

LONDON BOROUGH OF TOWER HAMLETS

RECORD OF THE DECISIONS OF THE LICENSING SUB COMMITTEE

HELD AT 6.35 P.M. ON TUESDAY, 12 SEPTEMBER 2023

COUNCIL CHAMBER - TOWN HALL, WHITECHAPEL

Members Present in Person:

Councillor Ana Miah
Councillor Suluk Ahmed
Councillor Rebaka Sultana

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

4. APPLICATION FOR A NEW PREMISE LICENCE FOR POINT A HOTEL, 13-15 FOLGATE STREET, LONDON, E1 6BX

The Sub-Committee considered an application by QMK Liverpool Street Ltd. for a new premises licence to be held in respect of Point a Hotel, 13-15 Folgate Street, London, E1 6BX “(the Premises)”. The application initially sought authorisation for the sale by retail of alcohol (on-sales only) and the provision of recorded music. The licensable activities were proposed to start at 11:00 hours each day and cease at 23:00 hours Monday to Thursday, midnight on Friday and Saturday, and 22:30 hours on Sunday.

The application attracted some twenty-two representations against it. These were from the Licensing Authority, Environmental Health, two residents’ associations, and from local residents. The representations related predominantly to the licensing objectives of the prevention of crime and disorder and the prevention of public nuisance. The representations also raised concerns as to the suggestion that off-sales of alcohol were being sought and that the Premises were located within the Brick Lane Cumulative Impact Zone (CIZ).

The Sub-Committee heard from Mr. Butt KC on behalf of the applicant. He clarified that there would be no sales of alcohol for consumption off the Premises and that alcohol could be sold and consumed only in the bar area. The application for the provision of recorded music was withdrawn. The Premises were a hotel, not a bar, and sales would be restricted to residents only. There would be no exception for guests of hotel patrons. The capacity of the bar would be limited to 50 persons at any one time. The application, including the hours sought, fell within exceptions to the CIZ Policy.

Mr. Butt further explained that there would be no additional impact as the only persons allowed to buy alcohol would be hotel guests. The Premises could not attract people in order to buy alcohol. Vertical drinking would not be permitted. There were no crime and disorder concerns expressed by the police and conditions had been agreed with them.

Mr. Butt confirmed that there had been problems experienced with some hotel guests during the lockdown period. The hotel had lowered its prices in order to be able to trade effectively and this had resulted in a decline in the quality of their clientele. Since then, they had increased their prices, the problems had reduced, and there had been no complaints raised in the last year save for one to the Licensing Authority and which had not been passed on to the applicant.

Mr. Butt explained that the application would not undermine the public nuisance licensing objective. The representations referred to complaints that were not related to licensable activities, such as guests accessing the garden, late deliveries, and noise breakout. If a licence were to be granted, enforceable conditions could be imposed, breach of which is a criminal offence. Mr. Butt spoke briefly to the various conditions offered by the applicant and agreed with the responsible authorities.

During questions, Mr. Butt explained how hotel guests would be identified by bar staff, which required the production of a key card. This showed, among other things, a departure date so that old cards could not be used in order to obtain alcohol. He apologised again for the past problems and explained that the enforceability of all the conditions proposed, which included conditions relating to deliveries and noise nuisance, gave much more control by the authorities over the Premises. Staff would be trained and there was a written training plan. There would likely be more problems arising if people could buy alcohol elsewhere. The hotel had rules prohibiting alcohol being brought in from outside and this would be monitored by staff.

The Sub-Committee heard from Christopher Lloyd of SPIRE and Martin Hughes, who had been asked to speak on behalf of Jeannie Lowen. Both spoke on behalf of all the residents who had made representations. Mr. Lloyd stated that he had spoken to residents and that there had been noise and anti-social behaviour and that it was not unusual for the police to be called to the Premises. He told the Sub-Committee that the area was predominantly residential with a lot of social housing as well as being a conservation area. The problems experienced by residents had been on-going for some time.

He confirmed that SPIRE and others had met with the applicant and that the amendments proposed were welcomed. Their main concerns were around

staffing levels and the late licence on Friday and Saturday. He had suggested a twelve-month temporary licence in order to build some trust. This had been rejected by the applicant.

Mr. Hughes spoke on behalf of a number of residents and lived in the area. He too referred to the nature of the area and expressed a view that hotels and residential areas tended not to mix well. The clientele was transient and did not care about their surroundings and the problems that occurred were only exacerbated when alcohol was added to the mix.

He informed the Sub-Committee that the planning permission restricted deliveries to the Premises between certain times and that this was not being adhered to. Laundry was being delivered between 17:00 hours and 19:00 hours and this generated considerable noise. Residents had regularly complained to staff about noise from patrons and that the response of staff was that they could do nothing about it once patrons leave. If the licence was granted, they'd still have the same problems.

Kathy Driver addressed the Sub-Committee on behalf of the Licensing Authority. The changes proposed by the applicant had addressed at least some of their concerns, as had the agreement to two proposed conditions. The conditions not agreed related to alcohol being served only with a table meal and requiring all people selling alcohol to be authorised in writing. Ms. Driver confirmed that there had been one complaint about a delivery at 06:00 hours. However, the Premises were in the CIZ and in proximity to residential premises.

Due to technical difficulties, the Environmental Health Officer was unable to address the Sub-Committee. However, he was contacted by the Legal Adviser and confirmed that he was content for the Sub-Committee to proceed nonetheless.

This application engages the licensing objectives of the prevention of crime and disorder and the prevention of public nuisance. As the Premises are located in a CIZ, the burden is on the applicant to demonstrate that they will not negatively add to the cumulative impact. The Policy allows for exceptions and these may include small premises with a capacity of fifty persons or less who operate within framework hours and have arrangement to prevent vertical drinking, provide alcohol for consumption on the premises only. It also includes premises that are not alcohol-led.

The Sub-Committee noted that there was no representation from the police in respect of crime and disorder. The statutory guidance (paragraph 9.12) suggests that the police should be the main source of advice in respect of crime and disorder. Whilst the lack of a representation does not indicate support, the Sub-Committee considered it likely that the police did not have any particular concerns about the Premises. It had been suggested that the police were relatively regular visitors but there was no evidence before the Sub-Committee that this was the case. Given that the police had agreed conditions with the applicant, the Sub-Committee considered that the police

did not think that the application would negatively impact on the licensing objective of the prevention of crime and disorder.

The Sub-Committee had noted and read all the representations made. With respect to public nuisance, it was clear that there had been problems in the past although it appeared to have been accepted that there had been some degree of improvement in recent months. It was certainly the case that many of the representations expressed concerns about the provision of recorded music and whether off-sales were in fact permitted. The withdrawal of recorded music and clarification from the applicant as to off-sales (which had not been applied for) meant that these concerns were allayed. The lack of off-sales meant that patrons could not leave the bar area with alcohol, even if only to go to their rooms.

A number of the representations referred to future development and that there would be no need for the Premises to have its own bar. However, the need for a licensed premises is not a relevant consideration for the Sub-Committee. Whilst the Sub-Committee accepted that there had been problems in the past and it was suggested that these continued at least to some degree, they were not in any way related to the licensable activity proposed to be carried on. The Premises are not licensed. That therefore provided an indication that the grant of a licence would not add to the impact.

The Sub-Committee considered that granting the licence potentially could assist in reducing impact because there would be enforceable conditions imposed. These would assist in addressing, for example, the issue of deliveries or the use of the garden. Non-contravention with a condition of a planning permission is not a criminal offence; it is only when an enforcement notice or other enforcement action taken that a criminal offence may be committed. By contrast, a condition on the premises licence restricting the use of a garden between certain times or imposing times during which deliveries can be made is a condition enforceable as a criminal offence. In addition, residents and others always have the mechanism of a review of the premises licence should that be necessary in the future.

Having regard to the representations received, the Sub-Committee was satisfied that the Premises could be granted as an exception to the policy. The Premises did meet exceptions in the policy and the Sub-Committee was satisfied that there would be no additional impact upon the CIZ.

The application is therefore granted as sought with the amendments and conditions as set out below. The Sub-Committee did not consider it appropriate to impose a condition that alcohol be sold with table meals as the Premises did not have a kitchen. The applicant had already agreed with the police (condition 20) a requirement for written authorisation to be given to all staff selling alcohol. The Sub-Committee considered that condition 18 relating to the number of persons permitted to engage in licensable activity was not clear or precise. Consumption of alcohol is not a licensable activity. The Sub-Committee understood the intention to be to limit the number of people able to buy and consume alcohol at any given time and has therefore amended that condition accordingly in order to make clear what is permitted.

Sale of alcohol (on-sales only)

Monday to Thursday	11:00 hours to 23:00 hours
Friday and Saturday	11:00 hours to 00:00 hours
Sunday	11:00 hours to 22:30 hours

Times that the premises are open to the public

Monday to Sunday	00:00 hours to 00:00 hours
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Conditions

1. The Premises Licence holder shall ensure that CCTV cameras and recorders are installed at the main entrance to the premises and are of a standard acceptable to and approved by the Police. The CCTV shall be maintained in good working order at all times the premises is open to the public, be fully operational covering both internal and external areas of the reception area which the public have access.
2. The CCTV camera views are not to be obstructed
3. At least one CCTV camera is to be placed no more than seven feet above floor level near to the exit in order to capture clear facial images of all persons leaving the premises.
4. The medium on which CCTV images are recorded shall be of evidential quality, stored securely; shall be retained for a period of 31 days and be available for inspection by the Police or Local Authority upon request.
5. At all times when the premises are open for the purposes of licensable activities a suitably trained member of staff shall be present to assist the Police or an authorised officer in obtaining the CCTV footage.
6. The facility to transfer the images to a compatible removable format shall be held on the premises.
7. The sale of alcohol is restricted to hotel residents only.
8. The premises licence holder shall risk assess the need for SIA security staff and take advice from police in the case of any local special event or specific concerns regarding trading.

9. When the venue is open for licensable activities , the toilets are to be checked by staff at least every two (2) hours and these checks are to be documented on each visit.
10. Notices shall be displayed within the premises warning customers about personal thefts and to be vigilant.
11. Staff shall be fully trained on safety issues including fire safety and management shall carry out regular inspections of the premises.
12. The premises licence holder shall ensure that all litter and waste outside the premises (and connected to the premises) is removed and disposed of with other waste from the premises.
13. The premises licence holder shall operate a Challenge 25 age verification policy.
14. Loudspeakers shall not be located in the entrance lobby or outside the premises' building.
15. Notices shall be prominently displayed at all exits requesting patrons to respect the needs of local residents and businesses and leave the area quietly.
16. Notices shall be prominently displayed advising patrons that the premises' designated smoking area is on the corner of Blossom Street. Members of staff will regularly check to ensure the customers smoking are not causing a nuisance.
17. No noise generated on the premises, or by 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 public nuisance.
18. The number of patrons permitted to purchase and consume alcohol in the licensed area shall not exceed fifty persons at any one time.
19. There shall be no vertical drinking at the premises.

20. When the DPS is not on the premises any and all persons authorised to sell alcohol will be authorised by the DPS in writing. This shall be available on request by the City of London or Metropolitan Police Service or any authorised officer of Tower Hamlets Council.
21. The Licence Holder/Designated Premises Supervisor shall organise and accommodate meetings to discuss the operation of the premises with residents, local residents' associations every 3 months. The Premises Licence Holder shall directly notify local residents' associations of the meeting date at least two weeks before the meeting.
22. No hotel residents are permitted in the garden of the premises between 21:30 hours and 07:00 hours Monday to Sunday.
23. 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.
24. 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.

25. 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.

26. 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.

5. APPLICATION FOR A PREMISES LICENCE FOR (BOAT LIVE), 90 WHITE POST LANE, LONDON E9 5EN

The Sub-Committee considered an application by Boat Live Works Ltd. for a new premises licence to be held in respect of Boat Live, 90 White Post Lane, London, E9 5EN ("the Premises"). The application sought authorisation for the sale by retail of alcohol from 10:00 hours to 23:00 hours Sunday to Wednesday and from 10:00 hours to 23:59 hours Tuesday to Saturday; the provision of regulated entertainment by showing of films from 10:00 hours to 22:00 hours seven days per week; and the provision of regulated entertainment by playing recorded music and the provision of late night refreshment from 23:00 hours to midnight on Thursday to Saturday. Non-standard timings were sought in respect of New Year's Eve and on days preceding bank holidays. The Premises would close to the public thirty minutes after the cessation of licensable activities.

Representations against the application had been received from one local resident and from the police, Environmental Health, Health & Safety, and the Licensing authority. The representations were concerned with the likely impact, if the application were to be granted, on the licensing objectives of the

prevention of crime and disorder, the prevention of public nuisance, and public safety.

The Sub-Committee heard from Rhys Rose on behalf of the applicant. After dealing with preliminary matters relating to documentation sent to some of the responsible authorities, he drew the Sub-Committee's attention to the fact that the representations against the application were very similar to those which had been made in respect of applications for counter-notices against a number of Temporary Event Notices (TENs) which had been given. Eventually a number of events proceeded under TENs and those had been successful.

A site visit with the responsible authorities had only been arranged for the day before the hearing and so it had not been possible to agree any additional conditions beyond those proposed in the operating schedule.

Mr. Rose indicated that the applicant was content for a condition to be imposed on the licence prohibiting the Premises from opening to the general public until a fire risk assessment had been completed. He also confirmed that he would cut out the central section of the boat to ensure that was safe.

If the licence was granted, it was intended that third-party food traders would be engaged. Mr. Rose offered a condition that traders would need to provide evidence of their food hygiene rating and to be rated at least three stars.

PC Perry had raised issues that people attending the temporary events had not been searched. Mr. Rose stated he had found the CCTV footage and sent that to PC Perry and it did show evidence of searches being carried out.

Mr. Rose also confirmed that the applicant was content to have a condition requiring 1 member of SIA staff per 100 people for ticketed events. PC Perry and Nicola Cadzow had raised concerns that the sound limiter was accessible and could be re-set by DJs and others. Mr. Rose was content for a condition to be imposed that the sound limiter be kept in a locked cabinet. In addition, the applicant was happy to reduce the hours sought to framework hours in relation to the sale of alcohol and to remove the request for non-standard timings.

PC Mark Perry addressed the Sub-Committee. He queried whether the applicant could be trusted to operate safely in a busy nighttime economy area and he drew the Sub-Committee's attention to Page 232 of the report pack, detailing issues arising from a recent operation in the area. He had two main concerns. The first was the location itself, which was close to residential properties. The application was effectively for two "mini nightclubs", namely the boat and a container. He did not consider that the licensable activities could take place without causing a noise nuisance. He accepted that the temporary events had not given rise to any reported problems. However, he submitted that there was a difference between an occasional event taking place under a TEN and licensable activity taking place daily under a premises licence.

He was concerned that the CCTV footage he had viewed did not show effective searching being carried out. What was done was sporadic and poor quality. He also referred to someone leaving the Premises with what he believed to be alcohol. The CCTV coverage itself was not sufficient and the searches were not being done in full view of the CCTV. That put both patrons

and the Premises' staff at risk. He was concerned that the plans did not show staff locations and that there was reference to a control room which did not exist.

PC Perry accepted that there had been some improvements since the application had first been made. However, he was not yet satisfied that what had been implemented would allow the Premises to operate safely and in his view the application ought to be refused.

Lavine Miller-Johnson addressed the Sub-Committee on behalf of the Licensing Authority. She explained that her representation had originally been made on 6th April 2023 and had been re-submitted when the consultation was extended in June. At that time, the site was not ready to be opened to the public. Photos taken at the site visit the day before this hearing showed that the site had come a long way. However, there remained a number of concerns to be addressed with respect to health and safety matters.

Ms. Miller-Johnson confirmed that the temporary events had operated in August and September without problems. She informed the Sub-Committee that the capacity under the TENs had been 125 persons. However, a premises licence was different to a TEN and there was insufficient clarity about how those larger numbers of patrons would be managed.

Specific concerns that Ms. Miller-Johnson had included: the ground outside still being uneven and posing a potential trip hazard and patrons needing to be warned; CCTV cameras in the external areas needing to be relocated and a lack of CCTV inside the boat; sand getting onto the stairs in the boat and causing a potential slip hazard; inside the boat there was a low wall behind which a seating area was located and the only means of access was by stepping over the wall, again posing a hazard to patrons; finally, there was an exit which had a very low beam and which gave rise to a risk of patrons hitting their heads. Ms. Miller-Johnson told the Sub-Committee that she was only 5'2" and nearly hit her head.

Onouha Olere addressed the Sub-Committee with respect to the Environmental Health Service's representation. The representation concerned noise complaints and poor soundproofing when the boat was sited at a different location. He noted that the sound limiter was not locked away. He was also concerned about the potential for noise nuisance from patrons in the external area and suggested, if the licence were to be granted, a limit of fifty persons in this area at any one time.

Geraldine O' Grady addressed the Sub-Committee on behalf of the Health and Safety Team. She had been concerned about the safety of the site, having seen the photographs, particularly with respect to means of escape in case of emergency. She had also visited the site the previous day and noted some improvements having been made. However, she remained unsatisfied that the site was sufficiently safe at this stage.

Ms. O' Grady informed the Sub-Committee that there was a metal structure in the yard area which, combined with the uneven surface, posed a trip hazard especially when one factors in alcohol and darkness. The means of access between the lounge and the external area had a high step between them,

which posed a trip hazard and did not allow for safe egress in the event of an emergency.

Ms. O' Grady also expressed concerns as to how many people could be accommodated safely within the boat and how the boat could be safely evacuated. It was not clear what the fire risk assessment was in this regard.

Ms. O' Grady referred to the fact that a fire risk assessment had been carried out in June or July yet it had not been made available.

The boat itself had limited ventilation. Ms. O' Grady was concerned as to how hot it might get with all the doors and windows closed as there was only one small vent.

Finally, she noted that the main electrical board installation had been certified. However, there were other parts of the installation that had yet to be tested.

Ms. Whatters, the local resident who had made a representation, did not attend. Her representation referred to the general problems in the area that were linked to venues of this nature. These included drug-dealing, nitrous oxide sellers, loud music and drunk and disorderly behaviour. She also stated that the venue had caused a noise nuisance in the previous summer.

This application engages the licensing objectives of the prevention of crime and disorder, the prevention of public nuisance, and public safety. The Sub-Committee noted that this application had been made some months earlier and a lot of the information provided in the report pack had not been updated since. However, the Sub-Committee was given an oral update by the parties and some additional material had been provided shortly before the hearing. The Sub-Committee was assisted as well by there being some matters of agreement between the parties.

With respect to public nuisance, there was no updating information from the Environmental Health Service as to soundproofing. The Sub-Committee was aware this had been an issue in the past. The fact that events had proceeded under TENs indicated the possibility that the soundproofing was sufficient. The Sub-Committee would have expected there to be evidence of complaints if not. However, it was not certain that this was the case nor that there would not be nuisance with the larger numbers of people that might be accommodated under the premises licence.

Some other matters raised as to public nuisance, such as the sound limiter not being locked away, could be appropriately dealt with by way of a condition requiring it to be in a locked cabinet.

Similarly, there was limited evidence of the impact on crime and disorder and the Premises would not be operating late into the night. Whilst the Sub-Committee noted the concerns around the area generally and the problems arising from late-night venues, the Premises would be closed earlier than other nearby venues. The Sub-Committee noted PC Perry's concerns regarding searches and the placement of CCTV. However, these too could be addressed by way of conditions. The Sub-Committee was nonetheless concerned that the Premises could add to the issues experienced in this area, given that the venue was a nightclub-type venue.

The Sub-Committee was, however, particularly concerned by the safety issues. There was a real lack of clarity as to the safe capacity of the venue, both for fire risk purposes and more generally. There were trip hazards in the courtyard which, combined with alcohol and darkness, gave rise to an increased risk to public safety. The lack of clarity as to whether or not a fire risk assessment had been carried out was also a concern. Ms. O' Grady understood one to have been carried out but had not seen it. An email sent by Mr. Rose in the early hours of the day of the hearing suggested a condition to require the provision of an updated fire risk assessment. If an assessment had already been carried out and needed further updating, it suggested to the Sub-Committee that the first one was not appropriate.

Similarly, there were concerns over parts of the electrical installation, which Mr. Rose suggested be dealt with by way of a condition. The Sub-Committee also noted the slip and trip hazards in the boat which had also concerned the responsible authorities and which Mr. Rose accepted would be addressed.

The Sub-Committee noted that some of these matters too could be subject to conditions. It was accepted that there had been improvements to the site. However, the Sub-Committee shared the concerns of the responsible authorities that these did not go far enough to allay their concerns with particular regard to the public safety licensing objective. The Sub-Committee were of the opinion that there remained a degree of disorganisation about the Premises and the application and the fact that a number of these issues still remained so long after the application had been submitted did not give the Sub-Committee confidence that, if the licence were granted, these would be addressed before the Premises opened to the public. Whilst the TEN regime is intended as a light touch regime, the Sub-Committee must look much more closely at a premises licence application. If the safety matters were not addressed, the public would be put at risk.

The Sub-Committee understood that Mr. Rose would not be present at all times that events or licensable activity was being carried on. Whilst the Sub-Committee had been made aware of his experience, Members were concerned that other, less-experienced, personnel might be in charge of the Premises regularly. That too risked adversely impacting upon the licensing objectives.

Having regard to everything that it had heard, the Sub-Committee considered that granting the licence would be likely to undermine the licensing objectives of the prevention of public nuisance, the prevention of crime and disorder, and public safety. The Sub-Committee considered the use of conditions. However, whilst conditions would be appropriate to deal with some matters, such as the sound limiter, the Sub-Committee's concerns were not sufficiently mitigated by conditions in respect of all the issues raised, particularly those relating to public safety. The application is therefore refused.

5.1 Application for variation of a Premises Licence for Pasta Evangelists, 148 Bethnal Green Road, London, E2 6DG

This application was adjourned.

6. EXTENSION OF DECISION DEADLINE: LICENSING ACT 2003

The Hungry Cow 11a Commercial Road E1 1RD - 26th September
Baran Off-Licence 18 Wentworth Street London E1 7TF – 26th September

The meeting ended at 9.50 p.m.

Chair, Councillor Ana Miah
Licensing Sub Committee