

LONDON BOROUGH OF TOWER HAMLETS**RECORD OF THE DECISIONS OF THE LICENSING SUB COMMITTEE****HELD AT 2.00 P.M. ON TUESDAY, 23 JULY 2024****COMMITTEE ROOM - TOWER HAMLETS TOWN HALL, 160 WHITECHAPEL
ROAD, LONDON E1 1BJ****Members Present in Person:**

Councillor Suluk Ahmed
(Chair)
Councillor Ahmodur Khan
Councillor Bellal Uddin

1. DECLARATIONS OF INTEREST

There were no declarations of interest.

2. RULES OF PROCEDURE

The rules of procedure were noted.

3. ITEMS FOR CONSIDERATION**3.1 Application for a Premises Licence for Boulebar, 7 Frying Pan Alley E1 7HS**

The Sub-Committee considered an application by Boulebar UK Ltd. for a new premises licence to be held in respect of Boulebar, 7 Frying Pan Alley, London, E1 7HS (“the Premises”). The application sought authorisation for the sale by retail of alcohol from 10:00 hours every day and ending at 23:30 hours Monday to Thursday, midnight on Friday and Saturday, and 22:30 hours on Sunday. The premises would close to the public thirty minutes after the terminal hour for licensable activity.

The application attracted representations against it from SPIRE, the Licensing Authority, and the Environmental Health service. All the representations referred to the Premises’ location within the Brick Lane Cumulative Impact Zone (CIZ) and were particularly concerned as to the potential to adversely impact on the CIZ. The Licensing Authority, in particular, raised a number of pertinent points in the initial representation, and which required clarification.

The Sub-Committee heard from Jack Spiegler on behalf of the applicant. He explained that the Premises focused on “competitive socialising” and food and was not alcohol-led. He explained a number of conditions that had been

agreed. These include the sale of alcohol being ancillary to games (condition 1) and that a condition had been agreed with SPIRE that would, in effect, make the licence personal to the applicant. Mr. Spiegler explained that the sale of alcohol would be by waiter/waitress service with the exception of a couple of very small areas as shown on the plan.

Mr. Spiegler told the Sub-Committee that noise from the Premises would not be a problem. It was previously a gym and all activity would be taking place in the basement area. This had previously been very well-insulated and so noise breakout would not arise. The nearest noise-sensitive premises were located at 9 Frying Pan Alley. This was student accommodation with its own bar, operating to a later hour than the Premises, and again meant that there would be no impact on the CIZ. He referred to the fact that the police had not made a representation nor had any other residents. The primary concern was the CIZ and he suggested that there were several reasons why the Premises would be an exception:

The policy was focused on the type of venue, predominantly clubs and bars with loud music and late hours;

There would be a high-quality restaurant with a food offering and unlikely to add to the CIZ;

Alcohol would be by waiter/waitress service. The only people standing and drinking would be those playing games; the policy was concerned with high-volume drinking establishments with nothing else taking place; The Premises would operate to framework hours; There would be no off-sales except for the external seating area. That area would not be used after 21:00 hours.

Ms. Holland told the Sub-Committee that she was concerned about the potential impact on the CIZ. The Premises did not fall within a possible exception. There were some 70 or 80 covers with a potential for around 200 people in the Premises. If the venue had been pre-booked there could be as many as 300 people. Alcohol was not being served as ancillary to food.

Ms. Holland noted that it did allow for vertical drinking but accepted that it was only likely to be when people were playing a game. In her view, the Premises was likely to add to anti-social behaviour within the area and the onus was on the applicant to rebut that presumption.

She also queried the legality of the condition agreed with SPIRE that restricted the transferability of the licence.

Mr. Olere addressed his representation briefly. He was particularly concerned with the possible maximum number of smokers outside at any one time.

Ms. Crichley address the Sub-Committee on behalf of SPIRE. She welcomed the engagement that the applicant had had with SPIRE and their willingness to accommodate their concerns. Their main concern had been the possibility of the business turning into something very different and the agreed

conditions and operating schedule mitigated that. She therefore withdrew SPIRE's representation.

During questions, Mr. Spiegler emphasised the exceptions in the policy were possible exceptions and the policy allowed for others. On a busy day there might be around 200 people. With respect to a pre-booked event, this would be subject to a fire risk assessment and would be private. These would be occasional.

In addition, Mr. Spiegler emphasised the various conditions that could not allow the Premises to turn into a bar or some other type of more problematic venue. The operating schedule had focused on the CIZ.

There was discussion around vertical drinking and the possibility of patrons being able to leave with drinks. Mr. Spiegler explained that the ground floor was always manned and patrons would be unable to leave with drinks. With respect to smokers, whilst Mr. Spiegler asked that the number remain at twenty, he accepted that this was something that could be amended if the Sub-Committee saw fit to do so.

Mr. Spiegler also confirmed that the shading on the alcohol storage area was incorrect and that his client could submit an amended plan if required.

This application engages the licensing objective of the prevention of public nuisance. The Premises are within a CIZ and therefore it falls to the applicant to rebut the presumption in favour of refusal.

The Sub-Committee noted that the possible exceptions stated within the policy are non-exhaustive. The capacity was noted and the Sub-Committee accepted Ms. Holland's concerns in that regard. However, the venue would not be alcohol-led, would have a substantial food offering, and that vertical drinking would be very limited.

The operating schedule and the agreed conditions had clearly had the CIZ in mind. The Sub-Committee accepted that the possibility of noise breakout from the Premises was minimal, given its former use as a gym. In addition, the conditions meant that the nature of the venue could not change without a variation of the licence being sought.

The Sub-Committee noted Ms. Holland's concerns about the condition agreed with SPIRE which potentially makes the licence personal to the applicant. Whilst that would ultimately be a matter for a court to determine, the condition had been agreed between the parties and would remain on the licence. It also demonstrated to the Sub-Committee the applicant's willingness to work with residents and the community.

The Sub-Committee noted the lack of representations from the police or other residents although this is merely neutral at best. However, the Sub-Committee did give weight to the fact that SPIRE had withdrawn its representation. Given the number of residents that they represent, this was a relevant factor in the assessment of whether or not the Premises would be likely to add to the problems within the CIZ.

The Sub-Committee accepted also that the nearest noise-sensitive premises are the student accommodation next door, with its own bar, which again potentially mitigated against the impact.

The Sub-Committee was concerned about the potential impact of as many as twenty people smoking or making calls outside after 21:00 hours and possibly as late as midnight on a Friday or Saturday. The Sub-Committee considered that after 21:00 hours, an appropriate maximum number for the external area (which the Sub-Committee was told was shared with the student accommodation) was 10 persons.

With respect to the alcohol storage area, which is incorrectly shaded on the plan, the Sub-Committee considered that this could be addressed by way of an amendment to the condition to make clear that alcohol shall not be provided to patrons within the alcohol storage area.

Accordingly, the Sub Committee unanimously;

RESOLVED

That the application for a new premises licence for Boulebar, 7 Frying Pan Alley, London, E1 7HS be **GRANTED subject to the following conditions:**

Sale by retail of alcohol

Monday to Thursday	10:00 hours to 23:30 hours
Friday and Saturday	10:00 hours to 00:00 hours
Sunday	10:00 hours to 22:30 hours

Hours the premises are open to the public

Monday to Thursday	10:00 hours to 00:00 hours
Friday and Saturday	10:00 hours to 00:30 hours
Sunday	10:00 hours to 23:00 hours

Conditions

1. The provision of licensable activities at the premises shall remain ancillary to the use of the premises as a restaurant and pétanque/boules and/or competitive socialising venue.
2. Except for the areas shaded on the licence plan, the supply of alcohol shall be by waiter or waitress service only. Patrons shall not be supplied with or permitted to consume alcohol within the shaded area marked "alcohol storage area."
3. The sale of alcohol for consumption off the premises shall only be to persons using the designated external seating until 21:00 hours. There shall be no supply of alcohol for consumption off the premises after 21:00 hours or for consumption beyond the designated external seating area at any time.
4. Food and suitable beverages other than alcohol, including drinking water, shall be available during the whole of the permitted hours in all parts of the premises where alcohol is sold or supplied.

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 (or immediately contactable) 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,
 - g) Any refusal of the sale of alcohol;
 - h) Any visit by a relevant authority or emergency service.
8. No noise shall emanate from the premises nor vibration be transmitted through the structure of the premises which gives rise to a nuisance.
9. Loudspeakers shall not be located in the entrance and exit of the premises or outside the building.
10. All windows and external doors shall be kept closed after 21:00 hours, or at any time when regulated entertainment takes place, except for the immediate access and egress of persons.
11. A direct telephone number for the manager at the premises shall be publicly available at all times the premises is open. This telephone number and/or is to be made available to residents and businesses in the vicinity.
12. Patrons permitted to temporarily leave and then re-enter the premises, e.g. to smoke or make a phone call, shall not be permitted to take glass containers with them.

13. No fumes, steam or odours shall be emitted from the licensed premises so as to cause a nuisance to any persons living or carrying on business in the area where the premises are situated.
14. Patrons permitted to temporarily leave and then re-enter the premises, e.g. to smoke, shall be limited to 20 persons at any one time. After 21:00 hours, the maximum permitted number shall be 10 persons at any one time.
15. Notices shall be prominently displayed at all exits requesting patrons to respect the needs of local residents and businesses and leave the area quietly.
16. 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.
17. 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 shall be available for inspection at the premises by the police or an authorised officer at all times whilst the premises is open.
18. Licensable activities may only be provided under this premises licence at such times that Boulebar UK Ltd. or a group company related to Boulebar UK Ltd. is the premises licence holder.

3.2 Application for a New Premise Licence for House of Music & Entertainment, 20 Commercial Street, London, E1 6LP

The Sub-Committee considered an application by House of Music & Entertainment Ltd. for a new premises licence to be held in respect of House of Music & Entertainment, 20 Commercial Street, London, E1 6LP ("the Premises"). The application sought the sale by retail of alcohol for consumption on the Premises from 10:00 hours to 23:00 hours Monday to Saturday and from 10:00 hours to 22:00 hours on Sundays. The opening times were proposed to be 07:00 to 23:30 Monday to Saturday and 07:00 hours to 22:30 hours on Sundays.

The application attracted representations against it from the Licensing Authority and the Environmental Health Service. These representations were based on the fact that the Premises were located in the Brick Lane Cumulative Impact Zone (CIZ) and the risk of the Premises adding to the problems in the CIZ. The representations suggested that the applicant had failed to provide evidence that rebutted the presumption of refusal.

The Sub-Committee heard from Mr. Gibson on behalf of the applicant. He said the application could be treated as an exception to the CIZ. There would

be no admittance to the general public. It would be for members only or, if hired out, for pre-booked event guests only.

He stated that the licence would be active only when events took place. There was a double entry door and people needed a key fob for entry. Alcohol would be ancillary to an event and regulated entertainment had not been applied for. Only acoustic music would be played and he therefore submitted that these sufficed to rebut the presumption against refusal.

With respect to the objection from the Environmental Health Service, Mr. Gibson stated that there would be no amplified music and acoustic music would only be performed if part of an event. Only five persons would be permitted to leave to smoke at any one time. The type of events proposed were creative, industry-focused networking events. The maximum capacity would be 100 persons.

Ibrahim Hussain addressed the Sub-Committee on behalf of the Licensing Authority. They objected on the basis that the applicant had not rebutted the presumption against grant and they had concerns over the capacity. Conditions had been proposed, in the event the Sub-Committee was minded to grant, some of which had been agreed by the applicant.

Mr. Olere addressed the Sub-Committee on behalf of the Environmental Health Service. Their representation too was concerned with the policy and the potential impact of another licensed premises on the area, including footfall as people leave.

During questions from member, the applicant confirmed that the retail spaces were not included within the area in which licensable activity could take place. The applicant explained that their members were people who contracted to use the Premises as a pop-up office space and could hire it as part of their membership. The events would be run by the Premises and staffed by them. Mr. Gibson clarified that the business was mainly office use by day and examples of the types of events proposed were included in the supplemental reports pack and would include training or networking events.

Mr. Gibson and his client, Mr. Allen, clarified the name of the Premises and that their client base was people working in the independent music industry. Further, the name of the Premises could be abbreviated to HOME, which explained the ethos behind the business.

Mr. Olere confirmed to members that the conditions proposed did not indicate that thought had been given to the CIZ. For example, the conditions referring to public nuisance seemed to be concerned with smoking.

The Legal Adviser asked further questions for clarification, namely with respect to the number of events they anticipate to hold each week and the proposed hours, given that the application, if granted, would allow the sale of alcohol every day. Ms. Freeman suggested that they expected one or two events and suggested that the Sub-Committee could limit this to four per week. Similarly, it was unclear why the sale of alcohol had been proposed from

10:00 hours if the main use during the day was as office space. Mr. Freeman stated that they did not particularly need the sale of alcohol during the day and that it was mostly from the afternoon onwards that it would be more beneficial.

This application engages the licensing objective of the prevention of public nuisance. The Premises' location within a CIZ requires the applicant to rebut the presumption against grant (paragraph 7 of the CIZ policy statement). The Policy sets out possible exceptions to the CIZ. These include small premises (less than fifty persons) operating within framework hours, for consumption on the premises only and with arrangements to prevent vertical drinking, or applications for licences that are not alcohol led. The possible exceptions are non-exhaustive and the mere fact that an applicant falls within them does not guarantee that an application will be granted. The fact that premises may be well run, for example, is not a possible exception since this is the standard expected of all licensed premises.

The Premises do not fall into a stated exception, given the capacity of up to 100 persons. The Sub-Committee noted that the applicant did not appear to have given any real thought to the CIZ in its operating schedule. The conditions proposed were entirely generic and did not appear to take the CIZ into account in any way. Whilst it was said that the Premises would not be alcohol-led, the Sub-Committee was of the view that it would be; the applicant did not intend to have any licensed events during the day, when the main business operation of use as office space would take place. The intention was to mainly use the licence after working hours, for networking events and similar, where drinking and conversation would be the inevitable focus.

The sale of alcohol and its consumption would not be ancillary to any other activity. Further, the Sub-Committee understood this to mean that vertical drinking was likely, if not inevitable. This was accepted by the applicant's agent in his response to the responsible authorities at page 19 of the supplemental agenda pack. Adding music to the mix, albeit acoustic (and thus not regulated) was more likely to lead to increased drinking and intoxication. This led to a greater risk of people leaving the venue at the end of an evening, potentially intoxicated, and adding to the impact within the CIZ, whether as a result of causing noise disturbance or anti-social behaviour or remaining within the area.

The Sub-Committee was also not satisfied that the applicant had demonstrated that they properly understood the CIZ or the challenges of operating within one. That went to the faith that the Sub-Committee could have in the applicant being able to properly promote the licensing objectives within the CIZ.

Mr. Gibson pointed to the lack of representations from residents. That did not add weight to rebutting the presumption; it could be no more than a neutral point.

The Sub-Committee noted the suggestion that the Premises would not operate as a bar and would not utilise the licence on a daily basis. However, this only came about during questions from our legal adviser, which then

begged the question of why they had applied for a licence which, if granted, would allow them to operate every day. Further, when asked about this and having said the number of likely events would be one or two per week, the applicant suggested that if the Sub-Committee was minded to grant it would be content with four such events per week, which suggested it might wish to run events as frequently as possible.

The Sub-Committee was given information about membership of the Premises. However, this seemed to be relevant more to the office use than to the use for events, which could certainly be hired out to external parties (see page 17 of the supplemental agenda pack). The Sub-Committee accepted that there would be a guest list and that people would be unable to simply walk in and buy alcohol but that was not, in Members' view, sufficient to rebut the presumption. Further, paragraph 11.4 of the Policy reinforces that a strong view will be taken of applications where the intended use has a higher likelihood of causing public nuisance. This is particularly so where the application is for premises within a CIZ. The Sub-Committee understood there to be residential premises in close proximity to the venue.

The Sub-Committee noted the conditions proposed by the responsible authorities that had been agreed by the applicant as well as those which had not, including one requiring alcohol to be served with a table meal. It accepted that such a condition would be inappropriate. However, those which had been agreed were not sufficient to justify treating this application as an exception. The fact that some could not be agreed, such as the condition restricting vertical drinking, reinforced to the Sub-Committee that the main focus would be on alcohol consumption. Even if not operating as a bar, which would reduce that potential impact, the fact remained that the application was for a venue that was focused on alcohol and music.

Having had regard to the application and the representations, the Sub-Committee was not persuaded that the applicant had rebutted the presumption against granting this application, for the reasons set out above. The application is therefore refused.

Accordingly, the Sub Committee unanimously;

RESOLVED

That the application for a new premises licence for House of Music & Entertainment, 20 Commercial Street, London, E1 6LP be **REFUSED**.

3.3 Application for a Variation of a Premises Licence for (Gopuff), 89 Hemming Street, London, E11 5BW

This item was adjourned and will be considered at the Licensing Sub Committee meeting on 24th September 2024.

4. EXTENSION OF DECISION DEADLINE: LICENSING ACT 2003

There were no decision deadlines to extend.

The meeting ended at 5.00 p.m.

Chair, Councillor Suluk Ahmed
Licensing Sub Committee