

LONDON BOROUGH OF TOWER HAMLETS

MINUTES OF THE LICENSING SUB COMMITTEE

HELD AT 2.30 P.M. ON TUESDAY, 9 JULY 2024

COUNCIL CHAMBER - TOWN HALL, WHITECHAPEL

Members Present in Person:

Councillor Peter Golds
Councillor Suluk Ahmed
Councillor Shahaveer Shubo
Hussain

Apologies:

None

Others Present in Person:

Kerry Smorthit	(Item 3.1)
Alan Miller	(Item 3.1)
Rory O'Donoghue	(Item 3.1)
Warren Dent	(Item 3.1)
Max Kennady	(Item 3.2)
Cllr Penny Wrout	(Item 3.2)
Rosie Walker	(Item 3.2)

Officers Present in Person:

Lavine Miller-Johnson	(Licensing Officer)
Corinne Holland	(Licensing Officer)
David Wong	(Legal Services)
Simmi Yesmin	(Democratic Services Officer, Committees, Governance)

1. DECLARATIONS OF INTEREST

Councillor Shubo Hussain indicated in relation to item 3.1, that he had attended an event at the venue in 2013, but that did not affect his consideration of that application.

2. RULES OF PROCEDURE

The rules of procedure were noted.

3. ITEMS FOR CONSIDERATION

3.1 Application for a New Premise Licence for Boro of Bethnal Green Working Men's Club 42-44 Pollard Row, London E2 6NB

At the request of the Chair, Ms Lavine Miller Johnson, Licensing Officer introduced the report which detailed the application by Mr. Steven Smorthit for a premises licence in respect of the Boro of Bethnal Green Working Men's Club, 42-44 Pollard Row, London E2 6NB.

The application sought: -

Regulated Entertainment (Plays, Films, Live & recorded Music and Performance of dance) (Indoors)

Sunday to Wednesday from 10:00 hours to 23:00 hours

Thursdays from 10:00 hours to 01:00 hours

Friday to Saturday from 10:00 hours to 02:30 hours

Late Night Refreshment (indoors)

Thursdays from 23:00 hours to 01:00 hours

Friday to Saturday from 23:00 hours to 02:30 hours

Sales of Alcohol (on sales only)

Sunday to Wednesday from 10:00 hours to 23:00 hours

Thursdays from 10:00 hours to 01:00 hours

Friday to Saturday from 10:00 hours to 02:30 hours

At the request of the Chair Ms Kerry Smorthit, Mr. Alan Milner, and Mr. Rory O'Donoghue presented the application on the basis that Mr. Dent, the holder of the existing premises licences relating to the same premises, had been served with a notice to stop trading at the premises and was due to vacate by 29th July 2024.

Ms Smorthit explained that the application was to enable the applicant to continue community events with licensable activities to fund maintenance of the building. The Sub-Committee heard that staff had years of experience in running events and would therefore not cause any disturbance to surrounding neighbours.

The Sub-Committee noted that the application had incorrectly stated the starting time for late night refreshment which cannot, as a matter of law, take place before 23:00 hours, and therefore, the applicant agreed to amend the application in that regard.

Members heard from Ms Corinne Holland, Licensing Service, who explained that the application did not address the addition to cumulative impact of public nuisance, and crime and disorder in a cumulative impact area (CIA). Ms. Holland reminded the Sub-Committee of the rebuttable presumption that where premises are in a CIA, an application will be refused, and pointed out

that the application did not mention the CIA. Ms. Holland reminded the Sub-Committee that the onus was on the applicant to show exceptional reason why granting the application would not undermine the licensing objectives by adding to the cumulative impact in the area.

Objections were received against the application from other local residents and other interested parties, including the current licence holder, Mr. Dent, on the basis of public nuisance, and to a lesser extent, crime and disorder in relation to antisocial behaviour.

Members then heard from Mr. Dent, who referred to conflict between the terms of the application and the terms of the existing premises licence held by him. Mr. Dent also made representation about being unfairly evicted.

Objectors other than Mr. Dent and the Licensing Authority did not attend the Sub-Committee meeting. Their written objections in the agenda pack were considered. Broadly, these expressed concerns over whether the applicant could maintain the same standards, particularly in terms of preventing noise disturbance, preventing crime and disorder, and drawing in the same diverse and inclusive patronage as Mr. Dent had achieved.

In response to questions the following was noted;

- That the applicant did not understand the challenges of operating within a CIZ. When asked what they understood about it, the response was that they were not aware of the CIZ, but would look into it subsequently.
- Concerns were raised by both parties regarding the existing premises licences.

Concluding remarks were made by both parties.

Decision

The Sub-Committee reflected that the licence sought would not be a shadow licence, and applicant is unconnected to Mr. Dent. This application would be considered on its own merits. The terms of an existing premises licence are irrelevant. Any disputed eviction is also irrelevant.

The relevant criteria are the licensing objectives and the Council's cumulative impact policy. This application engages the licensing objectives of public nuisance, and to a lesser extent, crime and disorder in relation to antisocial behaviour.

The Sub-Committee appreciated the legitimate concerns of the Licensing Authority over the impact of licensed premises in a CIA.

The Sub-Committee noted that the premises are in a cumulative impact zone, and so, the effect of premises subject to a licensing application being in a CIA is that there is a rebuttable presumption that where relevant representations

are received by one or more of the responsible authorities and/or other persons objecting to the application, the application will be refused.

The Sub-Committee noted that under the Council's Statement of Licensing Policy, the Applicant can rebut the above presumption if they can demonstrate that their application for a premises licence would not undermine any of the four licensing objectives by not adding to the cumulative impact of licensed premises already in the CIA.

Paragraph 7 of appendix 5 to the Council's Statement of Licensing Policy says that the Council's cumulative impact policy "will be strictly applied and where relevant representations are received and it is the view of the Council that the application will be refused. Applicants will need to demonstrate that there are exceptional circumstances and that granting their application will not negatively add to the cumulative effect on the Licensing Objectives within the Brick Lane and Bethnal Green CIAs if they wish to rebut this presumption."

Paragraph 8 of the same says, "The Special Cumulative Impact policy creates a rebuttable presumption that where relevant representations are received by one or more of the responsible authorities and/or other persons against applications (Councillors, Members of the Public) within the CIA zones the application will be refused."

Paragraph 9 of the same says, "Where representations have been received in respect to applications within the CIA zones the onus is on the applicant to adequately rebut the presumption."

Paragraph 11 of the same says, that the Council's cumulative impact policy "is not absolute and the Licensing Authority recognises that it has to balance the needs of businesses with local residents. The circumstances of each application will be considered on its merits and the Licensing Authority shall grant applications, when representations are not received. The applicant should demonstrate that the operation of the premises will not add to the cumulative impact on one or more of the following licensing objectives:

- Prevention of Crime and Disorder;
- Prevention of Public Nuisance.

Therefore, applicants will be expected to comprehensively demonstrate why a new or varied licence will not add to the cumulative impact. They are strongly advised to give consideration to mitigating potential cumulative impact issues when setting out steps they will take to promote the licensing objectives in their operating schedule."

The Sub-Committee noted that the applicant sought to address this by reference to the provision of community events on a not-for-profit basis. This is insufficient to rebut the presumption against granting the application, because operating on a not-for-profit basis does not in itself prevent addition to cumulative impact in the area in terms of public nuisance.

The Sub-Committee was not satisfied that the applicant had rebutted the presumption against refusal of the application. The fact that the applicant had not considered the CIA and, when asked, clearly had no knowledge of what it meant or what challenges were likely to arise as a result, gave the Sub-Committee no confidence that there would be no impact. That lack of knowledge and understanding meant that the application, if granted, was more likely than not to adversely impact the CIA by adding to existing public nuisance, and crime and disorder in the area.

The representations of residents and other interested parties, whilst considered, were not based on evidence as to the applicant's ability to uphold the licensing objectives, nor was there evidence of the applicant not encouraging a diverse and inclusive crowd. The applicant's failure to rebut the presumption created by the CIA is reason not to grant the application.

Therefore, the Sub-Committee decided to refuse the application.

Accordingly, the Sub Committee unanimously;

RESOLVED

That the application for a new premises licence for **Boro of Bethnal Green Working Men's Club, 42-44 Pollard Row, London E2 6NB** be **REFUSED**.

3.2 Application for a Variation of a Premises Licence for (Victoria Park Market), Land between Bonner Gate and Gore Gate, London E3 5TB

At the request of the Chair, Ms Lavine Miller Johnson, Licensing Officer introduced the report which detailed the application by The Good Market Company Limited for a variation of premises licence in respect of Victoria Park Market, Land between Bonner Gate and Gore Gate, London E3 5TB.

The application sought the sale by retail of alcohol (on and off sales) on Saturdays from 11:00 hours to 17:00 hours. The premises licence already permitted the same activity on Sundays during the same hours.

At the request of the Chair, Mr Max Kennedy from the company presented the applicant as having run a family friendly food market on Sundays since 2017 without any issues. The application sought to enable expansion of that to Saturdays, to include the sale of alcohol.

The applicant had offered a number of conditions. That the applicant would provide 12 euro bins as part of the waste plan. The applicant pointed out that not all litter emanates from the market. The applicant will provide and maintain toilet facilities. Mr Kennedy explained that they had been trading approximately 350 Sundays with no history of complaints. It was also noted that they had been trading on Saturdays with Temporary Event Notices for the past two months with no complaints.

With regard to one of the conditions offered, that all alcohol stalls will not be located near any residential buildings, the applicant specified a 200 metre distance.

Representations were received against the application from residents on the basis of public nuisance and, to a lesser extent, public safety. One of the residents, Ms. Walker, and a Hackney ward councillor, Councillor Penny Wrouth attended the meeting. Cllr Wrouth presented concerns over the impact of each weekend's activities on open land adjacent to residential premises. The market operated on a side of the park nearer Hackney residents, although that did not preclude the impact upon nearby Tower Hamlets residents. The likely impact pertained to noise, traffic, pollution, litter, and public urination. Residents' concerns also arose from the market taking away use of that part of the park from residents wanting to enjoy other activities.

The written representations of other objectors who did not attend were also considered.

In response to questions, the following was noted;

- The Licensing Officer clarified that there had been no record of complaints regarding the operation of the market.
- That the market was 90% food led.
- That there would be 20-30 stalls and stall holders from tower hamlets would be given priority.

Concluding remarks were made by both parties.

Decision

This application engages the licensing objectives of public nuisance and, to a lesser extent, public safety.

The absence of objection by any of the responsible authorities was of neutral weight.

The Sub-Committee noted that two conditions had been agreed between the applicant and Environmental Health Services: -

- Notices shall be prominently displayed at the site requesting patrons and stall staff to respect the needs of local residents and leave the area quietly. This should be enforced by Market Managers.
- No noise generated at the Market shall give rise to a public nuisance.

The Sub-Committee appreciated the legitimate concerns of residents over the impact in a residential area.

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 with conditions was appropriate and proportionate for the promotion of the licensing objectives.

Accordingly, the Sub Committee unanimously;

RESOLVED

Therefore, the Sub-Committee decided to **GRANT** the application for variation to extend the sale by retail of alcohol (on and off sales) to Saturdays from 11:00 hours to 17:00 hours with the following conditions in addition to those already on the licence: -

Conditions

1. Customer queues will be marked out and managed by stallholders and market managers, so they do not obstruct park users.
2. Clear and conspicuous notices will be displayed warning of potential criminal activity such as bag theft, which may target customers.
3. All alcohol stalls will not be located within 200 metres of any residential buildings.
4. Stall holders will keep a refusal book on their stalls which will log any incidents where the sale of alcohol has been refused.
5. Notices shall be prominently displayed at the site requesting patrons and stall staff to respect the needs of local residents and leave the area quietly. This should be enforced by Market Managers.
6. No noise generated at the Market shall give rise to public nuisance.

3.3 Application for a New Premises Licence for (Green Leaf), Unit 2 Vine Court, London E1 1JE

This item was withdrawn by the Applicant prior to the meeting.

4. EXTENSION OF DECISION DEADLINE: LICENSING ACT 2003

The following applications were extended till 30th September 2024.

- The Pickle Factory, 11-14 The Oval, London, E2 9DT

The meeting ended at 4.40 p.m.

Chair, Councillor Peter Golds
Licensing Sub Committee