

LONDON BOROUGH OF TOWER HAMLETS

MINUTES OF THE LICENSING SUB COMMITTEE

HELD AT 6.30 P.M. ON TUESDAY, 8 OCTOBER 2024

COUNCIL CHAMBER - TOWN HALL, WHITECHAPEL

Members Present in Person:

Councillor Shahaveer Shubo
Hussain
Councillor Ahmodur Khan
Councillor Bellal Uddin

Apologies:

None

Others Present in Person:

Gianluca Colini	(Item 3.1)
Ralph Hardwick	(Item 3.1)
Peter Coinsbee	(Item 3.2)
Eelke Van Bless	(Item 3.2)
Rob Weems	(Item 3.2)
Charles Garrad	(Item 3.2)
Duncan Campbell	(Item 3.2)
Christopher Sheppard	(Item 3.2)

Others In Attendance Virtually:

Matt Genasci	(Item 3.2)
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Officers Present in Person:

Jonathan Melnick	(Principal Lawyer-Enforcement)
Lavine Miller-Johnson	(Licensing Officer)
Simmi Yesmin	(Democratic Services Officer, Committees, Governance)

1. DECLARATIONS OF INTEREST

Cllr Hussain, Cllr Khan and Cllr Uddin all declared a personal interest in item 3.1 on the basis that they knew the objector present at the meeting as local constituent.

2. RULES OF PROCEDURE

The rules of procedure were noted.

3. ITEMS FOR CONSIDERATION

3.1 Application for a New Premise Licence for Rotunda Café, Island Gardens, Saunders Ness Road, London, E14 3EA

At the request of the Chair, Ms Lavine Miller-Johnson, Licensing Officer introduced the report which detailed an application by Bocca Bocca Ltd. for a new premises licence to be held in respect of Rotunda Café, Island Gardens, Saunders Ness Road, London, E14 3EA (“the Premises”). The application originally sought authorisation for the sale by retail of alcohol for consumption on and off the premises from 08:00 hours to 23:00 hours seven days per week. The application attracted representations against it from two local residents on the basis of all four licensing objectives.

The Sub-Committee was informed in advance that the proposed hours for licensable activity had been reduced following agreement with the police to 08:00 hours to 17:00 hours. A number of conditions had also been agreed between the applicant and the responsible authorities prior to the meeting.

At the request of the Chair, Mr. Gianluca Colini addressed the Sub-Committee by explaining that he was surprised by the objections and that the intention was simply to allow for people to enjoy a glass of wine or a beer with their meals. He confirmed that alcohol would be kept behind the counter at all times.

Members then heard from one of the objectors who had made a representation, Mr. Ralph Hardwick. He expressed concerns about whether the outside area was part of the lease and whether or not the lease prohibited the sale of alcohol as a coffee house was not a venue where one usually expected alcohol to be sold. He had no issue with on-sales; but he was concerned more with the off-sales. He explained that children from the nearby school and college used the park in their break times and therefore could potentially give rise to public nuisance.

Mr. Hardwick also asserted that the application risked conflict with the Council’s borough-wide Public Spaces Protection Order (PSPO) which prohibited anti-social drinking.

The Legal Adviser clarified that whether or not the lease included the outside area or allowed for the sale of alcohol was not a relevant consideration for the Sub-Committee. If the lease did not permit the sale of alcohol, that was a matter between the landlord and the tenant under the lease. The PSPO did not prohibit drinking in public spaces; it required people to surrender alcohol when asked to do so and prohibited them from continuing to drink after being asked not to do so.

In response to questions the following was noted;

- That it was made clear that off-sales were sought in order to be able to make use of the outside area, which was not part of the licensed premises.
- The applicant confirmed that he was willing for off-sales to be limited to consumption within the external area only.
- The applicant also confirmed that he was willing to place signage to inform customers that alcohol was not to be taken away from the premises and external area.
- Mr. Hardwick confirmed that he was not opposed to the application entirely nor was he concerned particularly about off-sales for the external area.
- Mr Hardwick explained that his concerns were very much focused on the possible impact on the licensing objectives and questioned if people were permitted to buy alcohol for consumption off the premises that could then be consumed elsewhere in the park.

Concluding remarks were made by both parties.

Decisions

The Sub-Committee considered that this application really engaged the licensing objective of the prevention of public nuisance and, to a lesser extent, the prevention of crime and disorder. One representation had suggested that allowing alcohol to be consumed risked people becoming intoxicated and falling into the water and drowning. The Sub-Committee was aware that many licensed premises are located near waterways and do not give rise to public safety issues. There was nothing here to take it out of the ordinary. Similarly, conditions to prevent under-age drinking were agreed by the applicant and the fact that children used the park was not a ground to refuse the application. It was suggested that they would be exposed to inappropriate behaviour. However, this did not take account of the fact that people could inevitably walk into the park in possession of alcohol purchased elsewhere and consume it. The likelihood of the Premises' proposed operation impacting on this licensing objective was adequately mitigated by way of conditions.

With respect to crime and disorder, conditions had been agreed with the police which addressed these. There was no evidence to suggest that the likely effect of granting this application would be to add to crime and disorder. The conditions agreed were sufficient to mitigate any impact.

With respect to public nuisance, the Sub-Committee did consider there was a greater risk of impact on this licensing objective as the application originally stood. However, the applicant had reduced the hours so that alcohol sales would cease at 17:00 hours. They had agreed numerous conditions both before the hearing and during the course of it, the impact of which was to mitigate any impact on the licensing objectives. In particular, the clarification around off-sales combined with the relatively small number of covers gave the Sub-Committee that the application could be granted without adversely affecting the licensing objectives. The Sub-Committee did consider it important to limit the number of patrons using the external area at any one

time, so as to minimise the risk of public nuisance and limited it to the number that the applicant said would currently be accommodated in that area.

Accordingly, the Sub Committee unanimously;

RESOLVED

That the application for a new premises licence for **Rotunda Café, Island Gardens, Saunders Nest Road, London E14 3EA** be **GRANTED** subject to the following conditions:

Sale by retail of alcohol

Monday to Sunday 08:00 hours to 17:00 hours

Conditions

1. The premises shall install and maintain a comprehensive CCTV system as per the minimum requirements of the Tower Hamlets Police Licensing Team. All entry and exit points will be covered enabling frontal identification of every person entering in any light condition. The CCTV system shall continually record whilst the premises is open for licensable activities and during all times when customers remain on the premises. 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. 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. 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.
6. The supply of alcohol at 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.
 7. The sales of alcohol on the premises and in the external seating shall be by waiter / waitress service only.
 8. There shall be no sales of alcohol for consumption off the premises, save to those customers seated directly outside of the premises in the external area, where tables and chairs have been provided by the premises.
 9. There shall be no vertical drinking inside the premises or in the external seating area.
 10. 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.
 11. Loudspeakers shall not be in the entrance lobby, or outside the premise building nor on ceilings. And anti-vibration mounts used is speakers attached to the walls.
 12. Notices shall be prominently displayed at all exits requesting patrons to respect the needs of local residents and businesses and leave the area quietly.
 13. No noise shall emanate from the premises nor vibration be transmitted through the structure of the premises, which gives rise to a public nuisance.
 14. The use of the external seating area shall be limited to not more than 25 patrons at any given time.
 15. Signage shall be displayed inside the premises and at the external seating area reminding customers that alcohol is not to be taken beyond the vicinity of the external seating area.
 16. The external seating area shall not be used for the consumption of alcohol until such time as a plan has been submitted to the licensing authority showing the location and extent of the area to be used.

3.2 Application for a New Premises Licence for (Solid Floor Ltd) 7a Ezra Street, London E2 7RH

At the request of the Chair, Ms Lavine Miller-Johnson, Licensing Officer introduced the report which detailed an application by Solid Floor Ltd. for a new premises licence to be held in respect of Solid Floor, 7a Ezra Street, London, E2 7RA (“the Premises”). The application sought authorisation for licensable activities as follows:

Sale by retail of alcohol (on-sales only)

Monday to Thursday	09:00 hours to 22:30 hours
Friday and Saturday	09:00 hours to 23:30 hours
Sunday	09:00 hours to 19:30 hours

Late night refreshment

Friday and Saturday	23:00 hours to 23:30 hours
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Non-standard timings were also sought on days preceding bank holidays, namely a terminal hour of 23:30 hours. The Premises would close to the public thirty minutes after licensable activity ceased, again with non-standard timings sought on the day preceding a bank holiday.

The application attracted a number of representations, which included residents and a business. The representations asserted that all four licensing objectives would be undermined if the application is to be granted. However, there was no consensus between the residents; some were content for the application to be granted subject to additional conditions, whereas others weren't.

At the request of the Chair, The Sub-Committee heard from Mr. Peter Conisbee on behalf of the applicant. He explained that the concept behind the application was to provide a high-end dining experience. He suggested that the representations were not against the sale of alcohol but against the restaurant. He commented that the Premises are not in a cumulative impact zone (CIZ); nonetheless they had proposed a robust operating schedule as if they were in a CIZ in order to try to mitigate all concerns.

With respect to noise from the Premises, there was no-one realistically affected by that. Noise from patrons dining outside was not realistic, as the nearest residential premises were some 50 metres away. Various conditions had been agreed in response to the representations and the Sub-Committee's attention was drawn to his letter appearing at Pages 7 to 14 of the second supplementary agenda.

He explained that parking would not be an issue. Statistics suggested that some 67% of people going out in London would use public transport, cycle or walk. The external area would be closed by 21:00 hours. With respect to the petition submitted by one of the residents, he said that the nearest was 200 metres away and the furthest was about 8km away.

It was noted that none of the responsible authorities had made a representation in respect of the Premises.

The Sub-Committee then heard from a number of those making representations. Mr Charles Garrad asserted that adding up to 1,000 users a

day was “a terrible idea.” He expressed concern that the premises licence could be transferred to another person who could expand the number of covers. The street already experienced a great deal of traffic disruption and deliveries would be made by vans that would inevitably block the highway, a problem already occurring, which would be made far worse.

Mr Adrian Heathfield told the Sub-Committee that Ezra Street was a narrow Victorian street with high walls. This had the effect of amplifying noise from traffic. He suggested that people assumed the area was not residential because of the existence of the builder’s yard and the school. He referred to there being four licensed premises within 25 yard and that there would be a substantial impact on the street. Noise from waste trucks in the early hours would increase if the Premises operated as a restaurant.

Mr Duncan Campbell spoke to his representation. He also expressed concerns about the narrow width of the street. Another licensed premises would mean more people which in turn would mean more noise when they arrive and when they leave. He suggested that it would attract other people to the area. There was a school nearby and the number of deliveries would quadruple. The venue would be open to the air in part and he asserted that it would give rise to waste from bottles and from fly-tipping.

Mr Christopher Sheppard also referred to the number of licensed premises in the vicinity, with 23 within 300 metres of the school. He asserted that the effect of another licensed premises would be to create a nighttime economy in the area. He asserted that this was happening gradually and that parking in the area was now subject to 24-hour restrictions as a result.

Mr Matt Genasci spoke on behalf of his wife, Deborah Young. He did not oppose the application outright and looked forward to another nice restaurant in the area. His concerns were mostly around vibrations and noise from the Premises as his home adjoined the Premises and he could hear normal everyday noise from the venue. Whilst that was not currently a problem, with up to eighty people in the Premises it would be. Equally, the upper floor overlooked much of their house, reducing their privacy.

In response to questions the following was noted;

- That residents/neighbours had not been consulted on the application.
- That the premises had a capacity of 80 people
- That the school would not be affected by the opening and closing times of the premises.

Concluding remarks were made by all parties.

Decision

This application predominantly engages the licensing objectives of the prevention of public nuisance and, to a lesser degree, the prevention of crime and disorder. The Sub-Committee had read all the material relevant to the application as well as hearing the oral submissions. There was some irrelevant information given to the Sub-Committee and some information that

was not raised in the original representations. Where that happened, the Sub-Committee disregarded it.

The Sub-Committee did not consider that the objective of the protection of children from harm was engaged by virtue of additional vehicular traffic that might be generated. That was far too remote from the licensable activity and, to the extent that there might be additional traffic, that was a road safety issue rather than a licensing issue. The objective focuses on exposure to harms within a venue and in the immediate vicinity, rather than away from it.

With respect to the public nuisance licensing objective, the Sub-Committee did not accept that the likely outcome would be to add 1,000 visitors per day. The capacity would be limited to 80 persons at any one time and it was not realistic to suggest that the Premises would be filled to that capacity all day from opening to closing. Equally, lack of parking was not, of itself, relevant; whilst it may be annoying to have difficulty parking outside or close to one's home, it is not a right and cannot amount in law to a nuisance. The Sub-Committee accepted, however, that additional traffic and parking could give rise to problems that could amount to public nuisance.

The Sub-Committee noted the lack of representations from responsible authorities. This did not mean that the views of those making representations carried any less weight. The Statutory Guidance at paragraph 9.12 indicates that each responsible authority will usually be the licensing authority's main source of advice within their particular remit; they will not always be so and those living in the area can often provide much more information than a responsible authority because of that.

Several residents referred to a recent review of the CIZs within the area and, in their representation urged the Sub-Committee to impose a CIZ within the area. This is not within the Sub-Committee's remit and the Sub-Committee cannot consider the fact that there is a CIZ very close by. Whilst the absence of a CIZ does not prevent the Sub-Committee from considering cumulative impact, it is nonetheless a high hurdle to overcome. The Sub-Committee did not consider that it had sufficient evidence of cumulative impact to overcome that hurdle.

The Sub-Committee took account of the operating schedule proposed by the applicant as well as additional conditions offered. Some of these seemed to be in the nature of being a good neighbour; it appeared that only one or two properties were overlooked and this was not likely to amount to a public nuisance. The same applied to the rear wall adjoining Ms. Young's property.

Equally, some of the suggested concerns were not likely to materialise, such as an increase in pests and fly-tipping.

However, the Sub-Committee did consider that there was a likelihood of additional public nuisance. It was asserted that 67% of people in London used some form of public transport. It did not follow that patrons of the venue would necessarily do so. Some would do so. Some would use private transport or Ubers. As already mentioned, parking is not a relevant consideration but the

noise that can arise, throughout the day and especially later at night, from engines starting and revving, car doors slamming, music being played, and horns being sounded are all capable of amounting to a public nuisance. That is not something that can be controlled by the Premises.

Similarly, for those who arrive or leave by Uber or walk, there is a risk of additional noise from raised voices and vehicle engines. The photos provided to the Sub-Committee did show that Ezra Street is only wide enough for two cars and, given that parts of the road are given over to parking, it means potential congestion throughout the day and late at night and which has the potential to give rise to public nuisance. The Sub-Committee accepted the possibility of noise being amplified due to the high walls of many of the surrounding buildings.

Having considered all the information presented to it, the Sub-Committee was satisfied that granting this application would adversely impact upon the licensing objective of the prevention of public nuisance. The Sub-Committee has paid particular attention to paragraphs 9.42 to 9.44 of the Statutory Guidance and was satisfied, from what it had heard from the local residents, that the impact upon the public nuisance licensing objective could not be mitigated. The application is therefore refused.

Accordingly, the Sub Committee unanimously;

RESOLVED

That the application for a new premises licence for Solid Floor, 7a Ezra Street, London, E2 7RA be **REFUSED**.

4. EXTENSION OF DECISION DEADLINE: LICENSING ACT 2003

Nil items.

The meeting ended at 9.15 p.m.

Chair, Councillor Shahaveer Shubo Hussain
Licensing Sub Committee