



Meeting of the

# LICENSING SUB COMMITTEE

---

Thursday, 10 July 2008 at 6.30 p.m.

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## A G E N D A

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### VENUE

**M72, Town Hall, Mulberry Place, 5 Clove Crescent, London, E14 2BG**

<b>Members:</b>	<b>Ward Represented</b>
<b>Chair: Councillor Bill Turner</b>	Mile End & Globe Town;
<b>Councillor Fazlul Haque</b>	Weavers;
<b>Councillor Motin Uz-Zaman</b>	Mile End East;

If you require any further information relating to this meeting, would like to request a large print, Braille or audio version of this document, or would like to discuss access arrangements or any other special requirements, please contact:

Paul Ward, Democratic Services,

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# LONDON BOROUGH OF TOWER HAMLETS

## LICENSING SUB COMMITTEE

Thursday, 10 July 2008

6.30 p.m.

### 1. APOLOGIES FOR ABSENCE

To receive any apologies for absence.

### 2. DECLARATIONS OF INTEREST (Pages 1 - 2)

To note any declarations of interest made by Members, including those restricting Members from voting on the questions detailed in Section 106 of the Local Government Finance Act, 1992. See attached note from the Chief Executive.

	<b>PAGE NUMBER</b>	<b>WARD(S) AFFECTED</b>
<b>3. RULES OF PROCEDURE</b>	<b>3 - 14</b>	
To note the rules of procedure which are attached for information.		
<b>4. UNRESTRICTED MINUTES</b>	<b>15 - 32</b>	
To confirm as a correct record of the proceedings the unrestricted minutes of the Licensing Sub-Committee held on 24 <sup>th</sup> April and 7 <sup>th</sup> May 2008.		
<b>5. ITEMS FOR CONSIDERATION</b>		
<b>5 .1 Papadoms, 94 Brick Lane, London, E1 6RL</b>	<b>33 - 40</b>	<b>Spitalfields &amp; Banglatown;</b>
<b>5 .2 Off Licence, 41 Brick Lane, London E1 6PU</b>	<b>41 - 48</b>	<b>Spitalfields &amp; Banglatown;</b>

# Agenda Item 2

## DECLARATIONS OF INTERESTS - NOTE FROM THE CHIEF EXECUTIVE

This note is guidance only. Members should consult the Council's Code of Conduct for further details. Note: Only Members can decide if they have an interest therefore they must make their own decision. If in doubt as to the nature of an interest it is advisable to seek advice **prior** to attending at a meeting.

### Declaration of interests for Members

Where Members have a personal interest in any business of the authority as described in paragraph 4 of the Council's Code of Conduct (contained in part 5 of the Council's Constitution) then s/he must disclose this personal interest as in accordance with paragraph 5 of the Code. Members must disclose the existence and nature of the interest at the start of the meeting and certainly no later than the commencement of the item or where the interest becomes apparent.

You have a **personal interest** in any business of your authority where it relates to or is likely to affect:

- (a) An interest that you must **register**
- (b) An interest that is not on the register, but where the well-being or financial position of you, members of your family, or people with whom you have a close association, is likely to be affected by the business of your authority more than it would affect the majority of inhabitants of the ward affected by the decision.

Where a personal interest is declared a Member may stay and take part in the debate and decision on that item.

**What constitutes a prejudicial interest?** - Please refer to paragraph 6 of the adopted Code of Conduct.

**Your personal interest will also be a prejudicial interest in a matter if (a), (b) and either (c) or (d) below apply:-**

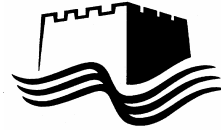
- (a) A member of the public, who knows the relevant facts, would reasonably think that your personal interests are so significant that it is likely to prejudice your judgment of the public interests; AND
- (b) The matter does not fall within one of the exempt categories of decision listed in paragraph 6.2 of the Code; AND EITHER
- (c) The matter affects your financial position or the financial interest of a body with which you are associated; or
- (d) The matter relates to the determination of a licensing or regulatory application

The key points to remember if you have a prejudicial interest in a matter being discussed at a meeting:-

- i. You must declare that you have a prejudicial interest, and the nature of that interest, as soon as that interest becomes apparent to you; and
- ii. You must leave the room for the duration of consideration and decision on the item and not seek to influence the debate or decision unless (iv) below applies; and

- iii. You must not seek to improperly influence a decision in which you have a prejudicial interest.
- iv. If Members of the public are allowed to speak or make representations at the meeting, give evidence or answer questions about the matter, by statutory right or otherwise (e.g. planning or licensing committees), you can declare your prejudicial interest but make representations. However, you must immediately leave the room once you have finished your representations and answered questions (if any). You cannot remain in the meeting or in the public gallery during the debate or decision on the matter.

**TOWER HAMLETS**



**LICENSING COMMITTEE**

**RULES OF PROCEDURE  
GOVERNING APPLICATIONS FOR  
PREMISES LICENCES  
AND OTHER PERMISSIONS  
UNDER THE LICENSING ACT 2003**

## **1. Interpretation**

- 1.1 These Procedures describe the way in which hearings will be conducted under the Licensing Act 2003, as set out in the Licensing Act 2003 (Hearings) Regulations 2005 (as amended). The Procedures take into account the Licensing Act (Premises Licences and Club Premises Certificates) Regulations 2005. The Procedures also include the time limits within which a hearing must commence (see Appendix A) and will be used by the Licensing Committee and Licensing Sub-Committee when conducting hearings.
- 1.2 The Hearings Regulations provide (Regulation 21) that a Licensing Authority shall, subject to the provisions of those Regulations, determine for itself the procedure to be followed at a hearing.
- 1.3 These Procedures, therefore, set out the way in which Licensing Sub-Committee Meetings will be conducted under the Licensing Act 2003, following the requirements of the Hearings Regulations. Wherever appropriate they have included the procedures followed successfully when determining licence applications under previous legislation.
- 1.4 Proceedings will not be rendered void only as the result of failure to comply with any provision of the Hearings Regulations (Regulation 31).

## **2. Composition of Sub-Committee**

- 2.1 The Sub-Committee will consist of no less than three members and no business shall be transacted unless at least three members of the Licensing Committee are present and able to form a properly constituted Licensing Sub-Committee. In such cases the Chair shall have a second or casting vote. The Councillor for the ward in which the applicant's premises are situated, or where either the applicant or the objector resides, shall not normally form part of the Sub-Committee for that item on the agenda.

## **3. Timescales**

- 3.1 Most hearings must take place within 20 working days from the last date for representations to be made with the following exceptions:

Within 10 working days from the last date for the police to object to:

- conversion of an existing licence;
  - conversion of an existing club certificate;
  - an application for a personal licence by an existing justices licence holder;
- and

Within 10 working days from the date the Licensing Authority receives the notice for a review of the premises licence following a closure order.

Within 7 working days from the last date for the police to object to:

- a temporary event notice.

Within 5 working days from the last date for the police to object to:

- an interim authority notice (Note: the police must give notice of their objection within 48 hours of being given a copy of the notice).

**Note:** Where a hearing is likely to take longer than one day, the Authority must arrange for the hearing to take place on consecutive days.

### 3.2 **Timescale for notice of hearings to be given**

In most cases, the Authority shall give notice of a hearing no later than 10 working days before the first day on which the hearing is to be held. The following are exceptions to that rule:

At least five working days notice must be given to the parties of the date of a hearing for determination of:

- conversion of an existing licence
- conversion of an existing club certificate
- application for a personal licence by the holder of a justices licence
- review of a premises licence following a closure order

At least two days notice must be given to the parties to a hearing for determination of:

- police objection to an interim authority notice
- police objection to a temporary event notice

### 3.3 **Persons who must be notified of a hearing**

The persons who must be notified of a hearing are set out below as a summary:

- any applicant for any licence or certificate or a temporary event notice.
- any person who has made relevant representations about an application for a licence or for review of a licence (note for any representations deemed frivolous, vexatious or repetitious under Section 18(7)(c) or similar sections of the Licensing Act 2003 the objector must be notified of the Authority's decision as soon as possible and in any event before any hearing).
- Any police officer who has given notice of objection to:
  - a person specified as a Designated Premises Supervisor
  - an interim authority

- transfer of a premises licence
  - a temporary event notice
  - a personal licence
- Any holder of a premises licence or club premises certificate where:
- application is made for review

**Note:** Anyone given notice of a hearing is a party and that is how that expression is used in these Rules of Procedure.

### **3.4 Information to be provided in a notice of hearing**

The information that must be included in a notice of hearing includes:

- The procedure to be followed at the hearing;
- The right of the party to attend and to be assisted or represented by any person whether legally qualified or not;
- The ability to give further information in support of their application where the Authority has sought clarification;
- The right to question any other party if given permission by the Authority;
- The right to address the Authority;
- Notice of any particular points on which the Authority will want clarification at the hearing;
- The consequences if a party does not attend or is not represented at the hearing;
- For certain hearings particular documents must accompany the notice which is sent to parties informing them of the hearing. Reference must be made to Schedule 3 of the Hearings Regulations for this purpose.

### **3.5 Failure of Parties to Attend the Hearing**

If a party has informed the Authority that they will not be attending or be represented at the hearing, it may proceed in their absence.

If a party does not give notice that they will not be attending but fails to attend and is not represented, the Authority may either:

- a) adjourn the hearing if it considers it to be necessary in the public interest or
- b) hold the hearing in the party's absence

If the Authority holds the hearing in the absence of a party, it will consider at the hearing the application, representation or notice given by the party.

If the Authority adjourns the hearing to a specified date it must forthwith the parties of the date, time and place to which the hearing has been adjourned.



**Note:** Transition hearings cannot be adjourned to a date beyond the date that which causes an application to be deemed as determined by default.

#### **4. Procedure at the Hearing**

4.1 The usual order of proceedings will be as set out below. The Sub-Committee will allow the parties an equal maximum time period in which to give further information in support of their application, representation or response. Where the Authority has given notice that it will seek clarification on that point at the hearing or where permission has been given to call any further persons to give supporting evidence, the Sub-Committee may allow the parties to question any other party and to address the Licensing Sub-Committee. The Sub-Committee will seek, in all cases, to avoid repetition of points (whether included in written material or otherwise), irrelevancy, or any abuse of the procedure.

At the beginning of the hearing the procedure to be followed will be explained to the parties. The hearing will, so far as is possible, take the form of a discussion, led by the Sub-Committee. Cross-examination will not be permitted unless the Sub-Committee considers it necessary.

- i) The Chair will begin by explaining how the proceedings will be conducted, and indicate any time limits that may apply to the parties to the application.
- ii) The report will be briefly introduced by an Officer of the Licensing Section summarising the application.
- iii) The Sub-Committee will then consider any requests by a party for any other person to be heard at the hearing in accordance with the Regulations. Permission will not be unreasonably withheld provided proper notice has been given.
- iv) A summary of the nature and extent of the application by the applicant or their representative. This should be brief, avoid repetition of material already available to the Committee in the Officer's report or otherwise, and include any reasons why an exception should be made to the Council's Licensing Policy, where appropriate. The submission may be followed by the evidence of any person who has been given permission by the Committee to give supporting evidence on behalf of the applicant.
- v) A summary of the reasons for making representations about the application by any interested party. This should be brief and avoid any repetition of information already made available to the Committee either in the Officer's report or otherwise. That will be followed by the evidence of any person who has been given permission by the Panel to give supporting evidence on behalf of the objectors.
- vi) A summary of the reasons for making representations by or on behalf of any Responsible Authority. This should be brief and avoid any repetition of information already made available to the Licensing Sub-Committee

either in the Officer's report or otherwise. That will be followed by the evidence of any person who has been given permission by the Panel to give supporting evidence on behalf of the Responsible Authority.

- vii) Members of the Sub-Committee may ask any questions of any party or other person appearing at the hearing.

4.2 The following requirements of the Hearing Regulations will also be followed by the Licensing Sub-Committee:

- a) The Sub-Committee will be guided by legal principles in determining whether evidence is relevant and fairly admissible. In particular, hearsay evidence may be admitted before the Sub-Committee but consideration will always be given to the degree of weight, if any, to be attached to such evidence in all the relevant circumstances.
- b) The Sub-Committee may impose a time limit on the oral representations to be made by any party. In considering whether to do so, and in considering the length of any such time limit, the Sub-Committee will take into account the importance of ensuring that all parties receive a fair hearing, and the importance of ensuring that all applications are determined expeditiously and without undue delay.
- c) In considering the time limits referred to in (b) above, regard must be had to the requirement to allow each party an equal amount of time.

4.3 When considering any representations or notice made by a party, the Authority may take into account documentary or other information produced by a party in support of their application, representation or notice, either:

- a) before the hearing, or
- b) with the consent of all other parties, by the Sub-Committee at the hearing

The Authority will disregard any information given by a party, or any other person appearing at the hearing, which is not relevant to:

- a) their application, representation or notice; and
- b) the promotion of the licensing objectives or the crime prevention objective where notice has been given by the police.

4.4 All hearings shall take place in public save that:

- a) The Licensing Sub-Committee may exclude the public from all or part of a hearing where it considers that, on balance, it is in the public interest to do so.
- b) The parties and any person representing them may be excluded in the same way as another member of the public

c) The Licensing Sub-Committee may require any person attending the hearing who in their opinion is behaving in a disruptive manner to leave the hearing and may:

- refuse to permit the person to return; or
- allow them to return only on such conditions as the authority may specify.

4.5 Any person so excluded may, before the end of the hearing, submit to the Authority in writing, any information which, they would have been entitled to give orally had they not been required to leave. Where there are a number of items on the agenda, the adjournment of that item for a short period, whilst another item is heard, may allow this process to be carried out effectively.

## **5. Determination of Application – Time Limits**

5.1 The Licensing Sub-Committee must make its determination at the conclusion of the hearing where the application is for:

- a) Conversion or variation of an existing licence during transition
- b) Conversion or variation of an existing club certificate during transition
- c) A review of a premises licence following a closure order
- d) A personal licence by the holder of a justices licence
- e) A counter notice following police objection to a temporary event notice

5.2 In any other case the Authority must make its determination within the period of five working days, beginning with the day, or the last day, on which the hearing was held.

5.3 Where a hearing has been dispensed with because all of the parties have agreed that a hearing is unnecessary (and the Authority has agreed, giving notice to the parties in writing), then the Authority must make its determination within 10 working days beginning with the day the authority gives such notices to the parties. The Team Leader (Licensing) shall be authorised to make the determination on behalf of the Authority.

## **6. Record of Proceedings**

6.1 The Authority must arrange for a record to be taken of the hearing in a permanent and intelligible form and for that record to be kept for six years from the date of determination. Where an appeal is brought against a determination by the Authority, the record must be kept for six years from the date of disposal of the appeal.

## **7. Irregularities**

7.1 Proceedings will not be rendered void only as the result of failure to comply with any provision of the Hearings Regulations

7.2 Clerical mistakes in any document recording a determination of the Authority, or errors arising in such a document as the result of an accidental slip or omission, may be corrected by the Authority.

## **8. Notices**

8.1 In accordance with the Regulations, any notices must be given in writing. Such a notice may be sent electronically, providing:

- a) it can be accessed by the recipient in a legible form;
- b) it is capable of being reproduced as a document for future reference;
- c) the recipient has agreed in advance to receive it in such form;
- d) a copy is sent in documentary form forthwith to the recipient.

## **9. Appeals**

9.1 Either those who have made an application or those who have made representations on an application may appeal to the Magistrates Court.

**Note:** An appeal must be commenced within twenty one days beginning with the day on which the appellant was notified by the Licensing Authority of their decision.

## APPENDIX A

Application Type	Period of Time within which Hearing to be Held (after reps have closed)	Notice Period of Hearing	Notice Sent To	Attendee Reply Form Back In
Section 18 (3)(a) (determination of application for premises licence)	20 working days	10 working days	Applicant; People who have made representations	5 working days
Section 35(3)(a) (determination of application to vary premises licence).	20 working days	10 working days	Applicant; People who have made representations	5 working days
Section 39(3)(a) (determination of application to vary premises licence to specify individual as premises supervisor).	20 working days	10 working days	Applicant (premises holder); Chief Officer of Police who has given notice; The proposed premises supervisor	5 working days
Section 44(5)(a) (determination of application for transfer of premises licence).	20 working days	10 working days	Applicant; Chief Officer of Police who has given Notice; The present holder of the premises licence	5 working days
Section 52(2) (determination of application for review of premises licence).	20 working days	10 working days	The holder of the premises licence of where application applies; People who have made representations; Applicant	5 working days
Section 120(7)(a) (determination of application for grant of personal licence).	20 working days	10 working days	Applicant; Chief Officer of Police who has given Notice	5 working days
Section 121(6)(a) (determination of application for the renewal of personal licence).	20 working days	10 working days	Applicant; Chief Officer of Police who has given Notice	5 working days
Section 124(4)(a) (convictions coming to light after grant or renewal of personal licence).	20 working days	10 working days	The holder of the licence; Chief Officer of Police who has given Notice	5 working days
Paragraph 26(3)(a) of Schedule 8 (determination of application by holder of a justices' licence for	10 working days	5 working days	Applicant; Chief Officer of Police who has given Notice	2 working days

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grant of personal licence).				
Section 31(3)(a) (determination of application for a provisional statement).	20 working days	10 working days	Applicant; People who have made representations	5 working days
Section 48(3)(a) (cancellation of interim authority notice following police objection).	5 working days	2 working days	The person who has given Notice; Chief Officer of Police who has given Notice	1 working day
Section 72(3)(a) (determination of application for club premises certificate).	20 working days	10 working days	Applicant (club); People who have made representations	5 working days
Section 85(3) (determination of application to vary club premises certificate).	20 working days	10 working days	Applicant (club); People who have made representations	5 working days
Section 88(2) (determination of application for review of club premises certificate).	20 working days	10 working days	Club that holds club premises certificate; People who have made representations; Applicant	5 working days
Section 105(2)(a) (counter notice following police objection to temporary event notice)	7 working days	2 working days	The premises user; Chief Officer who has given Notice	1 working day
Section 167(5)(a) (review of premises licence following closure order).	10 working days	5 working days	The holder of the premises licence; People who have made representations	2 working days
Paragraph 4(3)(a) of Schedule 8 (determination of application for conversion of existing licence).	10 working days	5 working days	Applicant; Chief Officer of Police who has given Notice	2 working days
Paragraph 16(3)(a) of Schedule 8 (determination of application for conversion of existing club certificate).	10 working days	5 working days	Applicant (club)  Chief Officer who has given Notice	2 working days

## APPENDIX B

### Regulation 8

<b>Action Following receipt of notice of hearing</b>	
<b>1.</b>	A party shall give to the authority within the period of time provided for in the following provisions of this regulation a notice stating:
(a)	whether he intends to attend or be represented at the hearing;
(b)	whether he considers a hearing to be unnecessary.
<b>2.</b>	In a case where a party wishes any other person (other than the person he intends to represent him at the hearing) to appear at the hearing, the notice referred to in paragraph (1) shall contain a request for permission for such other person to appear at the hearing accompanied by details of the name of that person and a brief description of the point or points on which that person may be able to assist the authority in relation to the application, representations or notice of the party making the request.
<b>3.</b>	In the case of a hearing under:
(a)	section 48(3)(a) (cancellation of interim authority notice following police objection), or
(b)	section 105(2)(a) (counter notice following police objection to temporary event notice),
	the party shall give the notice no later than one working day before the day or the first day on which the hearing is to be held.
<b>4.</b>	In the case of a hearing under:
(a)	section 167(5)(a) (review of premises licence following closure order),
(b)	paragraph 4(3)(a) of Schedule 8 (determination of application for conversion of existing licence),
(c)	paragraph 16(3)(a) of Schedule 8 (determination of application for conversion of existing club certificate), or
(d)	paragraph 26(3)(a) of Schedule 8 (determination of application by holder of justices' licence for grant of personal licence),
	the party shall give the notice no later than two working days before the day or the first day on which the hearing is to be held.
<b>5.</b>	In any other case, the party shall give the notice no later than five working days before the day or the first day on which the hearing is to be held.

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**LONDON BOROUGH OF TOWER HAMLETS**

**MINUTES OF THE LICENSING SUB COMMITTEE**

**HELD AT 6.35 P.M. ON THURSDAY, 24 APRIL 2008**

**ROOM C1, 1ST FLOOR, TOWN HALL, MULBERRY PLACE, 5 CLOVE  
CRESCENT, LONDON, E14 2BG**

**Members Present:**

Councillor Carli Harper-Penman (Chair)  
Councillor Azizur Rahman Khan  
Councillor M. Mamun Rashid

**Other Councillors Present:**

Councillor Phil Briscoe  
Councillor Shirley Houghton

**Officers Present:**

Emyr Thomas	- Sharpe Pritchard Solicitors (for LBTH)
Mohshin Ali	- (Licensing Officer)
John Cruse	- (Team Leader, Licensing)
Alan Ingram	- (Democratic Services)
Paul Ward	- (Democratic Services)

**Applicants In Attendance:**

Mike Costain  
Kevin Doherty

**Objectors In Attendance:**

Steve Alderton  
P Beresford  
Ishila Bhattacharya  
Albert Blackall  
Mr C Damiani  
Mrs C Damiani  
Julie East  
Mark Hart  
Paul Juch  
Lorraine Kavanagh  
Doris Landerkin  
George Landerkin  
Grace Lay  
Indraneel Majumdar  
Catherine Palmer  
Amanda Smith

Brian Smith  
Margaret Stevens  
Pat Ward  
Roy Williams  
Doreen Wootton  
Ernest Wootton

**Members of the Public In Attendance:**

None

On opening the meeting, the Chair arranged for introductions of those present and apologised for the fact that meetings of the Licensing Sub-Committee to consider the current application had twice been adjourned.

**1. APOLOGIES FOR ABSENCE**

None.

**2. DECLARATIONS OF INTEREST**

None.

**3. RULES OF PROCEDURE**

The Rules of Procedure were noted.

**4. UNRESTRICTED MINUTES**

None.

**5. ITEMS FOR CONSIDERATION****5.1 Application for a Club Premises Certificate: Millwall RFC, Arch 3, Beside Island Gardens DLR Station, Manchester Road, Poplar, London E14 3ND (LSC039/708)**

The Chair asked if any of the residents present were in support of the application: there were no supporters. She then explained the procedure to be adopted for the meeting and stressed that none of the parties would be permitted cross-examination.

At the request of the Chair, Mr John Cruse, Team Leader, Licensing, introduced the report and indicated that additional documents comprising appendices 45 and 46 had been circulated. He commented that not all copies of the agenda contained full copies of photographs from the Millwall RFC website, as these were not appropriate for public circulation. He added that clubs were not required to have a Designated Premises Supervisor and explained the basis upon which alcohol was supplied to club members.

The days and hours sought for the supply of alcohol on behalf of the club to, or to the order of, a member of the club and the sale by retail of alcohol by or on behalf of the club to a guest of a member of the club for consumption on the premises where the sale took place were:

- Monday to Saturday from 11.00 hours to 23.00 hours
- Sunday from 11.00 hours to 23.30 hours.

Hours sought for provision of regulated entertainment (recorded music) were:

- Monday to Friday from 19.00 hours to 22.30 hours
- Saturday from 15.00 hours to 22.30 hours
- Sunday from 13.00 hours to 21.30 hours

The hours the premises would be open to the public were Monday to Saturday from 11.00 hours to 23.00 hours and Sunday from 11.00 hours to 22.30 hours.

Mr Cruse further commented that the times for the supply/sale of alcohol was the same as when the premises would be in use, which would present difficulties in ensuring that the licence conditions could be met.

Appropriate consultation had been carried out, with objections received from local residents covering allegations of anti-social behaviour on the premises; anti-social behaviour from patrons leaving the premises; noise while the premise was in use; access and egress problems; close proximity to residential properties; noise leakage from the premises; safety problems.

In response to the Chair, Emyr Thomas, Solicitor for the Council, indicated that he had no matters to raise at that point.

The Chair invited the applicants to put their case and Mr Kevin Doherty stated that he was aware the application was not welcomed but the hours requested in the application were to ensure that, if awarded the licence, no further application would be needed, as the current lease imposed restrictions on the hours for the sale of alcohol. He added that the club had been based on the Isle of Dogs since 1995 and most of its users were Isle of Dogs residents. He stressed that the premises was not a pub but a clubhouse and the application was to help support the primary goal of the club, namely, to enhance rugby football in the Borough.

In response to queries from the Chair, Mike Costain, Millwall RFC Development Officer, explained that the club's lease restricted the licensable activities times to much shorter hours than those being applied for. The Parks Department would have to approve any proposed extensions in hours. The current hours imposed by the lease were: Monday, Wednesday and Friday from 17.00 hours to 22.00 hours; Saturday from 11.00 hours to 20.00 hours; Sunday from 10.00 hours to 20.00 hours. Tuesday and Thursday were not included for the consumption of alcohol.

The Chair then invited representations from objectors.

Mr Indraneel Majumdar, a resident of Manchester Grove, stated that he had no objection to rugby as a sport but only to the contents of the application. Some Manchester Grove residents had lived there all their lives and would be affected in ways even the licence conditions could not resolve. The outcome of the licence, if granted, could impact not only residents but also users of the park and Docklands Light Railway.

The clubhouse wall comprised the boundary for some residential gardens and the planned fire exits for the club also led onto residential gardens. There was much concern about noise, although the club had sent out letters saying this would be kept to a minimum. However, if the licence were granted and guests could use the club, this would result in the presence of a significant number of people in a confined space that abutted residents' properties. Shutting windows might not be enough to address noise problems.

It was possible there would be other forms of pollution around the use of alcohol and proper toilet facilities would be required. It was understood that the club needed to raise funds but if this was to be achieved through the sale of alcohol there could be problems. There were also concerns about patrons' behaviour after leaving the club, which would have to be resolved by the Police.

In addition, smokers would have to go outside the club and this could also impact on disabled or elderly persons or other commuters using the park. There were obvious concerns for residents about parking problems, as controlled hours in Manchester Grove were 08.30 hours to 17.30 hours.

Mr Majumdar concluded that the objections to the application did not relate to any animosity against club members but reflected concerns that the licence conditions could not properly address problems to residents.

Pat Ward, General Secretary of the Dockland Settlements, stated that his organisation as a charity had a policy of no licensed bars in their centres. He also represented Millwall Park Users' Group and they agreed that the use of alcohol did not mix well with young people's activities. He was pleased that rugby took place in the park and welcomed the sporting element. He was not against any individuals or even the consumption of alcohol but the premises was in the wrong place, being only 30 feet from houses and much less from some patios. The location was also near an all-weather pitch used by children.

Rugby culture could have a darker side and this could spill outside of the clubhouse, as illustrated by some of the club's website entries. Members of the public should not be exposed to that, especially the young, whose safety was his organisation's main concern.

He added that drinking was part of rugby culture and residents would be subjected to an increasing level of nuisance as the number of drinkers would increase if the licence were granted.

Dr Ben Shankland, a Manchester Grove resident, stated that the area around the clubhouse was exclusively residential, with no commercial uses. The residents of Manchester Grove welcomed all new incumbents to the Isle of Dogs and were not simply opposed to change. However, there were major concerns to the residents as set out below.

- There would be direct impact on residents through noise from the club. Photographs showed the proximity of the premises to rear gardens and patios, sometimes not even six inches away and this would be more of a problem when summer came.
- Large numbers of people drinking and watching rugby in an enclosed space would also create noise and there tended to be echoes in the arches' environment. There was no noise assessment in the report and Environmental Health staff had not requested access to rear gardens to assess noise.
- There would be odours from the rooftop vents from the club's kitchen and toilet areas that would affect the rear of Manchester Grove, which was sheltered with still air. Residents felt real concern about this issue, together with the impact of people congregating on the fire escapes and smoking outside the club. There was other potential nuisance activity as the fire exit access was quite quiet and secluded, which could attract drug users.
- The requested hours were likely to cause light pollution for Manchester Grove as the clubhouse would be illuminated at night.
- It was felt that to increase licensing hours above the current lease would increase the commercial value of the club and the use of the facility for birthdays and other events would lead to more problems relating to drinkers. The requested hours did not seem to fit in with a lot of the stated objectives and it appeared little consideration had been given to the impact on local residents.
- The club management was made up of a semi-elected committee on a rolling basis. This could change in size and take more of a commercial direction over the years. The location of the club meant that conditions could not satisfy residents' concerns.

George Landerkin commented that he had been a Manchester Grove resident for 45 years and was particularly concerned about people urinating outside the club premises, near a children's park, due to inadequate toilet facilities.

Residents' queries were answered concerning window design and how disturbances could be managed. Mr Cruse gave a detailed response with regard to the supply and sale of alcohol, particularly around the point that there could be no casual sales to non-members walking in from the street.

Councillor Shirley Houghton, speaking for residents, commented that this was a particularly controversial application as it was so close to residential properties. She felt that the application was sparse and not properly thought through, being non-specific in terms of what the club hoped to achieve. At a meeting with the club, they had said that there would be no request for a music licence but this had not been the case and probably led to a lack of

trust by residents. Few letters of support for the club had been received. She further commented that the terms of Section 177 of the Licensing Act 2003 would apply to the premises and, if the licence were granted, there would be no further opportunity to set conditions relating to music, etc.

She expressed the view that conditions should be attached relating to: the provision of SIA regulated door staff on Friday and Saturday; doors and windows to be shut at all times; no drinking permitted outside; admissions to be 21 years plus only; CCTV to be provided with 30 day recording; sound proofing and sound limiter to be installed; a membership/signing-in book to be maintained.

Councillor Phil Briscoe, speaking for residents, stated that the licensing objectives relating to prevention of public nuisance and prevention of crime and disorder were likely to be under threat. There was the risk of noise from music and outside drinking, particularly due to the proximity of the arches to residents' gardens. He considered that the application should not be approved as it would have a massive impact on residents as the clubhouse was likely to attract activities and behaviour not suitable for a small residential estate. He added that the provisions of Section 177 were a real cause of concern in that there would be no comeback if the licence were granted and residents' lives would be blighted as they had a right to a peaceful life style.

The Chair made the point that the decision of the Licensing Sub-Committee was not necessarily binding as residents could have a licence reviewed later. The applicant could also appeal with regard to the hours requested, if these were not granted.

The Chair then invited Members to put questions to the applicants, who responded as follows:

- The maximum capacity of the clubhouse would be in the region of 140 – 142 persons, based on the formula used by the Fire Brigade, although that level of attendance would probably not occur often.
- Currently there was mixed adult training from 19.00 hours to 21.00 hours on Monday and the bar would be open after that. There was no training on Tuesday. The main men's training was on Wednesday, from 19.00 hours to 21.00 hours. Main women's training was on Thursday from 19.00 hours to 20.45 or 21.15 hours and the bar should be open then. There was no regular rugby activity on Friday but members might want to socialise in the club. Saturday was men's rugby, which was generally over by 17.00 hours but there was an obligation to entertain opposition teams with a plated meal and drinks. The opposition teams would usually be departing by 19.00 hours, with Millwall teams returning to the club by 19.00 or 20.00 hours. It was usual that some members would stay until 23.00 hours on Saturday. Sunday morning was for children and Sunday afternoon was the women's slot for playing that was usually finished by 17.00 hours. People tended not to stay late on Sunday because of work next day.

- No drinking at all would be permitted outside the club and this would be enforced by bar staff or regulated security. The DLR CCTV already covered the area around the arches, although consideration could be given to installing the club's own system.
- The area behind the arches was not part of the club's leased property. It was Council land and had been cleared by the Council for use as a fire escape route as the arches were now occupied and would also be used by the Dockland Settlements premises. Contractors were to install a gate to prevent access from outside but the club had no rights over the area. Only two windows faced the residents and these could be double or triple glazed as necessary and would be kept shut while the bar was in use. The vents on the roof were simply a relic of what had previously been there and were not an indication of where air from inside the club would be vented to – this could be towards the DLR.
- Despite the club having written to all objectors, only two residents had discussed the issues direct, so it had not been possible to put people's minds at ease.
- The club was not a business but a community sports club and if the application had not been prepared as professionally as possible, this reflected that fact. The initial use of the premises was likely to be small, as there was no pressure to generate a particular level of income.
- The Parks Department did not want the club to prevent other people from using the premises but the club would be happy to exclude access to the bar for outside users.
- The current lease of the building only permitted use of the bar until 22.00 hours, one hour after training sessions.
- There was no access to the rear of the premises except for fire exits, so smoking would not be allowed there: the smoking area would be on the road to the front of the clubhouse, which was owned by the DLR.
- The most people who had used the club on one occasion so far was 104, for a quiz afternoon. Membership and home details were on record and most members were from the Isle of Dogs, Poplar or the E14 postal district, although some did travel from further away.

The Chair then opened up questions to the resident objectors and asked if there were any circumstances they felt licenseable activities were acceptable and on what days. The consensus of the objectors was that no circumstances were acceptable.

In response to queries about the use of clubhouse toilets by children from the Dockland Settlements part of the arches, Mr Costain stated that there had been an agreement with the local Dockland Settlements manager that whoever secured the use of the larger two arches would provide toilets for the use of clients of the two smaller arches. The club had agreed to provide sealed doors at either access to the toilets, so that children would not have to walk through the bar area to reach them.

The meeting then adjourned at 8.00 p.m. and reconvened at 8.20 p.m., when the Chair indicated that Members had further questions for the applicants regarding the terms of their lease. The applicants replied that:

- The hours in the lease related to the consumption of alcohol and an attachment to the lease indicated that drinks could be provided if the licence were not granted.
- The lease stipulated club activities between 10.00 hours and 23.30 hours. However, a further side letter indicated that there could be 24 hour access for office work, cleaning, etc., but not for activities involving larger numbers of people.

The meeting further adjourned at 8.25 p.m. and reconvened at 8.48 p.m.

The Chair reported that having considered the report and the evidence and comments presented, the Sub Committee had **RESOLVED**

That the application for a Club Premises Certificate under the Licensing Act 2003, for Millwall RFC, Arch 3, Beside Island Gardens DLR Station, Manchester Road, London, E14 3ND be **GRANTED** for the following days and hours and subject to the following conditions:-

#### Supply of Alcohol

Monday to Friday 17.00 until 21.00 hours;  
Saturday 12.00 until 21.00 hours; and  
Sunday 12.00 until 20.00 hours

#### Regulated Entertainment (Recorded Music)

Monday to Friday 17.00 until 21.00 hours;  
Saturday 12.00 until 21.00 hours; and  
Sunday 12.00 until 20.00 hours

#### Hours Open to the Public

Monday to Saturday 11.00 until 23.00 hours; and  
Sunday 11.00 until 22.30 hours

#### CONDITIONS

- That there be CCTV inside the premise with footage kept for 30 days and made available to the Police upon request;
- That double glazing be installed throughout the entirety of the premise;
- That there be at least one SIA registered door staff present on Saturdays and Sundays from 19.00 hours;
- That there be no new admission to the premise after 21.00 hours Monday to Saturday and 20.00 hours Sunday;



- That there be no consumption of alcohol outside the premise at any time;
- That ashtrays or equivalent be supplied for patrons smoking outside the front of the premise and the contents disposed of accordingly;
- That there be no use of the fire exit except in the cases of emergency;
- That the certificate be surrendered immediately Millwall RFC vacate the premise; and
- That the certificate not be operable until all of the conditions have been met and works completed.

The Chair explained that the Sub-Committee would be exceeding its authority by rejecting the application outright but the conditions and significant reduction in the hours allowed would be beneficial to residents. She added that Mr Thomas would provide details of the procedure regarding appeals to the Magistrates' Court to anyone requiring the information.

The meeting ended at 8.56 p.m.

Chair, Councillor Carli Harper-Penman  
Licensing Sub Committee

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**LONDON BOROUGH OF TOWER HAMLETS**

**MINUTES OF THE LICENSING SUB COMMITTEE**

**HELD AT 7.00 P.M. ON WEDNESDAY, 7 MAY 2008**

**ROOM M71, 7TH FLOOR, TOWN HALL, MULBERRY PLACE, 5 CLOVE  
CRESCENT, LONDON, E14 2BG**

**Members Present:**

Councillor Shirley Houghton (Chair)  
Councillor Anwara Ali  
Councillor M. Shahid Ali

**Other Councillors Present:**

None.

**Officers Present:**

Jackie Randall	Principal Licensing Officer
Mohshin Ali	Licensing Officer
Paul Greeno	Councils Legal Advisor
Paul Ward	Clerk to the Committee

**Applicants In Attendance:**

Anthony Edwards	Solicitor, Laughing Buddha
Rob Miah	Applicant, Laughing Buddha
Daras Miah	Laughing Buddha
Shahidul Islam	Laughing Buddha
Ebnu Ibrahim	Laughing Buddha
Shaun Murkett	Acoustician, Laughing Buddha

**Objectors In Attendance:**

Ian Wareing	Environmental Protection
Cain Duncan	Planning Enforcement
Nana Yaa Hughes-Brittain	Commercial Road
Henk Bouma	Commercial Road
PC Alan Cruickshank	Metropolitan Police
PC Louise Allen	Metropolitan Police

**Members of the Public In Attendance:**

Ellen Iorga  
Laura Farrimond  
Peter Crane

The Chair welcomed everyone to the meeting and asked those present to introduce themselves. She stated that this was a Licensing Sub Committee hearing under the new Licensing Act 2003. She then drew attention to the Rules and Procedures that governed the procedure for hearing licensing applications, pointing out that a summary of the procedure could be found as item 3 on the agenda.

**1. APOLOGIES FOR ABSENCE**

None.

**2. DECLARATIONS OF INTEREST**

Councillors M.S. Ali and A. Ali declared a personal interest in that they had both been contacted by the applicant regarding his application but had informed that applicant that they could not discuss the application as they were Members of the Licensing Sub committee that was to consider the application.

Mr Paul Greeno, Councils legal advisor, stated that these declarations did not preclude the Councillors from hearing the applications.

**3. RULES OF PROCEDURE**

The Rules of Procedure were noted.

**4. UNRESTRICTED MINUTES**

The minutes of the Licensing Sub Committee meeting held on 2<sup>nd</sup> April 2008, were agreed as an accurate record of the proceedings.

**5. ITEMS FOR CONSIDERATION**

Mr Greeno commented that as the two applications were for the same premise the Sub Committee would consider both applications at the same time. Therefore the review procedure would be used whereby the objectors would present their case first followed by the applicants/premise holder.

Both the Police and the applicants/premise holder wanted to table papers. With the permission of all parties these were duly circulated.

**5.1 Application to Vary the Premises Licence for Laughing Buddha, 653 Commercial Road, London E14 7HW (LSC053/708)**

**5.2 Application to Review the Premises Licence for Laughing Buddha, 653 Commercial Road, London E14 7LW (LSC054/708)**

At the request of the Chair Mr Mohshin Ali introduced the first report which sought a variation of a premises licence for Laughing Buddha, 653

Commercial Road, London E14 7LW. The applicants had changed their application and now the days and hours sought for regulated entertainment of recorded music, provision of facilities for making music and provision of facilities for dancing were those of Friday to Saturday 00.00 until 02.00. Although the application made reference to non standard timings for New Years Eve these had not been specified on the notice and therefore could only remain as those currently on the premises licence.

Appropriate consultation had been carried out with objections received from local residents, Environmental Protection and the Metropolitan Police. The objections were on the grounds that granting the application would cause crime and disorder, public nuisance and threaten public safety.

In relation to the second report this sought a review of the premises licence for Laughing Buddha, 653 Commercial Road, London E14 7LW. The review had been triggered by Environmental Protection and was supported by the Councils Planning Department and a local resident. The grounds for review were that the crime and disorder and public nuisance objectives of the Licensing Act had been breached.

As there were no questions for the officers the Chair asked those objecting to the variation application only to present their case.

PC Louise Allen reported that the Metropolitan Police were objecting under the crime and disorder, public nuisance and public safety licensing objectives. The premise was currently licensed to operate as a restaurant. However they had recently being using external promoters to promote the premise as a club. The Police had to attend an incident at the premise on 23<sup>rd</sup> February 2008 at 3.01am as they were informed that there was a fight in the premises between two different gangs. The CCTV did not record the incident as the hard drive was broken. However windows in the premise had been broken by using a table. The suspects of the incident had been drinking in the premise prior to the offence being committed. The Police were concerned that the licence holder did not control promoters using the premise or have adequate management measures in place at the premise. They had tried to interview him prior to this hearing but he had failed to attend an interview. There was a list of conditions that the Police wanted in place if the Sub Committee were minded to agree to the variation of the licence, but concerns remained that he could not address the aforementioned licensing objectives.

The resident objectors commented that the main problems were with noise nuisance from egress and patrons congregating outside the premise, often till the early hours. They had been complaining to the premise for some time as residents were disturbed and woken by noise nuisance and those working/studying at home could not concentrate because of these problems. There was anti social behaviour with windows broken and fights outside the premise. Patrons also pressed the door buzzers of residents causing residents to feel unsafe in their own homes. Whilst there had initially been no problems when the premise operated as a restaurant, the premise was now operating like a night club and not adhering to the hours it was licensed for. The applicants had promised to carry out sound proofing works but this was

not working. It was now getting to the point where residents had to consider moving due to the problems with the premise. They were extremely concerned that granting the variation would compound these problems.

The Chair asked those objecting to the variation application and supporting the review application to present their case.

Mr Ian Wareing, Environmental Protection, stated that he had instigated the review. For some time he had been in contact with one of the premises licence holder, Mr Forid Uddin, regarding the premise not operating to their licensable hours and causing public nuisance. However all suggestions to resolve the problems had not been accepted. The original application for the premise was to operate as a Thai restaurant with only background music. Whilst the premise operated as a Thai restaurant there were no problems but then last year environmental protection were bombarded with noise complaints. The premise holder was contacted and promised to resolve the problems as they did not want to upset their neighbours.

However throughout 2007 problems continued, particularly at the beginning of November. On 3<sup>rd</sup> and 4<sup>th</sup> November 2007, environmental protection received noise complaints which resulted in them contacting Mr Uddin on 5<sup>th</sup> November 2007. Mr Uddin explained that he was unaware of any problems as he had not been at the premise for the last six weeks due to personal reasons. He was informed that any further public nuisance would result in a review being triggered. He asked for time to investigate and report back to environmental protection but to date he had not. On 10<sup>th</sup> November 2007 another noise complaint was received and following a visit by an environmental protection officer at 1.50am a noise abatement notice was served. Mr Rob Miah, the other premises licence holder contacted environmental protection stating that there would be no more problems.

On 22<sup>nd</sup> November 2007 a meeting was held with Mr Miah whereby he was asked to submit an acoustic report and to undertake any remedial works identified to the satisfaction of environmental protection. He was also asked to submit a licence variation application to the council and not have any DJ's or promoted events or 'club nights' until the variation had been considered. Mr Miah did employ an acoustic consultant, Mr Shaun Merrett, who undertook an acoustic report which was given to environmental protection. This identified works to be undertaken which he understood was being completed, though environmental protection were yet to inspect these works.

The premise was quiet over the Christmas period but on 19<sup>th</sup> January 2008 and environmental protection officer again witnessed a statutory nuisance which constituted a breach of the noise abatement notice and was currently under review for prosecution. Officers therefore considered that there was no other option but to proceed with the review. Since this was submitted on 20<sup>th</sup> March 2008 the premise had been quiet. However this did not last as on 5<sup>th</sup> May 2008 another noise complaint was received at 1.50am. An environmental protection officer visited the premise at 2.30am and found an event in progress at the premise. Although the premise had applied for a temporary

event notice (TEN) that night this was only up to 11.00pm but the event was continuing after 2.30am.

Mr Cain Duncan, Planning Enforcement, commented that he supported the review on the grounds of public nuisance and crime and disorder. Whilst he accepted that planning permission did not affect licensing hours he advised that planning hours for the premise was 9.00am to 11.30pm Sunday to Thursday and 9.00am to midnight Friday and Saturday. The premise licence holders had also constantly been in breach of these hours. The premise had applied for planning permission to operate as a night club in 2005 but this had been rejected due to the close proximity of residential properties. There had been noise nuisance problems and crime and disorder at the premise due to the premise displaying flyers throughout Tower Hamlets and fly posting. The premise had a capacity of 300 patrons whom particularly when leaving at 3.00am, would have a detrimental effect on surrounding residents.

The Chair asked the applicants/premises licence holders to present their case.

Mr Anthony Edwards, Solicitor for Laughing Buddha stated that that it was accepted that in 2007 there had been problems at the premise with insufficient management measures in place. However there would now be a more substantive managerial presence in operating the premise. The premise holders were not trying to cause difficulties for residents and had now invested over £30,000 for sound proofing, noise control through a noise limiter locked in a separate room and remedial works to the premise. They had also purchased the two flats directly above the dance floor at the rear of the premise which were now occupied by staff. Therefore they were surprised that there was still noise problems experienced by the residents in the flats at the front of building, particularly as all speakers were in the rear of the premise. They had carried out noise tests in one of these flats which did not indicate that there were any noise problems.

They had amended their application to 2.00am and would no longer use the previous promoters or fly post. In relation to the planning officers objection the Sub Committee could not refuse the variation due to the premise having no planning permission. Therefore they considered that they had now addressed all of environmental protections concerns.

They had accepted all of the Police conditions including having six CCTV in place and working correctly and considered that these would assist in operating the premise licence. They had drafted a dispersal policy which should alleviate the problems of egress. Security staff outside the premise would also assist dispersal.

The event of 5<sup>th</sup> May 2008 was legal as a TEN had been granted. It was disappointing that the event had exceeded the hours applied for and granted under the TEN. The incident where windows in the premise had been broken had occurred because patrons had been removed from the premise, refused re-entry and then attacked security staff and broken the windows. This could

have happened anywhere and the premise was operating correctly in removing these patrons from inside.

Mr Edwards concluded by stating that they accepted that better management measures were required and that the designated premise supervisor position needed to be regularised. Therefore any night they operated after midnight they would ensure that there was at least two staff on duty that held personal licences. If the premise could not operate after midnight they would lose money and put the business at risk.

The Chair asked if there were any questions for the applicants/premises licence holders or objectors.

In response to questions from Members Shaun Murkett, Acoustician for Laughing Buddha commented that acceptable sound levels were a 'grey area'. There were guidelines that stated that noise should not be able to be heard in the nearest resident property to a premise. This was done by taking readings in that property and adjusting noise levels until noise could no longer be heard. However these noise levels differed depending on times during the day and current noise in the area. Then soundproofing measures also had to be considered. The general rule was that any noise below 90 dB was for restaurants and 90 to 100 dB for dancing music. Anything above 100 dB meant that people would have to shout to be heard. In the case of the premise noise levels were set to the front two residential properties as the back two over the dance floor were owned by the premises holder. He had liaised with the objectors as advised by environmental protection regarding noise problems, who all knew how to contact him. Following the soundproofing works he was unaware of where noise leakage from the premise was still occurring.

Environmental Protection had been invited to inspect the works which were now 90% complete, but they were yet to take up this invitation. There had been problems with the works as the company originally employed to undertake them had been dismissed so another company was now completing the works. The only outstanding works were those to the lobby entrance.

Mr Wareing responded that environmental protection had not yet inspected the works as they were not 100% complete. It was only then could they take accurate noise measurements. This had been agreed with the premise licence holders. However even though the majority of works had been completed prior to the Christmas period noise complaints were still received after this time. Therefore there could be problems with the noise limiter or the positioning of the speakers. He did not consider that there were any conditions that the Sub committee could attach to the licence to resolve the problems experienced at the premise as although new management were now in place the same problems were still occurring at the premise, including during the last weekend.



In response to questions from Members the objectors reported that the problems had deteriorated to the point where the resident of flat 4 had had to move out.

In response to questions from Members Mr Edwards stated that he was concerned that his clients had traded unlawfully, but they were trying to rectify this with the variation application and would ensure that it did not happen again. They would accept environmental protection setting the noise limiter if that addressed Members concerns. Two new people were now involved in the premise that between them had significant experience in managing this type of premise. They had invested in the premise and wanted the business to succeed. They would only deal with promoters that would operate events up to 2.00am.

There had been a clearer management structure in the premise since 1<sup>st</sup> April 2008, which was different to that previously there. They intended to fully comply with the rules and regulations and adhere to their licensing hours.

In response to questions from Members PC Allen stated that there were particular problems with egress, especially as the premise allowed promoters to operate even beyond their variation application of 2.00am. The premise had distributed flyers in the past advertising events to 4.00am, which demonstrated that there were insufficient management measures in place there.

In response to questions from Members the applicants/premises licence holders stated that they employed six SIA registered security staff on Fridays and Saturdays with two on duty outside the premise at all times. Due to problems at the premise they had voluntarily shut for two months in order to resolve these problems.

The Chair thanked everyone for their contributions and advised that the Sub Committee would be proceeding into private session to consider the evidence submitted.

The meeting adjourned at 8.17pm and reconvened at 8.45pm.

The Chair reported that having considered the comments and all the evidence presented, the Sub Committee had **RESOLVED**

That the application for a variation of a Premises Licence under the Licensing Act 2003, for Laughing Buddha, 653 Commercial Road, London E14 7LW be **REFUSED** as the Sub Committee had serious concerns that there were not sufficient managerial measures in place to address the crime and disorder, the prevention of public nuisance and public safety Licensing Objectives of the 2003 Licensing Act.

That the application for a review of a Premises Licence under the Licensing Act 2003, for Laughing Buddha, 653 Commercial Road, London E14 7LW be **GRANTED** with the current premise licence modified to the following days and hours and with the following stipulation:-

Supply of Alcohol

Sunday to Thursday 12.00 until 00.00 hours  
Friday to Saturday 12:00 until 01.00 hours

Recorded Music (Background music only)

Sunday to Thursday 12.00 until 00.00 hours  
Friday to Saturday 12:00 until 01.00 hours

Late night Refreshment

Sunday to Thursday 23.00 until 00.00 hours  
Friday to Saturday 23:00 until 01.00 hours

Hours Open to the Public

Sunday to Thursday 12.00 until 00.00 hours  
Friday to Saturday 12:00 until 01.00 hours; and

That the current Designated Premises Supervisor be removed from the Premise Licence.

The Chair emphasised that the Sub Committee were extremely concerned that unlawful activities had been undertaken at the premise for sometime and that should the premise continue to allow these activities which resulted in another review of the premise licence, then the Sub Committee that heard that review would be made aware of this decision and recommended to suspend or revoke the licence.

The meeting ended at 8.48 p.m.

Chair, Councillor Shirley Houghton  
Licensing Sub Committee



### 3.0 Background

This is an application for a new premises licence for Papadoms 94 Brick Lane London E1 6RL

3.1 A copy of the application is enclosed as **Appendix 1**.

3.2 The applicant has amended the application, the amendments are as agreed with Environmental Health and are contained in **Appendix 2**. This covers more than just hours of opening.

3.3 The hours that are being sought are as follows:

#### **Sale of Alcohol:**

Supply of alcohol

Monday to Saturday 12 midday to 23.30 hrs

Sunday 12 midday to 23.00hrs

#### **Late Night Refreshment**

Opening Hours

Monday to Saturday 12 midday to midnight

Sunday 12 midday to 23.30 hrs

(permission, of course is only required after 23.00 hrs)

#### **Regulated Entertainment**

This is recorded music only

Monday to Saturday 12 midday to midnight

Sunday 12 midday to 23.30 hrs

#### **Hours premises are open to the public**

Opening Hours

Monday to Saturday 12 midday to midnight

Sunday 12 midday to 23.30 hrs

Members may care to note that the Late Night Refreshment and Regulated Entertainment hours stated here are slightly different from the application but have been brought into line with the hours the premises are open to the public.

3.4 The representation from Environmental Health also raised issues relating to:

CCTV installation

Door supervisor

Complimentary black coffee

No queuing

Deliveries to be scheduled in the afternoons

No access to the rear of the restaurant

Complimentary confectionary

Dedicated taxi service offered to customers

Background music only

Doors to be kept shut

3.5 Maps showing the relevant premises are included as **Appendix 3**.

#### 4.0 **Licensing Policy and Government Advice**

4.1 The Council has adopted a licensing policy and this is available from the Licensing Section, and at the hearing. The revised policy came into effect on the 7<sup>th</sup> January 2008.

4.2 Relevant Sections of the policy are brought to the attention of Members within the Licensing Officers report.

4.3 The Government Minister, the Secretary of State for Culture, Media and Sport has issued Guidance under Section 182 of the Licensing Act 2003. This is available on the Government's website, [www.culture.gov.uk](http://www.culture.gov.uk). It was substantially revised on the 28 June 2007.

4.4 Relevant Sections of this advice are brought to Members attention within the Licensing Officers report. Members should note however, that in some areas Tower Hamlets, after a proper consideration of local circumstances, has not followed the Government's advice, or has developed it further.

#### 5.0 **Representations**

5.1 All representations have to meet basic legal and administrative requirements. If they fail to do so they cannot be accepted. When rejected the person sending in the representation must be written to, and an explanation for rejection given in writing.

5.2 Only a responsible authority or an interested party can make a representation. Both of these terms are defined by statute, in Section 13 of the Licensing Act 2003.

5.3 All representations must be "about the likely effect of the grant of the premises licence on the promotion of the licensing objectives." Likely means something that will probably happen, i.e. on balance more likely than not.

5.4 Representations by responsible authorities do not have to meet the second test of not being vexatious and frivolous. Interested parties and their representatives have to meet this test.

5.5 The Secretary of State recommends that in borderline cases, the benefit of the doubt should be given to the interested party making the representation.

- 5.6 All the representations in this report have been considered by the relevant officer (Team Leader Licensing) and determined to have met the requirements of the Licensing Act 2003.
- 5.7 This hearing is required by the Licensing Act 2003, because relevant representations have been made by the following:  
The Metropolitan Police - See **Appendix 4**.
- 5.8 All of the responsible authorities have been consulted about this application. They are as follows:
- The Metropolitan Police
  - The LFEPA (the London Fire and Emergency Planning Authority).
  - Planning
  - Health and Safety
  - Noise (Environmental Health)
  - Trading Standards
  - Child Protection
- 5.9 In addition the application was required to be advertised in a local newspaper and by a blue poster. In addition, the Licensing Authority notifies local residents and businesses within 40m. Only objections that relate to the following licensing objectives are relevant:
- the prevention of crime and disorder
  - public safety
  - the prevention of public nuisance
  - the protection of children from harm
- 5.10 The Police Objection is in relation to the prevention of crime and disorder, public safety and the prevention of public nuisance.
- 5.11 There are strict time limits to any representations. The time limits are contained in The Licensing Act 2003 (Premises licences and club premises certificates) Regulations 2005.

## 6.0 **Licensing Officer Comments**

- 6.1 The Licensing Section is not a responsible authority and therefore has no ability to make any relevant representations. The following therefore is intended simply to advise Members of the relevant aspects of the Boroughs Licensing Policy, guidance from the Secretary of State, legislation and good practice. Members may depart from the Council's Licensing Policy and/or Government advice, provide they consider it appropriate to do so, and have clear reasons for their decision.
- 6.2 As stated in the guidance it is "provided for licensing authorities carrying out their functions." It is a key mechanism for promoting

best practice, ensuring consistent application and promoting fairness (1.6). Also "so long as the guidance has been properly and carefully understood and considered, licensing authorities may depart from it if they have reason to do so." When doing so licensing authorities will need to give full reasons for their actions (1.7).

- ❖ Also Members should note "A Licensing Authority may depart from its own policy if the individual circumstances of any case merit such a decision in the interests of the promotion of the licensing objectives." (1.10)
  - ❖ Conditions may not be imposed for the purpose other than the licensing objectives.
  - ❖ Necessary conditions should emerge from a risk assessment by the applicant, which should then be reflected in the operating schedule (10.7).
  - ❖ The Licensing Authority may only impose such conditions as are necessary for meeting the licensing objectives.
  - ❖ It is Government policy that facilities for people and performers with disabilities should be provided at places of entertainment. (S. 10.24).
  - ❖ The Government has stated "there is no general presumption in favour of lengthening licensing hours and the four licensing objectives should be paramount at all times. Where there are objections to an application and the committee believes that changing the licensing hours would undermine the licensing objectives, they may reject the application or grant it with appropriate conditions and/or different hours from those requested." (10.20)
  - ❖ Mandatory conditions must be imposed (7.67) and censorship avoided (7.69).
  - ❖ Routine conditions about drink promotions are not permitted but can be imposed in an appropriate circumstances (7.79). The Office of Fair Trading's Advice also needs to be considered, namely that minimum prices setting is not permitted.
- 6.3 The Licensing Act 2003 permits children of any age to be on the premises which primarily sells alcohol providing they are accompanied by an adult. It is not necessary to make this a condition.
- 6.4 In all cases the Members should make their decision on the civil burden of proof, that is "the balance of probability."
- 6.5 In all cases Members should consider whether or not primary legislation is the appropriate method of regulation and should only consider licence conditions when the circumstances in their view are not already

adequately covered elsewhere.

- 6.6 The Government has advised that "In the context of preventing public nuisance it is again essential that conditions are focused on measures within the direct control of the licence holder. Conditions relating to public nuisance caused by anti-social behaviour of customers once they are beyond the control of the licence holder or premises management cannot be justified and will not serve the licensing objectives." (2.38)
- 6.7 The Council's Licensing Policy generally expects applicants to address the licensing objectives and discuss how to do this with the relevant responsible authorities.
- 6.8 In **Appendices 5-11** Members are given general advice, and also have explanations of the Council's Licensing Policy, Government advice and other legislation relating to the matters previously identified. The appendices are as follows:
- |                    |  |
|--------------------|--|
| <b>Appendix 5</b>  | Licensing Officer advice on Crime and Disorder on the Premises                 |
| <b>Appendix 6</b>  | Licensing Officer advice on Crime and Disorder from patrons Leaving a Premises |
| <b>Appendix 7</b>  | Licensing Officer advice on Noise from a Premises                              |
| <b>Appendix 8</b>  | Licensing Officer advice on access and egress problems                         |
| <b>Appendix 9</b>  | Licensing Officer advice on safety problems                                    |
| <b>Appendix 10</b> | Licensing Officer advice on planning   |
| <b>Appendix 11</b> | Licensing Policy on Hours  |

## 7.0 Legal Comments

- 7.1 The Council's legal officer will give advice at the hearing.

## 8.0 Finance Comments

- 8.1 There are no financial implications in this report.



## 9.0 Appendices

<b>Appendix 1</b>	A copy of the licence application.
<b>Appendix 2</b>	Variation as agreed with Environmental health
<b>Appendix 3</b>	Maps of the local area
<b>Appendix 4</b>	Metropolitan Police's Representation
<b>Appendix 5</b>	Licensing Officer advice on Crime and Disorder on the Premises
<b>Appendix 6</b>	Licensing Officer advice on Crime and Disorder from patrons Leaving a Premises
<b>Appendix 7</b>	Licensing Officer advice on Noise from a Premises
<b>Appendix 8</b>	Licensing Officer advice on access and egress problems
<b>Appendix 9</b>	Licensing Officer advice on safety problems
<b>Appendix 10</b>	Licensing Officer advice on planning
<b>Appendix 11</b>	Licensing Policy on hours

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# Agenda Item 5.2

Committee : <b>Licensing Sub Committee</b>	Date	Classification <b>Unclassified</b>	Report No.	Agenda Item No.
Report of <b>Colin Perrins</b> <b>Head of Trading Standards and Commercial</b>  Originating Officer: <b>Jackie Randall</b> <b>Principal Licensing Officer</b>	Title <b>Licensing Act 2003</b> <b>Application to vary the Premises Licence for 41 Brick Lane, London E1 6PU</b>  Ward affected <b>Spitalfields and Banglatown</b>			

## 1.0 Summary

Applicant: **Mohammed Shilu Chowdhury**  
Name and **Off Licence**  
Address of Premises: **41 Brick Lane**  
**London E1 6PU**

Licence sought: **Licensing Act 2003**  
**Extending the hours for the sale of alcohol**

Objectors: **Local Residents**

## 2.0 Recommendations

2.1 That the Licensing Committee considers the application and objections then adjudicate accordingly.

**LOCAL GOVERNMENT 2000 (Section 97)**  
**LIST OF "BACKGROUND PAPERS" USED IN THE DRAFTING OF THIS REPORT**

Brief description of "background paper"

Tick if copy supplied for register

If not supplied, name and telephone number of holder

File Only

**Jackie Randall**  
**020 7364 5108**

### 3.0 Background

3.1 This is an application for a variation in a premises licence for an off licence at 41 Brick Lane, London E1 6PU.

3.2 A copy of the existing licence is enclosed as **Appendix 1**.

The current hours are as follows:

#### **Sale of Alcohol (off sales only)**

- Monday to Thursday from 11:00 hours to 23:00 hours
- Friday to Sunday from 11:00 hours to midnight

#### **Hours premises are open to the public**

- Monday to Thursday from 11:00 hours to 23:00 hours
- Friday to Sunday from 11:00 hours to midnight

3.3 A copy of the variation application is enclosed as **Appendix 2**.

3.4 The applicant has described the nature of the variation as:  
Extending the hours for the sale of alcohol

3.5 The hours that have been applied for are as follows:-

#### **Sale of Alcohol (off sales only)**

- Sunday to Wednesday until 01:00 hours
- Thursday to Saturday until 02:30 hours

#### **Hours premises are open to the public:**

- Sunday to Wednesday until 01:00 hours
- Thursday to Saturday until 02:30 hours

3.6 A map showing the relevant premises is included as **Appendix 3**.

### 4.0 Licensing Policy and Government Advice

4.1 The Council has adopted a licensing policy and this is available from the Licensing Section, and at the hearing. The revised policy came into effect on the 7<sup>th</sup> January 2008.

4.2 Relevant Sections of the policy are brought to the attention of Members within the Licensing Officers report.

4.3 The Government Minister, the Secretary of State for Culture, Media and Sport has issued Guidance under Section 182 of the Licensing Act 2003. This is available on the Government's website, [www.culture.gov.uk](http://www.culture.gov.uk). It was substantially revised on the 28 June 2007.

4.4 Relevant Sections of this advice are brought to Members attention within the Licensing Officers report. Members should note however, that in some areas Tower Hamlets, after a proper consideration of local circumstances, has not followed the Government's advice, or has developed it further.

## 5.0 Representations

- 5.1 All representations have to meet basic legal and administrative requirements. If they fail to do so they cannot be accepted. When rejected the person sending in the representation must be written to, and an explanation for rejection given in writing
- 5.2 Interested party as defined in Section 13 (3) of the Licensing Act 2003 is limited to persons living in the vicinity of the premises, their representatives and local businesses in the vicinity of the premises and their representatives. Essentially, the interested party making the representation should show by what they say that they, or those they represent are sufficiently close to be personally affected by the application.
- 5.3 Only a responsible authority or an interested party can make a representation. Both of these terms are defined by statute, in Section 13 of the Licensing Act 2003.
- 5.4 There are two tests for an interested party and only one for a responsible authority. The two tests are contained in Section 18 of the Act.
- 5.5 All representations must be "about the likely effect of the grant of the premises licence on the promotion of the licensing objectives." Likely means something that will probably happen, i.e. on balance more likely than not.
- 5.6 Representations by responsible authorities do not have to meet the second test of not being vexatious and frivolous. Interested parties and their representatives have to meet this test.
- 5.7 The Secretary of State recommends that in borderline cases, the benefit of the doubt should be given to the interested party making the representation.
- 5.8 Section 182 Advice by the DCMS concerning relevant, vexatious and frivolous representations is attached as **Appendix 4**.
- 5.9 All the representations in this report have been considered by the relevant officer (Team Leader Licensing) and determined to have met the requirements of the Licensing Act 2003.

- 5.10 This hearing is required by the Licensing Act 2003, because relevant representations have been made by the following:  
Local Residents - See **Appendices 5-6**
- 5.11 All of the responsible authorities have been consulted about this application. They are as follows:
- The Metropolitan Police
  - The LFEPA (the London Fire and Emergency Planning Authority).
  - Planning
  - Health and Safety
  - Noise (Environmental Health)
  - Trading Standards
  - Child Protection
- 5.12 In addition the application was required to be advertised in a local newspaper and by a blue poster. Only objections that relate to the following licensing objectives are relevant:
- the prevention of crime and disorder
  - public safety
  - the prevention of public nuisance
  - the protection of children from harm
- 5.13 The objections cover allegations of:
- Anti social behaviour from patrons leaving the premises
  - Acting as a magnet attracting the young who then engage in anti-social behaviour
  - Disturbance from patrons outside the premises
- 5.14 There are strict time limits to any representations. The time limits are contained in The Licensing Act 2003 (Premises licences and club premises certificates) Regulations 2005.

## **6.0 Licensing Officer Comments**

- 6.1 The Licensing Section is not a responsible authority and therefore has no ability to make any relevant representations. The following therefore is intended simply to advise Members of the relevant aspects of the Boroughs Licensing Policy, guidance from the Secretary of State, legislation and good practice. Members may depart from the Council's Licensing Policy and/or Government advice, provide they consider it appropriate to do so, and have clear reasons for their decision.

## 6.2 Guidance issued under section 182 of the Licensing Act 2003

- ❖ As stated in the guidance it is “provided for licensing authorities carrying out their functions.” It is a key mechanism for promoting best practice, ensuring consistent application and promoting fairness (1.6).  
Also “so long as the guidance has been properly and carefully understood and considered, licensing authorities may depart from it if they have reason to do so.” When doing so licensing authorities will need to give full reasons for their actions (1.7).
- ❖ Also Members should note “A Licensing Authority may depart from its own policy if the individual circumstances of any case merit such a decision in the interests of the promotion of the licensing objectives.” (1.10)
- ❖ Conditions may not be imposed for the purpose other than the licensing objectives.
- ❖ Necessary conditions should emerge from a risk assessment by the applicant, which should then be reflected in the operating schedule (10.7).
- ❖ The Licensing Authority may only impose such conditions as are necessary for meeting the licensing objectives.
- ❖ It is Government policy that facilities for people and performers with disabilities should be provided at places of entertainment. (S. 10.24).
- ❖ The Government has stated “there is no general presumption in favour of lengthening licensing hours and the four licensing objectives should be paramount at all times. Where there are objections to an application and the committee believes that changing the licensing hours would undermine the licensing objectives, they may reject the application or grant it with appropriate conditions and/or different hours from those requested.” (10.20)
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- 6.7 The Council’s Licensing Policy generally expects applicants to address the licensing objectives and discuss how to do this with the relevant responsible authorities.
- 6.8 In Appendices x-x Members are given general advice, and also have explanations of the Council’s Licensing Policy, Government advice and other legislation relating to the matters previously identified.
- 7.0 Exemptions**
- 7.1 There are a number of statutory exemptions from the operation of the Licensing Act 2003, and Members need to bear these in mind.
- 7.2 Schedule 1 Part 2 of the Act states that entertainment in churches, Morris dancing (and accompanying music if live and unamplified) and incidental music are not licensable activities-that is no conditions can be set for them.
- 7.3 Acts of religious worship, wherever performed are not licensable.
- 7.4 Section 177, (1) and (2) of the Act provides that where a premises (or club) is licensed for alcohol consumption on the premises and is primarily thus used, and the permitted capacity does not exceed 200, additional conditions relating to the music should only relate to public safety or the prevention of crime (or both). That is they should not relate to any “noise nuisance.”
- 7.5 Section 177 (4) provides that where a premises licence (or club) has a capacity of not more than 200 and the only music is unamplified live music between 08 00 hrs and midnight, no additional conditions should be set relating to the music.
- 7.6 Section 177 can be disapplied on a licence review if it is proportionate to do so.



## **8.0 Legal Comments**

8.1 The Council's legal officer will give advice at the hearing.

## **9.0 Finance Comments**

9.1 There are no financial implications in this report.

## **10.0 Appendices**

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<b>Appendix 3</b>	Maps of the area
<b>Appendix 4</b>	Section 182 Advice by the DCMS- Relevant, vexatious and frivolous representations
<b>Appendix 5-6</b>	Representations of Local residents
<b>Appendix 7</b>	Licensing Officer comments on Anti-Social Behaviour From Patrons Leaving The Premises
<b>Appendix 8</b>	Licensing Officer comments on Acting As A Magnet Attracting The Young Who Then Engage In Anti-Social Behaviour
<b>Appendix 9</b>	Licensing Officer comments on Planning
<b>Appendix 10</b>	Licensing Officer comments on Licensing Policy relating to hours of trading

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