

LONDON BOROUGH OF TOWER HAMLETS**RECORD OF THE DECISIONS OF THE LICENSING SUB COMMITTEE****HELD AT 6.30 P.M. ON TUESDAY, 25 JUNE 2024****COMMITTEE ROOM - TOWER HAMLETS TOWN HALL, 160 WHITECHAPEL
ROAD, LONDON E1 1BJ****Members Present in Person:**

Councillor Musthak Ahmed
Councillor Leelu Ahmed
Councillor Ahmodur Khan

1. DECLARATIONS OF INTEREST

There were no declarations of interest made.

2. RULES OF PROCEDURE

The rules of procedure were noted.

3. ITEMS FOR CONSIDERATION**3.1 Application for a New Premise Licence for (Sainsbury's) 409 - 413 Mile
End Road London E3 4PB**

This is an application by Sainsbury's Supermarket Limited for a premises licence in respect of Sainsbury's, 409-413 Mile End Road, London E3 4PB. The application sought to allow the sale by retail of alcohol (off sales only) on Monday – Sunday from 07:00 hours to 23:00 hours.

Representations were received against the application from residents on the basis of public nuisance, public safety, and the protection of children from harm. The applicant presented the application as being a "seven to eleven" application, and that they did not seek to operate for 24 hours. The applicant had no control over the behaviour of individuals outside beyond the immediate vicinity of the premises. Most customers would be on foot, minimising any addition to traffic. The premises are not in a cumulative impact area. The applicant observed that none of the responsible authorities had objected to the application.

The applicant further confirmed that there would be one lorry delivery a day which would not be in the early morning, with goods taken straight into the store over smooth surface reducing noise. Lorry engines would not be left

running during deliveries, and music would not be played from delivery lorry cabs. The applicant did not propose selling high strength alcoholic drinks, and did not expect to sell large quantities of alcohol, which was to be offered for sale ancillary to the overall supermarket business. The applicant uses delivery drivers who are highly trained about operating in a residential area. There would be a dedicated parking area for delivery lorries. In the event of issues arising after grant, the option of a review of the licence remained.

The objectors expressed concerns about the impact of licensed premises on a heavily residential area. Concerns were expressed that delivery lorries would impact public safety, and that the resultant increased footfall would lead to a rise in public urination. Objectors were concerned that limited parking was available for customers, except by vehicles stopping in the street outside and adjacent streets. Objectors feared increased drunkenness – there had been incidents in Rhondda Grove, including fights, which were frightening particularly for children. Objectors queried the necessity for the purchase of alcohol at 07:00 hours.

This application engages the licensing objectives of the public nuisance, public safety, and to a lesser extent, the protection of children from harm. The absence of objection by any of the responsible authorities was of neutral weight. The Sub-Committee appreciated the legitimate concerns of residents over the impact of licensed premises in a residential area. The Sub-Committee was mindful that the premises are not in a cumulative impact area. The majority of the matters of concern, however, were not in any way linked to the application for a premises licence and would potentially arise even without a licence. The Sub-Committee was concerned to reflect a balanced approach with regard to the legitimate aims of the business, and the legitimate concerns of the objectors.

Paragraph 10.13 of the Secretary of State's guidance says, *"The Government acknowledges that different licensing strategies may be appropriate for the promotion of the licensing objectives in different areas. The 2003 Act gives the licensing authority power to make decisions about the hours during which premises can conduct licensable activities as part of the implementation of its licensing policy statement. Licensing authorities are best placed to make decisions about appropriate opening hours in their areas based on their local knowledge and in consultation with responsible authorities. However, licensing authorities must always consider each application and must not impose predetermined licensed opening hours, without giving individual consideration to the merits of each application."*

Paragraph 10.15 goes on to state that, *"Shops, stores and supermarkets should normally be free to provide sales of alcohol for consumption off the premises at any times when the retail outlet is open for shopping unless there are good reasons, based on the licensing objectives, for restricting those hours."*

Paragraph 16.6 of the London Borough of Tower Hamlets' Statement of Licensing Policy says, *"The Licensing Authority considers that the possibility of disturbance to residents late at night and in the early hours of the morning, and the effect that any such disturbance may have, is a proper matter for it to*

consider when addressing the hours during which licensable activities may be undertaken.”

Members were satisfied on the balance of probabilities that the majority of the concerns raised could be addressed by means of appropriate conditions. However, the Sub-Committee was concerned about the possibility of street drinkers being attracted to the premises, particularly between 07:00 hours and 09:00 hours which are the times when the school run is likely to take place. The Sub-Committee was therefore minded to amend the starting time for the sale of alcohol so as to mitigate this impact. With that change, granting the licence with conditions was appropriate and proportionate for the promotion of the licensing objectives.

Therefore, the Sub-Committee decided to **grant** the application for the off sale of alcohol on Monday – Sunday from 09:00 hours to 23:00 hours with the following conditions: -

The decision was made by a majority vote.

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. 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. CCTV will cover any external automated teller machines installed inside or outside of the premises.
2. 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. Any faults will be reported internally by this staff member and logged as soon as practicable.
3. The applicant will at all times maintain adequate levels of staff and security such staff and security levels will be disclosed on request to the licencing authority and the police.
4. Signage will be displayed at the exit of the premises requesting customers leaving the premises late at night to do so quietly and with consideration so as not to disturb nearby residents.
5. The premises licence holder will ensure that an age verification policy will be applied to the premises whereby all cashier's will be trained to ask any

customer attempting to purchase alcohol, who appears to be under the age of 25 years old (or older if the licence holder so elects) to produce, before being sold alcohol, identification being a passport or photo card driving licence bearing a holographic mark or other form of identification that complies with any mandatory condition that may apply to this licence.

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. An incident log shall be kept by the licence holder, 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.

3.2 Application for a New Premise, Vittoria Wharf Studio, 10 Stour Road, London E3 2NT

This is an application by Vittoria's Secret Limited for a premises licence in respect of Vittoria Wharf Studio, 10 Stour Road, London E3 2NT.

The application sought to allow the sale by retail of alcohol (on sales only) as follows:

Monday to Wednesday from 11:00 hours to 23:00 hours

Thursday from 11:00 hours to 00:00 hours

Friday & Saturday from 11:00 hours to 01:00 hours

Sunday from 10:00 hours to 23:00 hours

The application also sought to allow regulated entertainment by way of recorded music indoors as follows: -

Thursday from 23:00 hours to 00:00 hours

Friday & Saturday from 23:00 hours to 01:00 hours

Representations were received against the application from the police on the basis of crime and disorder, public safety, and public nuisance. Representations against the application were also received from the Environmental Health Service on the basis of the prevention of public nuisance. Objections were received from a resident on the basis of public safety, the prevention of public nuisance, and the protection of children from harm.

The applicant gave the context for the application: the premises provides a private hire event space, which has operated for four years, and the application aims to obtain a licence, so that it can lawfully provide the licensable activities of the retail of alcohol and provision of recorded music. The applicant had commissioned an acoustic report and had a noise management plan. Concerns had been raised in relation to safety on a staircase and remedial works had been carried out in relation to the steps which had had high visibility paint applied. A visit from Mr. James Doherty, a Tower Hamlets Health & Safety Officer, had led to confirmation that there were now no safety issues regarding the stairs. The applicant clarified that the recorded music would not be background music.

The police acknowledged that their previous concerns about the stairs had been resolved. The police appreciated the conditions offered in the application, and were happy to have those put in place, if the application were granted. The police remained concerned, however, about the noise of over 150 people in high spirits leaving at night. Whilst not objecting to the application altogether, it was the impact of this which remained a concern. The police proposed that striking a balance between the applicant and the residents would be achieved by a reduction in all the hours sought to 23:00 hours, and then if no problems emerged, the applicant could apply for additional hours beyond 23:00 hours.

The Environmental Health Officer acknowledged the applicant's noise management plan, which she had briefly seen. She mentioned previous noise disturbance complaints, although they were a year ago, and there were none more recently. She mentioned a noise abatement notice having been served, but that was on the freeholder, not the applicant. If the application were granted, the Environmental Health Officer proposed conditions that no noise emanate from the premises to cause a public nuisance, that a sound limiter be installed, and that no amplifiers be positioned in the lobby. The applicant confirmed acceptance of these conditions, if the application were granted.

Although the resident did not attend, his representation on pages 166 to 168 was considered. This application engages the licensing objectives of the prevention of public nuisance, prevention of crime and disorder, and to a lesser extent, public safety and the protection of children from harm.

The Sub-Committee noted the remaining concern of the police about noisy patrons leaving in high spirits. It was right to strike a balance between parties regarding an application, subject to the evidence. The Sub-Committee cannot engage in speculation. The premises had previously hosted events without

any evidence of issues arising from noisy patrons leaving. People do not require alcohol to leave an event in high spirits. The issues relating to public safety and the protection of children from harm were addressed by the work having been undertaken. There was no evidence before the Sub-Committee that justified a reduction in the hours sought. The Sub-Committee must be satisfied as to the likely effect of the grant of the application on the licensing objectives, not what is merely a possible impact.

The Sub-Committee appreciated the Environmental Health Officer's work with the applicant, and that the latter was content with the conditions which the Environmental Health Officer's proposed at the meeting.

The Sub-Committee appreciated the resident's concerns and was satisfied that these would be addressed by the imposition of conditions.

The Sub-Committee was concerned to reflect a balanced approach with regard to the legitimate aims of the business, and the legitimate concerns of the objectors. Members were satisfied on the balance of probabilities that whilst the objectors' concerns were genuine, granting the licence as sought and with the imposition of conditions was appropriate and proportionate for the promotion of the licensing objectives.

Therefore, the Sub-Committee decided to **grant** the application for the sale by retail of alcohol (on sales only) as follows: -

- Monday to Wednesday from 11:00 hours to 23:00 hours
- Thursday from 11:00 hours to 00:00 hours
- Friday & Saturday from 11:00 hours to 01:00 hours
- Sunday from 10:00 hours to 23:00 hours

and to allow regulated entertainment by way of recorded music indoors as follows: -

- Thursday from 23:00 hours to 00:00 hours
- Friday & Saturday from 23:00 hours to 01:00 hours

with the following **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. 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.

2.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.

3. 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 visit by a relevant authority or emergency service.

4. 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.

5. 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.

6. 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.

7. The premises shall have a welfare policy that will show how venue staff will manage customers who become vulnerable through intoxication or drugs, such a policy will include but is not limited to the use of dedicated "welfare officers" at peak times who will be easily identifiable, to customers, their role will be to monitor the welfare of customers, including identifying any customers who may be at risk of becoming overly intoxicated and liaising with management/security staff to assist them where necessary, staff training on customer welfare such as "WAVE" and availability of free water to customers. The policy must be written, reviewed yearly, and made available to Police upon request.

8. The premises must have a detailed documented security plan that must include but is not limited to an ejections policy, search policy and queue

management policy, this document must be made available to police upon request.

9. The premises shall have a written egress policy, that includes but is not limited to, a premises wind down plan (music turned down and lights turned up prior to closing time), and customer dispersal plan. The policy is to be made available to Police upon request.

10. The premises must risk assess all events taking place at the studio, this will include but is not limited to:

- Contacting venues where artists / performers / promoters have performed to see if there have been any issues.
- Looking at social media sites of artists / performers / promoters etc to check that they are consistent with booking details
- Identifying risks such as potential drug use, underage attendees, violence and disorder.

Once potential risks have been identified then mitigation measures must be put in place and documented. The risk assessments must be written down, kept for 1 year and made available to Police upon request.

11. A comprehensive health and safety risk assessment will be in place.

12. A First Aid Kit will be available.

13. Loudspeakers shall not be located in the entrance lobby, or in the external area of the premises.

14. All windows and external doors shall be kept closed after 22:00 hours, or at any time when regulated entertainment takes place, except for the immediate access & egress of persons.

15. The external area shall not be used after 22:30 hours, except for patrons permitted to temporarily leave and then re-enter the premises, e.g. to smoke, and shall be limited to 10 persons at any one time.

16. No noise shall emanate from the premises nor vibration be transmitted through the structure of the premises, which gives rise to a public nuisance.

17. Children under the age of 16 will not be allowed on the premises unless they are accompanied by someone 18 or over.

18. A noise limiter must be fitted to the musical amplification system set at a level determined by and to the satisfaction of an authorised officer of the Environmental Health Service, so as to ensure that no noise nuisance is caused to local residents or businesses. The operational panel of the noise limiter shall then be secured by key or password to the satisfaction of officers from the Environmental Health Service and access shall only be by persons authorised by the Premises Licence holder. The limiter shall not be altered without prior agreement with the Environmental Health Service. No alteration or modification to any existing sound system(s) should be effected without prior knowledge of an authorised Officer of the Environmental Health Service.

No additional sound generating equipment shall be used on the premises without being routed through the sound limiter device.

3.3 Application for a Variation of a premises licence for Slurp Noodles Spitalfields Ground Floor and Basement 60-62 Commercial Street London E1 6LT

This item was resolved prior to the meeting.

4. EXTENSION OF DECISION DEADLINE: LICENSING ACT 2003

The following application decision deadlines were extended to 30th September 2024;

- Gopuff, 89 Hemmington Street, London, E1 5BL
- 7 Frying Pan Alley E1 7HS
- House of Music & Entertainment, 20 Commercial Street, London, E1 6LP
- Café Ceylon, 57 Commercial Street, London, E1 6BD
- Perfecto Pizza, 391 Cambridge Heath Road, London, E2 9RA
- Canary Angel, Unit 1, 4th Floor, 16-19 Canada Square, London, E14 5ER
- 1 Cha, 142 Bethnal Green Road, London, E2 6DG
- Taco Taco, 141 Commercial Street London E1 6BJ

5. TEMPORARY EVENT NOTICE FOR COLOUR FACTORY, UNIT 8A QUEENS YARD 43 WHITE POST LANE LONDON E9 5EN

This is an application by Environmental Health for a counter-notice against a Temporary Event Notice (TEN) given by Mr. Nathaniel Williams in respect of Colour Factory, Unit 8a Queens Yard, 43 Whitepost Lane, London E1 1BJ.

The TEN provides for the sale by retail of alcohol and the provision of regulated entertainment as follows: -

Friday 28th June 2024 - 09:00 hours– 01:00 hours
Saturday 29th June 2024 - 09:00 hours– 01:00 hours
Sunday 30th June 2024 - 09:00 hours – 22:00 hours

The Environmental Health Officer provided reasons to the Sub-Committee as to why the TEN should not be permitted to proceed. The objections focused on the external area. She invited the Sub-Committee to consider adding the following to the TEN, if it was to be accepted: -

- (1) reducing the hours for use of external area
- (2) limiting the numbers of patrons outside after such time and
- (3) not allowing regulated entertainment in the external areas at any time.

The Environmental Health Officer said that whilst no evidence of a statutory noise nuisance has been established, there had been complaints of noise regarding Colour Factory as recently as 18th May 2024 and 13th June 2024. The Environmental Health Officer's representations expressed concern on behalf of residents at nearby premises including those at Omega Works, 4 Roach Road. Concerns about noise disturbance included noise from patrons leaving in high spirits.

The applicant told the Sub-Committee that he had operated for four years without complaints from neighbours about noise. He did not anticipate that the TEN, if allowed, would result in a break from that track record. There were other residential premises closer to his premises than Omega Works. The residents at those other premises had not complained to him about noise.

This application engages the licensing objective of preventing public nuisance.

The options are to issue a counter-notice, or to refuse to issue a counter-notice, or refuse to issue a counter-notice and add conditions to the premises licence. The Sub-Committee does not have the power to modify the alter a TEN in any way.

There was a conflict of evidence between the Environmental Health Officer saying that there had been two recent instances of noise disturbance emanating from the premises; and the applicant saying that he had had no complaints of noise disturbance over the past 4 years.

The onus was on the Environmental Health Officer to satisfy the Sub-Committee, on the balance of probabilities, that the licensing objectives are likely to be undermined if the event proceeds. The Environmental Health Officer presented no evidence to support her assertions of recent noise complaints. No statutory noise nuisance had been witnessed and so no abatement notice had been served or was being considered. There was no evidence to contradict the applicant's assertion that he had had a four-year period of operating so far without issues. One would expect that if the premises had caused a public nuisance, particularly as recently as alleged, some action would have been taken. That was not the case here.

The Sub-Committee was therefore satisfied that allowing the event to go ahead would not lead to public nuisance. The Sub-Committee's decision is therefore to **refuse** a counter-notice.

This decision was made by a majority vote.

The meeting ended at 9.25 p.m.

Chair Councillor Musthak Ahmed
Licensing Sub Committee