

**LONDON BOROUGH OF TOWER HAMLETS**

**MINUTES OF THE LICENSING SUB COMMITTEE**

**HELD AT 6.10 P.M. ON THURSDAY, 31 AUGUST 2023**

**COUNCIL CHAMBER - TOWN HALL, WHITECHAPEL**

**Members Present in Person:**

Councillor Suluk Ahmed  
Councillor Iqbal Hossain  
Councillor Peter Golds

(Leader of the Conservative Group)

Jonathan Melnick  
Mohshin Ali  
Corinne Holland  
Alex Brander  
Joel West  
Ibrahim Hussain

(Principal Lawyer-Enforcement)  
(Senior Licensing Officer)  
(Licensing Officer)  
Trading Standards Officer  
(Democratic Services Team Leader (Committee))  
Licensing Officer

**1. DECLARATIONS OF INTEREST**

There were no declarations of interest.

**2. RULES OF PROCEDURE**

The rules of procedure as set out in the agenda pack were noted.

**3. ITEMS FOR CONSIDERATION**

**3.1 Application for a new Premise Licence for Café Brera, 31 Westferry Circus, London, E14 8RR**

The Sub-Committee considered an application by Café Brera, 31 Westferry Circus, London, E14 8RR ("the Premises") for a new Premise Licence. Representations on this application had been received from local residents.

The Sub-Committee then heard representations from

- Kevin Bell (resident)
- Kamal Gardiner (resident)
- Jonathan Alvin (resident)
- Arlene Auf Der Mauer on behalf of the Premises.

**Applicant**

The Sub-Committee heard from Ms. Auf der Mauer on behalf of the applicant. She explained that regulated entertainment should not have been sought as music would be played at background levels only. She had attended the Premises and carried out noise measurements and the maximum level recorded had been 70dB. The applicant had sought to mediate with local residents and arranged a meeting, although only six or seven of them attended.

Ms. Auf der Mauer indicated the possibility that patrons of other premises were being mistaken as patrons of Café Brera and referred to Royal China, which operated until about 23:00 and Gaucho which operated to midnight. She also queried whether the police had been called to the Premises under the previous management and, if not, why it should be assumed that there would be problems in this case.

During questions Ms. Auf der Mauer confirmed that the Premises intended to operate as a restaurant and not as a bar. The applicant was amenable to a condition prohibiting vertical drinking, should the licence be granted. This would be the case both inside and outside the Premises. The management were aware of the need to render unusable the tables and chairs outside and that they had been advised to start doing that earlier than the 21:00 hours cut-off. The tables and chairs would be taken off display and stacked away from the area. Ms. Auf der Mauer confirmed to the Legal Adviser that amended plans could be submitted, if the application were granted, so as to make clear the area where licensable activity would take place. At present, the only red line

**Residents**

Mr. Bell addressed the Sub-Committee in respect of his representation. He informed the Sub-Committee that the other premises nearby did not form part of the fabric of the building in which he lived, whereas Café Brera did. He expressed concerns as to what the applicant was seeking to do and whether it intended to operate as a bar or a restaurant. He referred to an advert for two-for-one cocktails. He expressed concern about the provision of off-sales of alcohol. He noted that some progress had been made as a result of the negotiations with the police and environmental health but this did not allay his concerns.

Ms. Gardiner spoke to her representation and that her and her husband had bought their flat twenty-three years ago when Café Brera first opened. Their daughter now lived there and worked a lot from home and therefore needed peace and quiet.

Mr. Alvin echoed the sentiments of Mr. Bell and Ms. Gardiner. He told the Sub-Committee that there was a speaker outside which had not been used. In concluding remarks, Mr. Bell expressed concern that the applicant was not present. He remained unclear of the intention behind the Premises and whether it was a bar or a restaurant and why they needed music. He

suggested that in light of the suggested changes the process ought to start again.

Ms. Gardiner expressed a similar view and how it could be ensured that the tables and chairs stacked and that music noise would not escape and the doors opened in summer.

Mr. Alvin too expressed concern at the applicant not being present and that his concerns remained unallayed.

Ms. Auf der Mauer explained that the two-for-one cocktails sign was an old one and that the other side of it advertised coffee. The Premises was not serving alcohol at present. There was no reason to believe that the Premises would have any adverse impact on residents.

During the submissions by the residents the Sub-Committee's questions and concerns were answered and responded to.

### **Decision**

The decision for the Sub-Committee is to assess the likely impact upon the licensing objectives and determining what measures will be appropriate and proportionate for mitigating that impact. The Sub-Committee has paid particular regard, among other things, to paragraphs 9.42 to 9.44 of the Statutory Guidance. In the context of a new application that is not within a Cumulative Impact Zone, which is the case here, a refusal of the application can only be where all other measures, such as conditions and/or the removal of other licensable activity from the scope of the licence, will not suffice to promote the licensing objectives. The Sub-Committee was not satisfied that the evidence it heard justified a refusal of the application. It was a relatively modest application and one which had been reduced further in scope to take account of the concerns of residents and responsible authorities. It permitted far less than the previous licence which, for example, permitted regulated entertainment 24 hours per day. With the agreed conditions as well as those explored at the hearing which assisted to ensure that the Premises operated as a food-led establishment, the Sub-Committee was not satisfied that it had heard enough evidence to justify refusing the application. The Sub-Committee was therefore satisfied that it was appropriate and proportionate to grant the application with amendments and conditions as follows:

### **Sale by retail of alcohol**

Monday to Sunday 07:00 hours to 22:00 hours

### **Opening hours of the Premises**

Monday to Sunday 07:00 hours to 22:00 hours

### **Conditions**

1. 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.

2. 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.
3. 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.
4. When the designated premise supervisor is not on the premises any or all persons authorised to sell alcohol will be authorised by the designated premises supervisor in writing. This shall be available on request by the Police or any authorised officer.
5. 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.
6. 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.
7. All sales of alcohol for consumption off the premises shall be in sealed containers only, and shall not be consumed on the premises.
8. Alcohol consumed outside the premises building shall only be consumed by patrons seated at tables.

9. All outside tables and chairs shall be rendered unusable by 21:00 hours each day.
10. Notices shall be prominently displayed at any area used for smoking requesting patrons to respect the needs of local residents and use the area quietly.
11. During the hours of operation of the premises, the licence holder shall ensure sufficient measures are in place to remove and prevent litter or waste arising or accumulating from customers in the area immediately outside the premises, and that this area shall be swept and or washed, and litter and sweepings collected and stored in accordance with the approved refuse storage arrangements by close of business.
12. The premises licence holder shall ensure that any patrons drinking and/or smoking outside the premises do so in an orderly manner and are supervised by staff so as to ensure that there is no public nuisance or obstruction of the public highway.
13. 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.
14. 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.
15. All staff whose responsibilities include the retail sale of alcohol shall receive training about the prevention of underage sales on induction and then every 12 months thereafter/01 times a year. This training shall be recorded and the records to be available on request to the Police or any authorised officer. The training to include:
  - a) the operation of the challenge 25 scheme;
  - b) the types of acceptable ID;
  - c) the method of recording challenges;
  - d) the likely consequences of making an underage sale;
  - e) refusing sales to persons who appear to be drunk;
  - f) proxy sales.
16. Loudspeakers shall not be located in the entrance lobby, or outside the premises building nor on internal walls or ceilings and without the use of anti-vibration mounts used for speakers attached to the walls.
17. All windows and external doors shall be kept closed when regulated entertainment takes place, except for the immediate access & egress of persons.

18. Notices shall be prominently displayed at all exits requesting patrons to respect the needs of local residents and businesses and leave the area quietly.
19. No noise shall emanate from the premises nor vibration be transmitted through the structure of the premises, which gives rise to a public nuisance.
20. The external area shall not be used after 21:00 hours, except for patrons permitted to temporarily leave and then re-enter the premises, e.g. to smoke, and shall be limited to 8 persons at any one time.
21. There shall be no vertical drinking within the premises or within the external area.
22. The sale or supply of alcohol shall be only to a person seated taking a table meal on the premises or in the external area and only for consumption by such a person as ancillary to their meal.
23. This licence shall not take effect until updated plans which clearly show the area where licensable activity may take place have been submitted to the Licensing Authority.
24. There shall be no sale of alcohol in the external area.

### **3.2 Application to Review the Premises Licence for (Denni's News) 103 Brabazon Street London E14 6BL**

The Sub-Committee considered an application by Alex Brander on behalf of Trading Standards and is the Applicant, for the review of the premises licence held by (Denni's News) 103 Brabazon Street London E14 6BL ("the Premises"). The application followed a test purchase by Trading Standards resulting in sale of alcohol to a person under the age of 18 which constitutes an offence under Licensing Act 2003. The application was supported by the Licensing Authority and the Metropolitan Police.

The Sub-Committee then heard representations from

- PC Mark Perry, on behalf of the Metropolitan Police.
- Moshin Ali, Licensing Officer, on behalf of the Licensing Authority LBTH.
- Preti Kanzaria and Oisin Daly on behalf of the Premises.

#### **Applicant**

The Sub-Committee heard from Mr. Brander, who explained that the sale had been made by a Jigneshkumar Patel. He was not a personal licence holder. The premises licence holder and DPS at that time was Dinesh Kanzaria. The business was run by a company, Denni's Poplar Ltd. of which Mr. Kanzaria and his daughter were directors.

On 6<sup>th</sup> March 2023, after the review application was made, applications were made to transfer the licence to Ms. Kanzaria and to vary the DPS to her.

Mr. Brander explained that he sought revocation of the premises licence. There was a long history. There had been a written warning to Mr. Kanzaria in September 2009 following an under-age sale of alcohol. In January 2012 Mr. Kanzaria and his wife were convicted of trade mark offences relating to counterfeit Jacob's Creek wine being sold in the shop.

In addition, in August 2022 there had been another failed test purchase of alcohol in a business owned by Mr. Kanzaria. That was at premises at 15 Swaton Road. Mr. Kanzaria was the licence holder at that time and another of his companies was operating the business. The sale had been made by someone who could not be identified but had Mr. Kanzaria's phone number. He and the company pleaded guilty to a number of offences. That licence was reviewed and the Sub-Committee revoked it.

Mr. Brander stated that Mr. Kanzaria was asked to explain his age-verification policy and refused to do so. In his view this showed a total disregard for the licensing objective of the protection of children from harm. There were no conditions on the premises licence. Mr. Kanzaria could have sought to add conditions at any time. There was no evidence of measures to prevent under-age sales.

The business is a family-run business. This gave Mr. Brander no confidence in the management of the Premises. Whilst there was scope to add conditions to the licence, Mr. Brander considered that the failings identified justified a revocation of the premises licence.

#### **Metropolitan Police in support of the Licensing Authority**

PC Perry spoke to the Licensing Authority's representation and advised that the police supported the application but had no additional information. He commented that there had been a refusal register on the premises at the date of the sale, which contained no entries. He said it was not credible to contend that they had no refusals at all nor any cause to ever refuse sales.

Ibrahim Hussain spoke to the Licensing Authority's representation. That referred to late fee payments, among other things, to a failed Challenge 25 test purchase on 18<sup>th</sup> July 2018 and an alleged under-age sale on 17<sup>th</sup> October 2022 which the informant later sought to retract. Mr. Kanzaria's name still appeared on business rates records.

The Sub-Committee heard the submissions made by the applicant and supporting representations, the Sub-Committee proceeded with questioning which were answered and responded to.

#### **Premises Licence Holder**

Oisin Daly addressed the Sub-Committee on behalf of the premises licence holder. He did not deny the history but asked the Sub-Committee to focus on what had changed. The licence holder and the DPS had now changed to Mr.

Kanzaria's daughter. The businesses previously had all been controlled by Mr. Kanzaria. These recent events had forced him to step back from the running of the businesses.

Mr Daly explained that Mr. Kanzaria's son-in-law is an accountant and would also be assisting in the running of the business. The DPS would be responsible for the day-to-day running of the business. She was taking the matter very seriously and Mr. Daly had been instructed, as an agent, to review and look at all the premises being operated by the family.

Mr Daly explained that The DPS had been trained on how to train people and with a particular focus on Challenge 25. Whilst the concerns of the responsible authorities were understood, she asked for a chance to prove herself. A number of conditions had been offered up for the Sub-Committee to impose on the premises licence. No excuse was being made for the past failings; there should have been proper procedures in place. The conditions proposed went beyond simply dealing with under-age sales and had been taken from the Council's model conditions.

Mr Daly explained that The till system now had an electronic prompt for age-verification. The operation of the business had now changed and the licence holder and DPS would have full day-to-day control of the business.

Ms. Kanzaria was asked questions by members about the various conditions proposed, such as Challenge 25. She was able to provide some detail and was aware of the importance of proxy sales. She understood the legal age for selling cigarettes and referred to an inspection by a local authority officer, Kristian Dalley, on 26<sup>th</sup> June 2023 in relation to tobacco. There was some discussion about the companies and the people running those and the day-to-day operations. Mr. Daly emphasised that the daily control of the business would rest with Ms. Kanzaria.

Ms. Kanzaria confirmed she had no other responsibilities that would impact upon her running the business. She had taken it over from her parents. She was a responsible person and wanted to be given a chance to prove that. Her brother-in-law would be assisting with putting appropriate management and other structures in place.

The Legal Adviser asked the parties' views on a condition, if the Sub-Committee decided not to revoke the licence, that prohibited Mr. Kanzaria from being on the premises except in cases of emergency. This was not objected to by the parties although representatives of the responsible authorities expressed concern that there might well be lots of claimed emergencies justifying his presence. This application engaged the licensing objectives of the prevention.

The Sub-Committee heard the submissions made by the premises licence holder, the Sub-Committee proceeded with questioning which were answered and responded to.

### **Decision**



The Sub-Committee, whilst being satisfied that measures short of revocation would be sufficient, nonetheless considered this to be a case that justified the longest period of suspension. The suspension need to be long enough to be a real deterrent to the Premises as well as to other licence holders and the maximum period is the appropriate period here. The decision of the Sub-Committee is therefore to suspend the premises licence for a period of three months and to impose the conditions set out below:

25. 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.
26. 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.
27. 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.
28. There shall be a personal licence holder on duty at all times when the premises are authorised to sell alcohol.
29. When the designated premise supervisor is not on the premises any or all persons authorised to sell alcohol will be authorised by the designated premises supervisor in writing. This shall be available on request by the Police or any authorised officer.
30. 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:
  - i) all crimes reported to the venue;
  - j) all ejections of patrons;
  - k) any complaints received concerning crime and disorder
  - l) any incidents of disorder;
  - m) all seizures of drugs or offensive weapons;
  - n) any faults in the CCTV system, searching equipment or scanning equipment;
  - o) any refusal of the sale of alcohol;
  - p) any visit by a relevant authority or emergency service.
31. All sales of alcohol for consumption off the premises shall be in sealed containers only, and shall not be consumed on the premises.

32. All tills shall automatically prompt staff to ask for age verification identification when presented with an alcohol sale.
33. 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.
34. 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. The records shall be signed by the DPS within 48 hours of completion.
35. No super-strength beers, lagers, ciders or spirit mixtures of 6% alcohol by volume or above shall be sold at the premises, except for craft and premium beers and ciders.
36. All staff whose responsibilities include the retail sale of alcohol shall receive training about the prevention of underage sales on induction and then every 12 months thereafter/01 times a year. This training shall be recorded and the records to be available on request to the Police or any authorised officer. The training to include:
- g) the operation of the challenge 25 scheme;
  - h) the types of acceptable ID;
  - i) the method of recording challenges;
  - j) the likely consequences of making an underage sale;
  - k) refusing sales to persons who appear to be drunk;
  - l) proxy sales.
37. The premises licence holder and any other persons responsible for the purchase of stock shall not purchase any goods from door-to-door sellers other than from established traders who provide full receipts at the time of delivery to provide traceability.
38. The premises licence holder shall ensure that all receipts for goods bought include the following details:
- a) Seller's name and address;
  - b) Seller's company details, if applicable;
  - c) Seller's VAT registration details, if applicable;
  - d) Vehicle registration details, if applicable.
39. Legible copies of the documents referred to in condition 14 shall be retained on the premises and made available to officers on request.

40. All staff employed at the premises shall have their full details, including records of their right to work, in a designated staff folder. This must be made available on request to relevant authorities.
41. Dinesh Kanzaria shall not be permitted to enter or remain on the premises at any time that licensable activity is taking place except in case of genuine emergency and where his presence is necessary in order to deal with such emergency. For the avoidance of doubt, "genuine emergency" will not include day-to-day matters such as covering for staff shortages. A written record must be made of his attendance at the premises and must detail fully the nature of the emergency, the date, the time of his attendance, the time of his leaving, and must include copies of any relevant documentation such as invoices and call-out reports. These records must be kept on the premises and provided to police or authorised officers on request.
42. Dinesh Kanzaria shall not be involved in making or authorising any sales of alcohol.

#### 4. EXTENSION OF DECISION DEADLINE: LICENSING ACT 2003

<b>Application</b>	<b>Extended to</b>
Boat Live 90 White Post Lane, London E9 5EN	12 Sept 23
Pasta Evangelists, 148 Bethnal Green Road, London, E2 6DG	12 Sept 23
Point A Hotels 13-15 Folgate Street London E1 6BX	12 Sept 23
The Hungry Cow 111a Commercial Road E1 1RD	12 Sept 23
Baran Off Licence 18 Wentworth Street, London, E1 7TF	12 Sept 23

The meeting ended at 8.10 p.m.

Chair, Councillor Peter Golds  
Licensing Sub Committee