

LONDON BOROUGH OF TOWER HAMLETS

MINUTES OF THE LICENSING SUB COMMITTEE

HELD AT 2.35 P.M. ON TUESDAY, 26 SEPTEMBER 2023

COUNCIL CHAMBER - TOWN HALL, WHITECHAPEL

Members Present in Person:

Councillor Suluk Ahmed
Councillor Shahaveer Shubo
Hussain
Councillor Marc Francis
Kathy Driver-Licensing Officer
Tim Hung Environmental
Protection
Lavine Miller-Johnson-
Licensing Officer
Jonathan Melnick-Legal
Services
Farzana Chowdhury-
Democratic Services

Apologies:

There were no apologies for absence.

Officers Present in Person:

1. DECLARATIONS OF INTEREST

There were no declarations of interest.

2. MINUTES OF THE PREVIOUS MEETING(S)

The minutes of the meeting were agreed and approved as a correct record.

3. ITEMS FOR CONSIDERATION

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

The Sub-Committee considered an application by Pasta Evangelists Ltd. to vary the premises licence held in respect of Pasta Evangelists, 148 Bethnal Green Road, London, E2 6DG (“the Premises”). The Premises are currently licensed for the sale of alcohol by retail for consumption off the Premises from 12:00 hours to 23:00 hours seven days per week. The Premises are not open to the public. The variation sought the addition of the provision of late-night refreshment from 23:00 hours to 02:00 hours seven days per week. This would be by way of delivery only.

The application attracted two representations. These were from the Licensing Authority and the Environmental Health service. The objections were based on the fact that the Premises are located within the Bethnal Green Cumulative Impact Zone (CIZ) and that the application did not address that or explain how the Premises would avoid adding to the problems already experienced in that area.

Applicant

The Sub-Committee heard from Mr. Lisi. He spoke very briefly to the application. He understood the purpose of the CIZ but reiterated that the Premises were not open to the public, that there was no variation sought in respect of alcohol sales and that there was no realistic possibility of the Premises adding to any disorder. They were located on a busy road with lots of traffic and no additional noise would be generated.

Mr. Lisi did not recall the letter from the Licensing Authority earlier in the year but said it was likely to relate to another business in the same address because they did not admit members of the public.

Licensing Authority

Ms. Miller-Johnson addressed the Sub-Committee. She confirmed that several businesses operated out of the address and that it had not been possible to determine which specific business the complaint related to. She told the Sub-Committee she had spoken to Mr. Lisi by phone subsequent to the letter and he had explained that it was not connected to his business. The main thrust of her concern was the lack of reference to the CIZ, how additional impact would be prevented, and how alcohol sales would be prevented as there was a risk of orders being filled which included alcohol.

Environmental Protection

Tim Hung read the Noise Service’s representation. This referred to noise breakout from the venue and the potential for noise created by delivery drivers.

Ms. Miller-Johnson confirmed that there had been no further investigation into the complaint as far as she was aware. There was only one licensed premises at the address, which was the applicant. Kathy Driver confirmed that the address appeared to be what was known as a “dark kitchen” whereby several food businesses operated from one address.

Ms. Miller-Johnson also confirmed, in response to a question from the Legal Adviser, that the reference to the plan being non-compliant with the legislative requirements was likely to be erroneous.

Mr. Lisi was asked how he could ensure that alcohol was not sold outside of permitted hours. He explained that it was possible on third-party delivery platforms to “snooze” items and this was what they did with alcohol. This meant that from 23:00 hours it would not show as available for purchase and thus could not be added to an order.

He also explained that the Premises were not looking at high volumes of sales; rather, their focus was on value. They anticipated perhaps six orders a night if the variation were to be granted. However, each would be to a value of around £25.00 or more and which, over the course of a year, was a substantial increase in takings. He also explained to members that there was a parking area directly in front of the Premises for delivery drivers and that they would ring the doorbell on arrival and a member of staff would give them the food. They could try to encourage the use of e-bikes by delivery drivers but that was outside of their direct control. In any event, however, the area had a considerable amount of traffic.

This application engages the licensing objectives of the prevention of crime and disorder and the prevention of public nuisance. The Sub-Committee noted that the Premises were within the CIZ and the onus was on the applicant to rebut the presumption in favour of refusal. The Policy sets out non-exhaustive examples of cases which might justify an exception, which includes small premises operating within framework hours and only providing off-sales of food for delivery and premises which are not alcohol-led. The Premises are not alcohol-led and although they propose to operate outside of framework hours, they have no public access at all and will only be providing a delivery service. The Sub-Committee was not persuaded that granting the application would result in any additional impact which could not be mitigated in some way.

However, whilst the Premises are in a commercial area, there are still a substantial number of residential properties in the area and the Sub-Committee was concerned that the later a venue operates, the greater the risk of adding to the impact, especially when an area gets quieter. Whilst the Sub-Committee considered that the application could in principle be granted, it nonetheless had concerns that operating until 02:00 hours every day of the week would be likely to generate additional impact, particularly with respect to noise nuisance, that could not be mitigated. The Sub-Committee considered that any impact could be mitigated by granting the variation in part by allowing the provision of late-night refreshment to one hour beyond framework hours and that this would strike a reasonable balance between the needs of the area and the needs of the business and would be appropriate and proportionate for the promotion of the licensing objectives.

Decision

The decision is therefore to grant the variation in part:

Provision of late-night refreshment

Monday to Thursday	23:00 hours to 00:30 hours
Friday and Saturday	23:00 hours to 01:00 hours
Sunday	23:00 hours to 23:30 hours

Conditions

1. The premises will operate as a delivery-only business.
2. The premises will not be open to the public and will be used for the dispatch of alcohol and other goods only.
3. There shall be no collection of alcohol by the public from the premises.
4. All CCTV recordings made by the CCTV system shall be retained and stored in a suitable and secure manner for a minimum of 30 days.
There shall be at least one camera positioned at each entry and exit point to monitor any external areas to the premises and of such quality to enable identification of the recorded person in any light.
5. The business will arrange for the telephone number for the premises to be and/or a member of the management team to be provided to residents on request in order that any complaints can be made direct.
6. The premises will encourage all drivers and riders involved in deliveries to use their vehicles in a responsible manner so as:

not to cause a nuisance to any residents;
not to generally gather outside the premises;
not to leave engines running when the vehicles are parked (where the vehicles have engines);
not to obstruct the highway.

3.2 Application for a Premises Licence for Hungry Cow, 111a Commercial Road, London E1 1RD

The Sub-Committee considered an application by Hungry Cow Limited for a new premises licence to be held in respect of the Hungry Cow, 111a Commercial Road, London, E1 1RD (“the Premises”). The application sought authorisation for the provision of late-night refreshment from 23:00 hours to 02:00 hours seven days per week.

The application attracted three representations against it, from the Planning Authority, the Environmental Health Service, and a local resident. Two representations were received in support. The Sub-Committee was given legal advice that these were not relevant representations as they could not reasonably be interpreted as referring to the likely impact upon the licensing objectives if the application were to be granted. Rather, the writers referred to the quality of the food and the convenience of the Premises’ location to their place of work. However, they might nonetheless be relied upon by the applicant as supporting information.

Applicant

The Sub-Committee heard from Aziz Rahman, one of the owners of the business, and the business's representative, Mr. Daly. He told the Sub-Committee that this was the fifth store being opened by the company and that although some mistakes might have happened in the past, as referenced in the representation of Mr. Miah, the Premises was legally compliant. Attempts had been made to engage with both the responsible authorities who had made representations, but to no avail.

Mr. Daly stated that the residents were generally content with the application. The Premises were located on the corner of Commercial Road and Parfett Street and cars could not enter Parfett Street, which was gated at one end and had bollards at the other end. Local residents had told them that the Premises had assisted in reducing crime and disorder in the immediate vicinity as the Premises being open had deterred people such as drug dealers.

Delivery drivers would be directed to park in Commercial Road and walk down Parfett Street. There was no other option. Drivers would not be hanging about; they would be told shortly beforehand when an order would be ready for collection so that the food would be ready when the driver attended to collect.

With respect to the representations from the responsible authorities, an application for retrospective planning permission had been made and there had been no noise complaints in respect of the Premises. This demonstrated that the Premises could operate in a way that did not impact upon the local community.

The photos from the Noise Team showed the location of the Premises. One of the pictures showed a driver on the phone. He was not one of the drivers for the Hungry Cow. The applicant was willing to do what it could to stop their drivers from parking in that location, including notices on third-party delivery platforms that drivers need to park in Commercial Road and not Parfett Street. Mr. Daly confirmed that the business did not employ any drivers directly.

Environmental Protection

Mr. Hung spoke to the representation on behalf of the Noise Service. The other persons making representations did not attend but Members had read and noted the representations.

This application engages the licensing objective of the prevention of public nuisance. The Sub-Committee noted that if the application were to be granted, the Premises could still only operate to 23:00 hours because of the planning condition presently attached to the Premises. Further, breach of a planning condition was not of itself a criminal offence. The reason for the imposition of the planning condition was that the Premises were located in a very residential area, as demonstrated by the photographs attached to the Noise Service's representation. The Sub-Committee considered that this gave

rise a real risk of noise disturbance to neighbouring properties from delivery drivers and from the public.

Mr. Miah's representation referred to alleged operating beyond 23:00 hours although it noted that this had since been addressed. No other residents had made representations in support or in opposition. Mr. Daly told the Sub-Committee that residents were in support. Mr. Miah's representation suggested that residents were likely to oppose. However, neither had produced any evidence to support their contention. The lack of representations certainly could not be taken as an indication of tacit support and was, at most, entirely neutral. The Sub-Committee accepted that the Premises being open might have some deterrent effect on crime and disorder in the immediate vicinity but there was no direct evidence of this.

Whilst the Sub-Committee noted the suggestions for stopping delivery drivers from parking in Parfett Street, it seemed highly likely that there would be some that would do just that, especially as the bollards could not prevent moped riders from accessing Parfett Street. If that were to happen, there was a real risk of public nuisance to neighbouring residents in the later hours.

Decision

The Sub-Committee was not satisfied that it had heard sufficient evidence to justify a refusal of the application. However, it was also not satisfied that it had heard sufficient evidence to justify granting the application in its entirety. Operating until 02:00 hours seven days per week would more likely than not result in noise disturbance. The Sub-Committee decided to grant the application in part so as to allow operation on Thursdays, Fridays and Saturdays to one hour beyond framework hours and to impose additional conditions. This would strike a reasonable balance between the needs of the local community and the needs of the business and would be appropriate and proportionate for the promotion of the licensing objectives.

Provision of late-night refreshment

Thursday	23:00 hours to 00:30 hours
Friday and Saturday	23:00 hours to 01:00 hours

Conditions

1. The premises shall implement and operate a noise nuisance manual/policy
2. 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.

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. Where SIA registered door supervisors are used at the premises, a record must be kept of their SIA registration number and the dates and times they are on duty.
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. No waste or recyclable materials, including bottles, shall be moved, removed from or placed in outside areas between 23:00 hours and 07:00 hours on the following day.
7. 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.
8. No collections of waste or recycling materials (including bottles) from the premises shall take place between 23:00 and 07:00 on the following day.
9. Delivery drivers shall be given clear, written instructions to use their vehicles in a responsible manner so as not to cause a nuisance to any residents or generally outside the license premises; not to leave engines running when the vehicles are parked; and not to obstruct the highway.
10. When conducting deliveries, drivers shall have access to the premises to avoid loitering outside, the premises licence holder will ensure that external doors remain locked save for entry and exit from the premises conducting deliveries, staff shall also have access to any toilet facilities at the premises.
11. Drivers shall not idle whether near any residential properties or not. If no deliveries are pending, then drivers shall either park and wait inside the premises or leave the area.
12. Drivers shall be directed not to await orders whilst sitting in, or standing near, any vehicles or modes of transport they intend to use. If a driver

is using a bicycle, then they shall dismount and await any orders inside the premises with the premises remaining closed to the public.

4. EXTENSION OF DECISION DEADLINE: LICENSING ACT 2003

Baran Off Licence 18 Wentworth Street, London, E1 7TF	10 th October
Brewdog, Unit 17, 2 Churchill Place, London, E14 5RB	10 th October
Pirate Studios, 13 Rothbury Road, London, E9 5HA	10 th October

5. RULES OF PROCEDURE

The rules of procedure were noted.

The meeting ended at 3.50 p.m.

Chair, Councillor Ana Miah
Licensing Sub Committee