

LONDON BOROUGH OF TOWER HAMLETS**MINUTES OF THE LICENSING SUB COMMITTEE****HELD AT 6.30 P.M. ON TUESDAY, 10 JULY 2018****THE COUNCIL CHAMBER, TOWN HALL, MULBERRY PLACE, 5 CLOVE
CRESCENT, LONDON, E14 2BG****Members Present:**

Councillor Peter Golds (Chair)

Councillor Faroque Ahmed

Councillor Leema Qureshi

Other Councillors Present:

Councillor Rachel Blake

Officers Present:

David Wong

– (Legal Services)

Mohshin Ali

– (Senior Licensing Officer)

Kathy Driver

– (Principal Licensing Officer)

Representing applicants	Item Number	Role
Daniel Heath	4.1	Applicant
Richard Holley	4.1	Manager
Mifta Ahmed	4.2	Licensing Representative

Representing objectors	Item Number	Role
Katherine Rose	4.1	Objector
Piers Gibbon	4.1	Objector

Apologies

None

1. DECLARATIONS OF DISCLOSABLE PECUNIARY INTEREST

There were no declarations of disclosable pecuniary interest made.

2. RULES OF PROCEDURE

The rules of procedure were noted.

3. MINUTES OF THE PREVIOUS MEETING(S)

The minutes of the Licensing Sub Committee held on 5th June 2018 were agreed as a correct record of proceedings.

4. ITEMS FOR CONSIDERATION**4.1 Application for Variation of a Premises Licence for Whitepost Café, 92 Whitepost Lane, London E9 5EN**

At the request of the Chair, Ms Kathy Driver, Licensing Officer, introduced the report, which detailed the application for a variation of the premises licence for Whitepost Café, 92 Whitepost Lane, London E9 5EN. It was noted that objections had been received on behalf of local residents. The application was to vary the licence to extend licensing hours and vary an existing condition on the licence.

At the request of the Chair, Mr Daniel Heath, Applicant, briefly explained that premises was a local pub/café and had customers who lived in Omega Works. He explained that he was seeking to increase hours for licensable activities over the weekend and to also vary an existing condition on the premises licence to be able to extend the use of the outdoor terrace area to 9.30pm.

It was noted that temporary event notice (TEN) applications had been granted in the past and if this application were to be granted it would help regularise the hours to what has been applied for previously. Mr Heath explained that the terrace was a relatively small area with 40 covers.

It was noted that a sound lobby had been installed, windows had triple glazing and air conditioning had also been installed to prevent noise breakout. He explained that previously the premise was a 24 hour printing factory and believes that having taken over the premises the area had improved.

Members then heard from Councillor Rachael Blake, who spoke on behalf of Ms Katherine Rose, objector and local resident, and briefly highlighted the growing community in Fish Island, she explained that residents at the meeting would speak about the current failures and disturbance that is caused. Cllr Blake highlighted the demographics of the area, and the growing community within the area, it was noted that there was no barrier between the terrace and the properties and therefore noise travelled. Cllr Blake referred to the maps contained within the agenda and highlighted the close proximity between the premises and residential properties. In conclusion, she was not confident that the licensing objectives would be met if the application was granted.

At the request of the Chair, Ms Katharine Rose stated that she was the nearest neighbour to the Whitepost Café. She explained that residents were first told that it was a food led venue but had now turned into a regular entertainment venue and far from a peaceful café. She stated that speakers had been installed in the terrace for outdoor music. She further explained that a number of complaints had been made directly to Environmental Health about the noise nuisance and therefore opposed any extension to the current licence.

Members also heard from Mr Piers Gibbon, objector and local resident, who highlighted the noise nuisance that emanated from the premises, he referred to the supplemental agenda which contained his supporting document in the form of a Noise Nuisance Diary with a series of dates and times of when there has been noise nuisance, videos supporting this was also played at the meeting for the Sub Committee. He also stated that the petition submitted by the applicant in support of the premises was not appropriate as the majority of the petitioners did not live close by. Mr. Gibbon sought to show a photograph in relation to the premises, but permission to do this was refused by the Licensing Sub-Committee because the photograph had not been submitted for inclusion in the meeting papers sufficiently in advance and so it would be unfair to permit late introduction at this stage.

Mr Heath explained that he always spoke with the residents and dealt with issues as and when they arose and was surprised over the number of objections received for the application. He explained the speakers installed in the terrace were for background music only. He stressed the fact that the noise complaints mainly referred to a festival weekend where music was played on the terrace etc. however assured Members of the Sub Committee that this would not happen again and speakers would only be used for background music.

In response to questions from Members the following was noted;

1. That the Tow Path route was used as a customer entrance but this could be kept shut after the terrace area was closed in the evenings and only used as a fire exit after that.
2. That the speakers on the terrace are turned off at 7.30pm once the terrace is closed.
3. That policies and processes were now in place and were being strictly adhered to.
4. That there were other venues within close proximity that had longer hours.

In summing up Ms Rose explained that there had been lots of evidence of breaches of the current licence conditions and it was clear residents were not being considered. She acknowledged that minor improvements had been made but not enough to appease the residents.

Mr Heath concluded that none of the noise complaints had been substantiated, and that the sound limiter had been set having done sound

readings with Nicola Cadzow from Environmental Health. He said that he had only received one complaint previously and had not received any until now.

Members adjourned the meeting at 7.25pm for deliberations and reconvened at 7.50pm.

The Licensing Objectives

In considering the application, Members were required to consider the same in accordance with the Licensing Act 2003 (as amended), the Licensing Objectives, the Home Office Guidance and the Council's Statement of Licensing Policy and in particular to have regard to the promotion of the four licensing objectives:

1. The Prevention of Crime and Disorder;
2. Public Safety;
3. Prevention of Public Nuisance; and
4. The Protection of Children from Harm

Consideration

Each application must be considered on its own merits and the Chair stated that the Sub Committee had carefully considered all of the evidence before them and heard representations made by the Applicant and also heard from the objectors present at the meeting.

In reaching their decision, Members noted the current demographics of the area and noted that the area that was once derelict, was now full of industry, amenities, entertainment venues and most importantly a rapidly growing residential community. Members noted that the objections from local residents covered a wide range of concerns which was evident in demonstrating that there was already public nuisance in the form of noise nuisance. Members were concerned that permitting an increase in the licensable hours of the premises would exacerbate this noise nuisance.

Members welcomed the efforts made by the Applicant by reducing the hours and offering conditions in consultation with Environmental Health, however, the individual objections and the supporting documents (noise nuisance diary submitted by the local resident) demonstrated that there was a cause for concern and the likelihood that later hours would have a negative impact on the lives of residents, infringe on their quality of life with a likelihood of an increase in anti-social behaviour and general noise nuisance.

Members looked carefully at the location and although the Applicant agreed to use the entrance via the tow path route only as a fire exit after the terrace area is closed, Members of the Sub Committee were of the view based on the evidence put before them that residents especially from Omega Works would suffer noise pollution.

Members reached a decision and the decision was unanimous. Members refused the application.

Accordingly, the Sub Committee unanimously

RESOLVED

That the application for a variation of the Premises Licence for Whitepost Café, 92 Whitepost Lane, London E9 5EN be **REFUSED**.

4.2 Application for a New Premises Licence for Quick Grill Ltd, 194 Mile End Road, London, E1 4LJ

At the request of the Chair, Ms Kathy Driver, Licensing Officer, introduced the report, which detailed the application for a new premises licence for Quick Grill Ltd, 194 Mile End Road, London E1 4LJ. It was noted that objections had been received on behalf of the Licensing Authority and the Metropolitan Police.

Mr. Chowdhury was not present at the meeting due to ill health.

At the request of the Chair, Mr Mifta Ahmed, Licensing Representative in the absence of the Applicant spoke on behalf of Mr Mohammed Shilu Chowdhury, Applicant, and explained that Mr Chowdhury fully accepted that failings had occurred at his premises in 41 Brick Lane in relation to which Mr. Chowdhury held a premises licence, and this was because he could not maintain the day to day running of the business as it had been managed by staff and staff had not adhered to instructions. Mr Ahmed explained that Mr Chowdhury had relinquished his involvement in the business at 41 Brick Lane and would solely be working at 194 Mile End Road.

Mr Ahmed stated that concerns arising at 41 Brick Lane related to the underage sale of alcohol and cigarettes, and that these matters should be treated separately as this application was distinctly different, being an application for a licence to provide late night refreshments only. Mr Ahmed also assured Members that Mr Chowdhury would be involved in the day to day running of the business at 194 Mile End Road and all conditions would be adhered to.

He explained that modest hours had been applied for, that they were currently trading and selling up until 11pm and were now seeking to increase their hours in line with the Council Framework Hours. He stated that it was a modest increase and highly unlikely to cause any problems.

He explained that in relation to previous selling of hot food beyond the permitted hours at 194 Mile End Road with a late night refreshment licence, there had been a misunderstanding on Mr Chowdhury's part as he thought he could sell hot refreshments until late. It was submitted that there had been no Environmental Health breaches or instances of Anti-Social Behaviour at 194 Mile End Road, since those premises had been open and therefore this demonstrated that Mr Chowdhury was a fit and proper person.

Members then heard from the Responsible Authorities, apologies for absence were received on behalf of PC Mark Perry, Metropolitan Police and it was confirmed that Mr Mohshin Ali, representing the Licensing Authority would speaking on behalf of the Police too.

Mr Ali stated that the Police maintained their written representations. He briefly explained that the hours applied for were still 30 mins over the Council's Framework hours, he said that during a test purchase in 27 April 2018, there was a sale without a licence. It was noted that the applicant was also a Premises Licence Holder for a venue in Brick Lane which had been fined for breaches of the Licensing Act and had pending enforcement action.

He stated that the Licensing Authority made a representation on the basis that they had no confidence that the applicant would uphold the licensing objectives of preventing crime and disorder and public nuisance. Reference was made to the fact that the police still objected to the grant of a late night refreshment licence. However, if the Sub Committee were mindful to grant the application then Members were asked to add the conditions proposed in the written representations already made by the Police.

In response to questions from Members the following were confirmed respectively by Mr. Ali and Mr. Ahmed ;

- That there was outstanding enforcement action still under consideration in respect of two breaches of licensing requirements in relation to the premises at 41 Brick Lane.
- That Mr Chowdhury fully accepted his failings and as a result would no longer be running the business at Brick Lane and would manage the premises at 194 Mile End Road on a day to day basis.
- That Mr Chowdhury was under the misconception that that he had a late night refreshment licence in relation to 194 Brick Lane, when in fact such a licence had been surrendered in 2009 but he had not been aware of this.
- That checks and balances would be done from now on and Mr Ahmed was confident that conditions would be adhered to.
- That the Police maintained their objections. They were pleased to hear that the hours had been reduced but had no confidence in Mr Chowdhury to uphold the licensing objectives.
- That that the whole of the ground floor operated as a restaurant and there was no use of the upstairs.

In summing up, Mr Ali stated that the Responsible Authorities' objections still remained, the hours were a concern, and given Mr. Chowdhury's track record, there was a lack of trust in Mr Chowdhury and therefore on a balance of probabilities Mr. Ali felt that Mr Chowdhury would not uphold the licensing objectives.

Mr Ahmed briefly explained that Mr Chowdhury's primary focus would be the business and that it was not Mr Chowdhury who had personally made the underage sales at 41 Brick Lane. At this point Mr Ali confirmed that Mr

Chowdhury was present at 41 Brick Lane when the underage sales took place, but he was not the person, who undertook the transaction.

Members adjourned the meeting at 8.25pm for deliberations and reconvened at 8.45pm.

The Licensing Objectives

In considering the application, Members were required to consider the same in accordance with the Licensing Act 2003 (as amended), the Licensing Objectives, the Home Office Guidance and the Council's Statement of Licensing Policy and in particular to have regard to the promotion of the four licensing objectives:

1. The Prevention of Crime and Disorder;
2. Public Safety;
3. Prevention of Public Nuisance; and
4. The Protection of Children from Harm

Consideration

Each application must be considered on its own merits and the Chair stated that the Sub Committee had carefully considered all of the evidence before them. In the absence of the Applicant, Members heard representations made on behalf of the Applicant by their Licensing Representative and also heard representation on behalf of the Licensing Authority and the Metropolitan Police.

In reaching their decision, Members noted the previous breaches of conditions, trading without a licence, a number of failings and breaches in the Applicant's other licensed premises at 41 Brick Lane, and pending enforcement action in relation to both those other premises at 41 Brick Lane and also in relation to the premises at 194 Mile End Road. Whilst the premises at 41 Brick Lane are not the subject of this application, what had happened regarding those other premises is relevant because it demonstrates the degree to which the applicant in running those other licensed premises can be trusted to uphold the licensing objectives, in particular, the crime and disorder objective.

Breaches of licensing conditions and trading without a licence are offences. Therefore, when such matters taking place do not uphold the crime and disorder objective.

Although it was noted that the Applicant would relinquish all ties with the premises in Brick Lane and concentrate on the current premises he is applying for, Members had no confidence that hours and conditions would be adhered to and therefore referred to the concerns raised by both the Responsible Authorities and their evidence showed that the applicant is unable to comply with licence times and conditions, and on a balance of

probability is likely to do the same if this current application were to be granted.

Members were not satisfied that the Applicant would uphold the licensing objectives of the prevention of crime and disorder and the prevention of public nuisance in relation to the objections raised by the Police and the Licensing Authority.

Members reached a decision and the decision was unanimous. Members refused the application.

Accordingly, the Sub Committee unanimously

RESOLVED

That the application for a New Premises Licence for Quick Grill, 194 Mile End Road, London E1 4 LJ be **REFUSED**.

5. EXTENSION OF DECISION DEADLINE: LICENSING ACT 2003

There were no applications that required a deadline extension.

The meeting ended at 8.50 p.m.

Chair, Councillor Peter Golds
Licensing Sub Committee