snack N That 381 Bethnal Green Road E2 0AN be **REFUSED**

4. TEMPORARY EVENT NOTICE FOR BOAT LIVE, 90 WHITE POST LANE HACKNEY WICK LONDON E9 5ENA

In considering this application, the Sub-Committee have regard to the licensing objectives of prevention of crime and disorder, prevention of public nuisance, protection of children from harm, public safety, as well as the Council's Statement of Licensing Policy and the Secretary of State's guidance.

In particular, the Sub-Committee considered the implications of what was said and written by the parties in relation to the prevention of public nuisance, the prevention of crime and disorder, and public safety.

The Sub-Committee appreciated that work had been done in relation to the boat, and that as the police indicated, the police have no current safety concerns.

However, the Sub-Committee were concerned that whilst Mr. Rose had assured them that there will be a security policy and dispersal plan, there was no evidence of these before the Sub-Committee. The Sub-Committee were therefore not satisfied that there were adequate measures in place to address public safety.

The Sub-Committee were concerned that the applicant had not produced any evidence of adequate measures to prevent noise breakout, not only in relation to music, but also in relation to a significant number of patrons attending as well as going to and from the event.

The Sub-Committee noted the concerns about this expressed by the police and Environmental Health.

The Sub-Committee noted that according to the police, there was a poor track record in relation to crime and disorder and prevention of public nuisance relating to past events.

Having regard to the oral and written submissions, the Sub-Committee was satisfied that allowing the TEN to proceed would undermine the licensing objectives of the prevention of crime and disorder, the prevention of public nuisance, and ensuring public safety.

The decision of the Sub-Committee is therefore to issue a counter-notice.

The Sub-Committee would ask all the parties to note that although TENs are a light touch regime and the engagement that might be expected in respect of a TEN may often be less than that for a new premises licence application, there have now been a considerable number of TENs sought for these premises, generally all of a similar nature. All of those have attracted objections from the police and environmental health.

The apparent lack of dialogue between the parties potentially means that there is no scope for any compromise because once the application for a counter-notice comes before the Sub-Committee, we can only consider the TEN as given and cannot change any aspect of it.

The Sub-Committee would like to remind the police and Environmental Health of their ability to engage with the premises user in the representations period and modify the TEN as they think appropriate which, if accepted, will result in the withdrawal of their objection.

Equally, the premises user has been informed that it may not be the best course of action to give the TEN on the basis of the event being a test, rather than seeking to work with environmental health beforehand so that, for example, appropriate sound levels might be set. The Sub-Committee notes that such dialogue may not resolve matters. However, it might well assist in narrowing the issues which the Sub-Committee can focus upon.

5. EXTENSION OF DECISION DEADLINE: LICENSING ACT 2003

Perfetto Pizza 391 Cambridge Heath Road	25 th July
Denni's Off- Licence 103 Brabazon Street London E14 6BL	25 th July
Cafe Brera, 31 Westferry Circus London E14 8RR	25 th July
Wicked Fish, Queen Yard White Post Lane, London, E9 5EN	25 th July
Wicked Fish, Queen Yard White Post Lane, London, E9 5EN	25 th July
(Boat Live), 90 White Post Lane, London E9 5EN	25 th July
Pasta Evangelists, 148 Bethnal Green Road, London, E2 6DG	25 th July
Point A Hotels 13-15 Folgate Street London E1 6BX	25 th July

The meeting ended at 8.10 p.m.

Chair, Councillor Ana Miah
Licensing Sub Committee