

LONDON BOROUGH OF TOWER HAMLETS**RECORD OF THE DECISIONS OF THE LICENSING SUB COMMITTEE****HELD AT 6.30 P.M. ON THURSDAY, 18 JULY 2024****COUNCIL CHAMBER - TOWN HALL, WHITECHAPEL****Members Present in Person:**

Councillor Shahaveer Shubo
Hussain
Councillor Faroque Ahmed
Councillor Asma Islam

1. DECLARATIONS OF INTEREST

Councillors Hussain, Islam and Ahmed all declared a personal interest in item 3.1, Carwash, 1 Quaker Street, London E1 on the basis that they knew of Dr Halima Begum, one of the resident objectors to the application in her capacity as a community activist. However, all three Councillors confirmed that they had not had any discussions regarding this application prior to the meeting.

2. RULES OF PROCEDURE

The rules of procedure were noted.

3. ITEMS FOR CONSIDERATION**3.1 Application for a Premises Licence for (Carwash), 1 Quaker Street, London E1 6SZ**

The Sub-Committee considered an application by Damon Borley for a new premises licence to be held in respect of Carwash, 1 Quaker Street, London, E1 6SZ ("the Premises"). The application sought authorisation for the sale by retail of alcohol for consumption on and off the Premises. The hours sought were 11:00 hours to 23:00 hours Monday to Saturday and from 11:00 hours to 22:00 hours on Sunday, with drinking-up time of thirty minutes each day.

The application received representations against it. These were from the Licensing Authority, Environmental Health, SPIRE, and two local residents, one of whom had submitted a petition with their representation. The representations were based predominantly on the licensing objectives of the prevention of public nuisance and the prevention of crime and disorder and because of the Premises' location within the Brick Lane Cumulative Impact Zone (CIZ).

The Sub-Committee heard from Mr. Borley and his solicitor, Mr. Rees-Gay. The applicant reminded the Sub-Committee that a similar application had been made in November 2023 and refused by the Sub-Committee in January 2024. This application had therefore been made in order to address the specific concerns noted by the Sub-Committee on the previous application and with a view to ensuring that the Premises would not add to the problems already experienced within the Brick Lane CIZ.

Mr. Rees-Gay explained that the Premises were not intended to operate as a bar or a club. The Premises would be used as an event hire space for a variety of events. Several had already taken place. Not all events would have music or alcohol nor would they all be for the maximum capacity. There had been no complaints arising from the events held thus far. A noise report had been commissioned at a recent "Pirate radio showcase" which had been used as a worst case scenario.

The applicant had sought to engage with the responsible authorities. The police had no concerns over crime and disorder. In addition, they had engaged with those local residents who had raised concerns with respect to the previous application. With the exception of SPIRE, none of those residents was now objecting to this application.

Mr. Rees-Gay addressed the conditions which he said would address the concerns of the CIZ. Several had been agreed with the police. Some had been agreed with SPIRE and the Environmental Health Service, albeit that their objections had been maintained. The key conditions meant that the Premises could only operate on six occasions each month and only three could take place on Fridays and Saturdays. Alcohol could only be sold at an event and be ancillary to it. All events would be pre-booked.

Capacity was limited to 100 persons, including staff. A noise limiter would be fitted and set to the satisfaction of the Environmental Health service. The applicant agreed to submit a quarterly events diary to SPIRE and the Shoreditch Community Association and would hold at least two liaison meetings each year. The applicant also limited the number of live bands performing to one per month.

The Premises would be trading only when an event was organised and it was not intended to be a bar or club; when not open for an event, it was used for storage and, furthermore, the conditions limiting the frequency of events meant it could not be used more frequently. It would not be possible, therefore, for people to enter in order to buy alcohol.

Mr. Rees-Gay briefly commented on the representations, which comments were in line with his speaking note.

During questions, Mr. Rees-Gay explained that community events amounted to about 80% of the events held. Examples of commercial events included fashion shows and book signings. The applicant was also willing to agree to a condition prohibiting the Premises from operating as a "pop-up bar." In

addition, they were also willing to ensure that events including TENs were notified to responsible authorities.

Christopher Lloyd addressed the Sub-Committee on behalf of SPIRE. He referred to Hackney Council having granted a licence recently to a premises known as Sandbox, which the applicant also operated, and was concerned about how the two venues would be controlled. He suggested that the applicant should have waited to see how things worked out at Sandbox before applying and, had they done so, SPIRE's position might have been different. He suggested that the applicant's noise report was not sufficient and that it ignored the presence of residential premises to the west and south-west of the venue. He told the Sub-Committee that the residents of Hollywood Lofts had a different demographic to other blocks and that the three nearest noise sensitive premises were double-glazed; others in the vicinity, however, were not. The Premises also did not have a roof.

He questioned the toilet provision and the problems with public urination and that the measures proposed (one toilet and one urinal) would not be sufficient.

Mr. Olere spoke to the representations made by Environmental Health Service, which was concerned with the prevention of public nuisance. This representation commented on the fact that music was not regulated at the times that the venue was intended to operate, which meant that no enforceable conditions could be imposed to address such issues. It referred to nearby residential premises and the lack of suitability of the venue for noisy events.

Ms. Miller-Johnson referred to her representation, which was largely based on the CIZ. She referred to a lack of clarity over the percentage of events which would be arts-based or commercial. The conditions offered were noted, but she suggested there was nothing to prevent the Premises from operating as a pop-up bar. She also referred to the deregulation of regulated entertainment and noted that the Premises was not within a policy exception.

Ms. Sajna Miah addressed the Sub-Committee on behalf of Halima Begum. She referred to existing problems within the area, such as drug-dealing, parking problems, noise nuisance from patrons and the venue, as well as nuisance from light emitted from the venue. She referred to problems of public urination and stated that the area was highly residential. She did not consider the venue to be appropriate for this area. She told the Sub-Committee that when the premises had been and operated as a carwash, they experienced nuisance from traffic, including noise, as well as noise from the operation of the carwash itself. When the car wash had been operating, there had been noise disturbance 24 hours per day, which had eased off during Covid but increased again subsequently.

This application engages the licensing objectives of the prevention of public nuisance and, to a lesser extent, the prevention of crime and disorder. The location of the Premises within the CIZ mean that the applicant has the burden of proving that they will not add to the problems already existing in the CIZ if the application is granted.

The Council's Policy sets out non-exhaustive examples of venues which might be considered to be exceptions. These include, for example, premises with a capacity of fifty persons or fewer, only have alcohol for consumption on the premises, or only provide off sales, and have arrangements to prevent vertical drinking. The Premises do not fall within a stated exception. It is of note also that the Policy does not consider that the venue will be well-run to be exceptional, since that is the standard expected of all licence holders.

The Sub-Committee noted the various conditions offered by the applicant, some of which had been agreed with the responsible authorities and those making representations, which were intended to rebut the presumption against grant. A number of those specifically addressed concerns raised by the Sub-Committee in respect of the previous decision, such as a limit on the number of events and a reduction in maximum capacity.

The restrictions on the number of events and the agreement to a condition making clear that the Premises could not operate as a pop-up bar meant that the impact of the venue would be considerably limited; the venue could not operate every day unless those conditions were varied or removed.

The Sub-Committee also had regard to the supporting information provided by the applicant. This included details of five Temporary Event Notices (TENs) already given. It had been confirmed that no problems arose as a result of these events. In addition, the Sub-Committee had before it information as to the types of events and the capacities reached, which showed that not every event even attracted the maximum number of patrons. Moreover, supporting information provided showed that other residents of the nearby residential premises had not experienced any problems. Whilst the Sub-Committee did not take them into account as relevant representations, they did indicate that the potential impact of the venue on the CIZ was less clear, particularly given the nature of the Premises and the intended style of operation.

The Sub-Committee noted SPIRE's representation. The applicant had included correspondence showing that there had been efforts to engage with the various parties in advance of the hearing. The conditions SPIRE had requested, such as door staff and liaison meetings had been agreed. The grant of a licence to Sandbox, being a different premises in a different authority's area, was not a factor to take into account in determining this application.

The Sub-Committee noted the lack of a police representation, but this was a neutral factor at best. It could not be construed as implied support for the Premises.

The Sub-Committee considered Mr. Lloyd's concerns about the applicant's noise report. However, it was not correct that it ignored the properties to the west and south-west of the Premises; it was clear that the report was referring to the nearest noise-sensitive premises, which would be the ones most likely to be adversely affected by noise. The applicant was willing to have a sound limiter and specifically included that in its operating schedule. The Sub-

Committee noted that this would be suspended due to the deregulation of regulated entertainment. However, if not adhered to the inevitable outcome would be a review at which the Sub-Committee could remove the effect of deregulation, if so minded. The Sub-Committee noted the concerns as to the suitability of the structure. However, additional mitigations had been considered in the noise report and if the structure required that the sound level be set at a very low volume so as to avoid a public nuisance, that would be the appropriate level.

Members took account of the fact that the area was heavily residential in nature. Ms. Begum flagged a number of concerns. Some, such as parking, are not of themselves relevant to the licensing objectives. Others were clearly issues of wider concern around the area and which were outside the remit of the Sub-Committee.

Issues such as the toilet facilities were noted. The applicant explained that there would be two urinals and a toilet. Moreover, the nature of the Premises and the events, combined with the lack of frequency and the fact that alcohol consumption was to be ancillary to the event gave the Sub-Committee some confidence that this was not likely to be an issue with respect to the patrons of the Premises.

Had this application been identical to or much more similar to the previous application the Sub-Committee would have had no hesitation in rejecting it for the same reasons as before. However, it was substantially different and the limitations on the number of events, the capacity, and the inability to operate other than on event days satisfied the Sub-Committee that the conditions would mitigate any impact on the CIZ. Further, the Sub-Committee considered that the lack of problems arising from the TENs was a further indication that the Premises could operate without adding to the problems within the CIZ.

In addition, the conditions requiring events to be pre-booked and notified to the responsible authorities and residents in advance meant that it would be easier to identify any problems in the event that they did occur.

The Sub-Committee was therefore satisfied that the applicant had rebutted the presumption against the grant of the licence and the licence is granted as set out below:

Accordingly, the Sub Committee by a majority vote;

RESOLVED

That the application for a new premises licence for Carwash, 1 Quaker Street, London, E1 6SZ be **GRANTED subject to the following conditions:**

Sale by retail of alcohol

Monday to Saturday	11:00 hours to 23:00 hours
Sunday	11:00 hours to 22:00 hours

Opening hours of the premises

Monday to Saturday	11:00 hours to 23:30 hours
Sunday	11:00 hours to 22:30 hours

Conditions

1. The Premises Licence shall be limited to six (6) events in any one calendar month with no carry over. In addition, there shall be no more than 3 of 6 events that take place on Fridays and Saturdays in each calendar month.
2. All events must be pre-booked 14 days in advance. A record of all guests will be held for each event, this record to be retained on the premises for a minimum of 6 months. The booking and guest list shall be available for inspection at the premises by the police or an authorised officer.
3. Alcohol will only be sold when a pre-booked event takes place at the premises. The sale of alcohol will be ancillary to the event taking place.
4. The licence holder shall not operate, or allow any other person to operate, a "pop-up bar" at the premises.
5. 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.
6. 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.
7. 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.
8. 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.
9. 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.
10. A written dispersal policy shall be in place and implemented at the premises to move customers from the premises and the immediate vicinity in such a way as to cause minimum disturbance or nuisance to neighbours.
11. The premises shall risk assess all events taking place at the venue. The assessment shall look at all potential risks including but not limited to violence, intoxication, underage drinking and drug use. This assessment shall be written down and stored for 1 year and made available to Police upon request.
12. The premises must have a detailed documented security plan, that must include an ejections policy, search policy, anti-theft policy, and sia numbers, the security plan will be made available to police upon request.
13. In relation to off sales of alcohol from the premises, this can only be sold in sealed containers. Patrons are not permitted to remove open bottles/glasses or other open vessels from the licensed premises.
14. The licence holder shall enter into an agreement with a hackney carriage and/or private carriage firm to provide transport for customers, with contact numbers made readily available to customers who will be encouraged to use such services.

15. A direct telephone number for the manager at the premises shall be publicly available at all times the premises is open. This telephone number is to be made available to residents and businesses in the vicinity.
16. The number of persons permitted in the premises at any one time (including staff) shall not exceed 100 persons.
17. A noise limiter must be fitted to the musical amplification system and 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.
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. 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.
20. No waste or recyclable materials, including bottles, shall be moved, removed from or placed in outside areas between 21:00 hours and 07:00 hours on the following day.
21. No collections of waste or recycling materials (including bottles) from the premises shall take place between 21:00 hours and 07:00 on the following day.
22. 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.
23. All staff whose duties include the serving of alcohol must be trained in the requirements of this scheme including the importance of recording any refusals.
24. Entry by children under the age of 18 is prohibited unless accompanied by an adult over the age of 18.

25. Super-strength lagers, beers and/or ciders, i.e. those with an ABV of 6.5% or higher, shall not be sold at the premises.
26. There shall be up to 3 sia door staff for each event and this shall be risk assessed. A copy of the risk assessment shall be kept on the premises and made available for inspection by the police and authorised officers of other responsible authorities on request.
27. The Premises Licence holder shall submit a quarterly (at least every 3 months) Events Diary to the Residents Associations (Shoreditch Community Association and SPIRE), the Licensing Authority and the Police. This record shall also include temporary event notices.
28. The Licence holder shall hold and publicise 2 liaison meetings each year (at least every 6 months) with local residents and the Residents Associations (Shoreditch Community Association and SPIRE) to address any concerns or complaints about the premises from local residents to prevent public nuisance.
29. There will be a maximum of 1 x live band event per month.

3.2 Application for a Nw Premise Licence for Fabwick, Unit 4a, Queens Yard, 43 White Post Lane, London, E9 5EN

The Sub-Committee considered an application by Kenan Balli for a new premises licence to be held in respect of Fabwick, Unit 4a Queen's Yard, 43 White Post Lane, London, E9 5EN ("the Premises"). The application sought authorisation for: regulated entertainment (plays, films, live and recorded music, and performance of dance from 10:00 hours to midnight seven days per week; the provision of late night refreshment from 23:00 hours to midnight Sunday to Wednesday and to 01:00 hours Thursday to Saturday; the sale by retail of alcohol (on sales only) from 10:00 hours to midnight Sunday to Wednesday and to 01:00 hours Thursday to Saturday. The premises would be open to the public from 10:00 hours to midnight Sunday to Wednesday and to 01:00 hours Thursday to Saturday.

In advance of the hearing, conditions had been agreed with the responsible authorities. Performances of plays and films had been removed from the scope of the application. The applicant's agent had clarified that the Premises would operate as a restaurant.

Two representations were received against the application, both from local residents. These related to crime and disorder and noise nuisance from a number of licensed premises within the area. Both representations made specific reference to noise disturbance from various premises due to a lack of soundproofing.

Neither the applicant nor those making representations attended the hearing. The applicant had informed Democratic Services of the intention to attend in person. There had been no contact prior to the hearing to explain the lack of attendance. Those making representations had indicated in advance that they would not be attending. The Sub-Committee was given legal advice as to our options. Under Regulation 20(2)(b) of the Licensing Act 2003 (Hearings) Regulations 2005, the Sub-Committee determined to proceed with the application. We did not consider it to be necessary in the public interest to adjourn the application.

The Sub-Committee noted the clarification by the applicant that the Premises would operate as a restaurant. It further noted that a number of conditions had been agreed with the police and the Noise Service which would help to mitigate concerns relating to public nuisance and crime and disorder. The Sub-Committee considered that the clarification as to the operation of the Premises, and that it would not be a bar or nightclub, meant that there was likely to be less impact on the licensing objectives. The Sub-Committee noted the provision in the reports pack of nearby premises, many of which were open much later and were of a different nature to these Premises.

The Sub-Committee nonetheless had some concern over the retention of live and recorded music and performances of dance given the intention to operate as a restaurant. It was noted that regulated entertainment was to be ancillary to the operation as a restaurant. The Sub-Committee had regard to the objections with respect to public nuisance, particularly the risk of noise disturbance and considered the possibility that the applicant had misunderstood the need for regulated entertainment, given that music played at a background level would not be licensable. Equally, however, it was possible that this was a conscious decision by the applicant and which, if not addressed, was likely to lead to confusion as to whether it was being carried on ancillary to the restaurant activities and would, especially after 23:00 hours, be more likely to impact upon the licensing objective of the prevention of public nuisance.

The Sub-Committee did not consider that there was sufficient evidence before it to justify refusing the application. The concerns related largely to the impact from other, different premises. Whilst those objections carried more weight with respect to the application as originally drafted, the Sub-Committee considered that they carried less weight when the agreed conditions and amendments were taken into account. Further, the Sub-Committee considered that it would be possible to make further amendments and impose additional conditions which would mitigate any impact further.

The Sub-Committee considered that removing regulated entertainment from the scope of the licence would mitigate the impact on the licensing objectives, particularly that of the prevention of public nuisance. Moreover, it would be more in keeping with the operation of the Premises as a restaurant. In addition to the agreed conditions, some of which required minor modifications in light of the applicant's confirmation that the Premises were to operate as a restaurant, the Sub-Committee determined to impose a condition requiring alcohol to be served with table meals.

Accordingly, the Sub Committee by a majority vote;

RESOLVED

That the application for a new premises licence for Fabwick Unit 4a Queen's Yard, 43 White Post Lane, London, E9 5EN be **GRANTED in part and subject to the following conditions:**

Sale by retail of alcohol (on-sales only)

Sunday to Wednesday	10:00 hours to 00:00 hours
Thursday to Saturday	10:00 hours to 01:00 hours

Provision of late night refreshment (indoors only)

Sunday to Wednesday	23:00 hours to 00:00 hours
Thursday to Saturday	23:00 hours to 01:00 hours

1. The premises will operate as a restaurant, where, save for the area marked on the plan, the sale of alcohol will be on the premises only, whole of premises and outside seating areas.
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. 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.

5. 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;
 - b) the crime scene is preserved so as to enable a full forensic investigation to be carried out by the police;
 - c) such other measures are taken (as appropriate) to fully protect the safety of all persons present on the premises.
6. The licence holder shall ensure that any queue to enter the premises which forms outside the premises is orderly and supervised by door staff so as to ensure that there is no public nuisance or obstruction to the public highway.
7. 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.
8. A written dispersal policy shall be in place and implemented at the premises to move customers from the premises and the immediate vicinity.
9. The premises shall operate primarily as a restaurant and the sale of alcohol shall be ancillary to the sale of food.
10. The sale of alcohol for consumption on the premises shall only be to a person seated taking a table meal there, and for consumption by such a person as ancillary to their meal.
11. The premises shall have a security plan that will include an ejection policy, SIA security levels and where appropriate a search policy.
12. Appropriate fire safety procedures are in place including fire extinguishers, internally illuminated fire exit signs, numerous smoke detectors and emergency lighting (see enclosed plan for details of locations). All appliances are inspected annually. All emergency exits shall be kept free from obstruction at all times.
13. All customers will be asked to leave quietly. Clear and legible notices will be prominently displayed to remind customers to leave quietly and have regard to our neighbours.
14. The licensee and staff will ask persons who appear to be under the age of 25 for photographic ID such as proof of age cards, the Connexions Card and Citizen Card, photographic driving licence or passport, an

official identity card issued by HM Forces or by an EU country, bearing the photograph and date of birth of bearer. All staff will be trained for underage sales prevention regularly. A register of refused sales shall be kept and maintained on the premises.

15. Loudspeakers shall not be located in the entrance lobby, or outside the premises building nor on ceilings. And anti-vibration mounts used is speakers attached to the walls.
16. 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.
17. No noise shall emanate from the premises nor vibration be transmitted through the structure of the premises, which gives rise to a public nuisance.
18. The external area shall not be used after 22:00 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.

4. EXTENSION OF DECISION DEADLINE: LICENSING ACT 2003

There were no applications that required decision deadline extensions.

The meeting ended at 8.30 p.m.

Chair, Councillor Shahaveer Shubo Hussain
Licensing Sub Committee