

LONDON BOROUGH OF TOWER HAMLETS**MINUTES OF THE LICENSING SUB COMMITTEE****HELD AT 6.30 P.M. ON TUESDAY, 24 JULY 2018****ROOM MP701, 7TH FLOOR, TOWN HALL, MULBERRY PLACE, 5 CLOVE
CRESCENT, LONDON, E14 2BG****Members Present:**

Councillor Eve McQuillan (Chair)
Councillor Mohammed Ahbab Hossain
Councillor Puru Miah

Officers Present:

Mohshin Ali	–	(Senior Licensing Officer)
Kathy Driver	–	(Principal Licensing Officer)
David Wong	–	(Legal Services)
Simmi Yesmin	–	(Senior Committee Officer, Democratic Services)

Representing applicants

Azzam Barhamji

Item Number

3.1

Role

Applicant

Representing objectors

Julian Overton

Item Number

3.1

Role

Legal Representative

David Cunningham

3.1

Local Resident

Apologies

None

1. DECLARATIONS OF DISCLOSABLE PECUNIARY INTEREST

No declarations of disclosable pecuniary interests were declared.

2. RULES OF PROCEDURE

The Rules of Procedure were noted by the Sub Committee.

3. ITEMS FOR CONSIDERATION

3.1 Application for a New Premises Licence for Shawarma, 84 Brick Lane, London E1 6RL

At the request of the Chair, Ms Kathy Driver, Licensing Officer, introduced the report, which detailed the application for a new premises licence for Shawarma, 84 Brick Lane, London E1 6RL. It was noted that objections had been received on behalf of the Licensing Authority and local residents. The application was for late night refreshments, and it was also noted that nine Temporary Event Notices (TEN) applications had been applied for between 10 February 2018 to 4th April 2018.

At the request of the Chair, Mr Azzam Barhamji, Applicant, read through his supporting statement contained in Supplemental Agenda 1 page 9. He highlighted the fact that every time he applied for a licence there would be a barrage of complaints from Mr David Cunningham, local resident. He explained that these complaints had been investigated by the Police and Licensing Services but none were substantiated.

He explained that the premises were situated between The Hub Hotel, 86 Brick Lane which had 180 rooms and 82 Brick Lane which had 6 rooms for Air BnB guests. He further explained that the people gathering in the streets are mostly smokers from the Hub Hotel or Air BnB guests, or simply passers by walking down Brick Lane and not customers of his premises.

He explained that he needed the extra hours to cover overheads and provide for his young growing family. He explained that there was no music or any form of regulated entertainment or sale of alcohol to attract to the premises, people wanting to buy alcohol or access regulated entertainment. He explained the Police and Environmental Health have not objected to the application and in consultation have agreed to reduced hours and conditions.

Mr Barhamji also explained with regard to alleged operation of the premises beyond permitted hours, that the Licensing Officer's drive by observation was not quite adequate as there were no sales transactions made at that time in question and possibly a member of staff being served and the officers did not come into the premises to investigate this further.

Members then heard from Mr Julian Overton, Legal Representative on behalf of Mr David Cunningham and the Spitalfields Community Group. He explained that the objection was in light of the nature, area, and proposed negative effect the premises would have on the Cumulative Impact Zone (CIZ) and the potential for an increase in crime and disorder. He asked Members to refer to powerful letters of objections sent in by residents. It was noted there were also objections on previous applications with similar complaints of noise, ASB and trading outside hours. Mr Overton also highlighted the fact that some conditions on the existing premises licence were not being adhered to such as keeping doors and windows closed, when Mr Barhamji had stated himself that he had propped open the doors to help customers enter and leave the premise and also keeps the window open for ventilation etc.

Mr Overton then explained that the design of the premises was not practical as people order food and wait outside, hang around and congregate in groups and cause noise nuisance. He said a late licence until 3am will add to the CIZ in the area and that licensing objectives will not be promoted.

Members then heard from Mr Mohshin Ali, Licensing Officer representing the Licensing Authority. He referred to his representations on pages 83-86. He explained that he was objecting on the ground that the premises are in the CIZ and that a late licence would have a negative impact on the area.

He explained that the observation detailed on the supplemental agenda on 7th July 2018 was not a full visit and that no one was outside the premises and one person was seen inside the premises being served. Mr Ali accepted on the balance of probability that the person seen to be given refreshment could equally have been a customer or member of staff. He also highlighted the fact that the applicant had not demonstrated how they would not add to the CIZ.

In response to questions from Members the following was noted;

1. That the date of the observation was not one of the dates that a TEN application was in force.
2. That the hotel had 180 bedrooms with approximately 360 people.
3. That the windows are left open for ventilation from the heat and was not a serving window.
4. That Mr Barhamji does ask people congregating outside his premises to move along and respect the needs of local residents
5. Notices to respect the needs of local residents and to keep the noise down have now been permanently displayed at the premises.
6. That SIA door security staff will be employed on the weekends to ensure that customers wait in the roped off area outside the premises and do not cause nuisance to local residents while at the premises.
7. Mr Barhamji stated that complaints where from residents from the upmarket side of Brick Lane and that he was providing food for people who were working shifts, working in hospitals and for the general public who visit Brick Lane.
8. That the hours had been agreed in consultation with the Police
9. That his business' waste contract was with the Council's waste contractor - Veolia
10. That the SIA door staff and roped queueing area will help keep the noise nuisance to a minimum.
11. That large groups of customers would be asked to wait inside the premises for their food to be ready.

Members adjourned the meeting at 7.35pm for deliberations and reconvened at 9.00pm.

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 merit. The Sub Committee has carefully considered all of the evidence before them and considered written and verbal representation from the applicant, the Licensing Authority and the Legal Representative on behalf the objectors with particular regard to the licensing objectives of the prevention of public nuisance, and the prevention of crime and disorder.

The Sub-Committee noted that the premises in question are situated in the cumulative impact zone and therefore when an application is received, there is a rebuttal presumption that the licence will be refused.

The Sub-Committee noted that the applicant can rebut the presumption if they can demonstrate from their operating schedule that their application for a premises licence would not add to the cumulative impact in the cumulative impact zone, and thus undermine any of the four licensing objectives.

The Sub-Committee considered that the onus lay upon the applicant to satisfy them of this on the balance of probabilities, with appropriate supporting evidence. The Sub-Committee had to be satisfied that the operation of the premises, if the application were granted, would not add to the cumulative impact already being experienced in the cumulative impact zone.

The Sub-Committee noted that the cumulative impact of the number, type and the density of licensed premises in the area may lead to serious problems of nuisance and disorder; and that the cumulative impact zone did not act as an absolute prohibition on granting or varying new licences within that zone.

The Sub-Committee noted the written representations made by objectors and also heard oral representations from the Legal Representative on behalf of objectors regarding the impact of the premises on the Cumulative Impact Zone. The Sub-Committee noted objectors' concerns relating to the existing levels of noise nuisance and anti-social behaviour; and noted objectors' concerns about increased noise nuisance, impact upon family environment, and the likely increased numbers of clientele in the area if the application were to be granted, and thereby the likely impact on the cumulative impact zone.

The Sub Committee noted the applicant's representation that the impact of the premises licence if granted would be mitigated by the proposed conditions agreed with responsible authorities. Members acknowledged that the applicant had explained how they would manage the noise from customers but unable to demonstrate how they would manage the noise from crowds outside the premises and therefore Members were satisfied that a condition to have an SIA accredited security guard on duty outside the premises to manage the queue of customers during the weekends would be sufficient to address those concerns.

The Sub-Committee was concerned about the impact of late licensing hours in the weekdays and weekend; that the premises would possibly attract a number of people into area and that a grant of the application would mean the premises would be the only premise in the local vicinity that would be open until 3am in the weekends. Therefore Members were of the view that the hours for the weekdays should remain the same as the existing licence but an extension of hours during the weekends in line with other premises in the local vicinity would be sufficient.

Balanced against the Sub-Committee's above concerns, and in addition to noting the applicant's above proposal regarding an SIA accredited security guard on duty outside the premises, the Sub-Committee noted that in answer to questions from the Sub-Committee, the applicant had confirmed the arrangements he had planned regarding dealing with increased waste arising from later trading, increased staff provision to cope with increased customer demand, and provision for a customer use only toilet facility.

The Sub-Committee were satisfied that the operating schedule together with the conditions and reduced hours set out below would mitigate any cumulative impact in the area and address the concerns of public nuisance, particularly in the form of noise nuisance, and crime and disorder.

The Sub-Committee therefore granted the application in part with a reduction in the hours applied for and imposed conditions on the licence to support the licensing objectives of prevention of public nuisance and prevention of crime and disorder.

Accordingly, the Sub Committee unanimously

RESOLVED

That the application for a New Premises Licence for Sharwama, 84 Brick Lane, London E1 6RL be **GRANTED in part with conditions.**

The hours for Provision of Late Night Refreshments

Monday to Wednesday from 23:00 hours to 00:00 hours (midnight)

*Thursday to Saturday from 23:00 hours to 02:00 hours (the following day)

Sunday from 23:00 hours to 23:30 hours

The opening hours of the premises

Monday to Wednesday from 10:00 hours to 00:30 hours (the following day)

*Thursday to Saturday from 10:00 hours to 02:30 hours (the following day)

Sunday from 10:00 hours to 00:00 hours (midnight)

*- new hours

Non Standard Timings

Non Standard Timings – from the end of permitted hours on New Year's Eve until 02:00 hours.

Non Standard Timings – Sundays before Bank Holiday Mondays until 02:00 hours.

New Conditions

1. On Thursday, Friday and Saturday an SIA security guard will be on duty from 23:00 hours until the premises is closed. They are to ensure that customers wait in the roped off area outside the premises and do not cause nuisance to local residents while at the premises.
2. After 22:00 hours every night there is to be a roped off area for customers to wait outside the premises while queuing and waiting for their food to be given to them.
3. Plastic cutlery only is to be used for customers.
4. Plastic and polycarbonate containers to be use.
5. No alcohol to be allowed on the premises.
6. Clear signage to be placed in the shop windows stating that the premises supports the Council's 'No Touting Policy'

The following are conditions already on the existing Premises Licence

1. Notices shall be prominently displayed at all exits requesting patrons to respect the needs of local residents and businesses and leave the area quietly.
2. The premises shall install and maintain a comprehensive CCTV system. All entry and exit points will be covered enabling frontal identification of every person entering in any light condition. The CCTV system shall continually record whilst the premises is open for licensable activities and during all times when customers remain on the premises. All recordings shall be stored for a minimum period of 31 days with date and time stamping. Viewing of recordings shall be made available immediately upon the request of Police or authorised officer throughout the entire 31 day period.

3. A staff member from the premises who is conversant with the operation of the CCTV system shall be on the premises at all times when the premises are open.
4. This staff member must be able to provide a Police or authorised council officer copies of recent CCTV images or data with the absolute minimum of delay when requested.
5. Reasonable steps shall be taken to ensure that any person loitering outside the premises disperse quickly and do not congregate.
6. The toilet shall be available to all seated customers.
7. The responsible person must ensure that free potable water is provided on request to customers where it is reasonably available.
8. All windows and external doors shall be kept closed except for the immediate access and egress of persons.
9. An incident log shall be kept at the premises, and made available on request to an authorised officer of the Council or the Police. It must be completed within 24 hours of the incident and will record the following:
 - 10.(a) all crimes reported to the venue
 - (b) any complaints received concerning crime and disorder
 - (c) any incidents of disorder
 - (d) any faults in the CCTV system
 - (e) any visit by a relevant authority or emergency service.
11. A CCTV system shall incorporate a recording facility and any recordings shall be retained and stored in a suitable and secure manner for a minimum of 31 days. A system shall be in place to maintain the quality of the recorded image and a complete audit trail maintained. The system will comply with other essential legislation, and all signs as required will be clearly displayed. The system will be maintained and fully operational throughout the hours that the premises are open for any licensable activity.

4. EXTENSION OF DECISION DEADLINE: LICENSING ACT 2003

The Chair agreed to extend the decision deadlines for the following applications;

Premises	Type of Licence	Hearing Date
INS, 13 Brick Lane, London E1 6PU	New	31/07

Premises	Type of Licence	Hearing Date
Redchurch Townhouse, 56 Redchurch St, London E2 7DP	New	31/07
Angel Convenience, 23 Roman Road, London E2 0HU	New	30/08
Cookies and Cream Unit 5 The Chronos Building, 9-25 Mile End Road, London E1 4TW	New	30/08
The Royal College of Pathologist, 6 Alie St, London E1 8QT	New	18/09
Limehouse PH, 421 Wick Lane, London E3 2LG	Review	18/09
Boxcar Brewery, 1 Gales Gardens, Birkbeck Street, London E2 6JY	New	25/09
Mailinda, 62 Mellish Street, London, E14 8NS	New	25/09
The Victoria, 110 Grove Road, London, E3 5TH	Variation	02/10
East Gifting Outfit Ltd, 10 Tomlins Grove London E3 4NX	New	02/10

The meeting ended at 9.00 p.m.

Chair, Councillor Eve McQuillan
Licensing Sub Committee