

LONDON BOROUGH OF TOWER HAMLETS**MINUTES OF THE LICENSING SUB COMMITTEE****HELD AT 6.30 P.M. ON TUESDAY, 8 JANUARY 2019****THE COUNCIL CHAMBER, TOWN HALL, MULBERRY PLACE, 5 CLOVE
CRESCENT, LONDON, E14 2BG****Members Present:**

Councillor Dan Tomlinson (Chair)

Councillor Faroque Ahmed

Councillor Shah Ameen

Other Councillors Present:

Councillor Eve McQuillan

Officers Present:

David Wong	– (Legal Services)
Lavine Miller-Johnson	– (Licensing Officer)
Simmi Yesmin	– (Senior Committee Officer, Democratic Services)

Representing applicants	Item Number	Role
Matthew Phipps	3.1	Legal Representative
Adrian Studd	3.1	Independent Advisor
Steve Moore	3.1	Applicant
Dustin Acton	3.1	Designated Premises Supervisor
Luke Elford	3.1	Solicitor
Stephen Thomas	3.2	Legal Representative
Ross Blake	3.2	Applicant

Representing objectors	Item Number	Role
Nicola Cadzow	3.1	Environmental Health
Robin Moore	3.1	Resident
Chiara Sotis	3.1	Resident
Monjur Ali	3.2	Resident
Faisul Ahmed	3.2	Resident
Shanur Miah	3.2	Resident
Saifur Rahman	3.2	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

The order of business was varied at the meeting, however for ease of reference the minutes are in the same order as per the agenda items.

3.1 Application for a New Premises Licence for Electric Shuffle, 3-6 Steward Street & 50 Gun Street, London E1 6FQ

At the request of the Chair, Ms Lavine Miller-Johnson, Licensing Officer, introduced the report which detailed the application for a new premises licence for Electric Shuffle, 3-6 Steward Street & 50 Gun Street, London E1 6FQ. It was noted that objections had been received on behalf Environmental Protection and local residents.

At the request of the Chair, Mr Matthew Phipps, Legal Representative on behalf of the Applicant explained that it was a straight forward application and each application should be considered on its own merits. He stated that if the application is granted it would not significantly impact the community.

Mr Phipps explained that it was a positive application and would mean a significant investment is made into the premises. He said it was a first of its kind in the borough, an exceptional and unique social playing experience, electric shuffle, a concept of a 15ft table with discs being shuffled to knock out other players discs, the game is for 6-10 players. He said that there would be a huge investment into the IT infrastructure, a playing experience that would be fun and safe.

Mr Phipps acknowledged that the hours applied for were more extensive than the Council's Framework hours. He stated that they had consulted with resident organisations such as SPIRE and Spitalfields Community Group and as a result they had not objected to the application. He said the premise was previously licensed as Byron Restaurant and was then surrendered, it was noted that the previous licence only had seven conditions which were very liberal and free of control. He referred to the Tower Hamlets Licensing Policy section 14.8 where it states 'to authorise licensable activities outside of the framework hours, and in respect of which relevant representations are made, will be decided on their own merits and with particular regard to the following; 14.8 d) where the premises have been previously licensed, the past operation of the premises'. And 19.8 where examples of factors the Licensing Authority may consider as exceptional may include – 'instances where the applicant

has recently surrendered a licence for another premises of a similar size and providing similar licensable activities in the same Special Policy Area'. He again highlighted that the previous licence had less conditions and this new application proposes 32 new conditions.

Mr Phipps explained that the doors on Gun Street will be closed with no access or egress and only used as a fire exit and that the entrance and exit would be on Steward Street. He acknowledged that residents lived above the premises, however music would be inaudible as per the acoustic report once the works had been undertaken.

It was noted that further conditions had been offered which were set out in the Supplemental Agenda Pack 2. It was also noted that there would be 70 members of staff, working as part of teams such as the floor team, bar team, table service team, reception and booking team etc. He explained that there would be a booking system in place and they envisage that 85% of the game sessions would be booked in advance and each game would last for approximately 2 ½ hours. He explained that the booking timings would be staggered in order to avoid queuing etc. Mr Phipps explained that customers would be greeted within 7 seconds of arrival by a care operator who would meet the customers at the door.

Mr Phipps concluded that the Licensing Authority had withdrawn their representation following the conditions proposed by the Applicant. It was also noted that the Police had not objected and in terms of noise the premises would be inaudible and therefore there should be no issue with noise emanating from the premise.

At the request of the Chair, Ms Nicola Cadzow referred to her statement and stated that had the hours been within the framework hours then she would have withdrawn her representation. She stated that the hours applied for will affect residents, it was in the Cumulative Impact Zone, and there were a number of licensed premises in close proximity. She explained that there were 40 flats above and adjacent to the premises. She believed that premises would be likely to cause public nuisance and she was not convinced that premise would be inaudible. She therefore asked that Members refuse the application.

Members then heard from Ms Chiara Sotis, local resident who expressed concerns about the safety of residents, noise associated with the number of customers arriving and leaving the premises and general public nuisance that may arise as a result of a licence being granted.

Members lastly heard from Mr Robin Moore, local residents and landlord for properties on Gun Street, he read through a statement and highlighted that he shared a party wall with no. 50 Gun Street, he believed that they had not considered sufficient measures they will need to put into place to prevent noise breakout from their premises at no. 50 Gun Street. He referred to the Acoustic report and highlighted the potential noise nuisance that would be caused.

He stated that the premises would have a night club type of environment in terms of noise and this was right next door to his property and taking place below 40 residential flats. He queried whether the glass currently installed in the former gym which had previously operated from the same premises as the Applicant's at Gun Street would be sufficient to limit noise breakout, and that the doors would need to be refitted as currently there were several gaps. He stated that no mention was made of how the noise breakout will be prevented from travelling through the party wall to number 51/52 and 53 Gun Street.

Mr Moore stated that he had visited the branch in Shoreditch, where he was greeted by a member of staff, who then promoted the sale of alcohol by informing him that it cost only £4.60 for a pint. He concluded that the licence for Byron restaurant was not a suitable comparison to this application as it was serving wine at the table compared to this premises where alcohol would be readily available.

In response to questions the following was noted;

1. The other branches of Electric Shuffle varied between 1am and 2am closing times.
2. It was noted that the other premises operated by Electric Shuffle were in relatively more commercial areas and did not have residents living directly above or next to the premises.
3. That 85% of customers would be booking games in advance.
4. That booking times would be staggered in order to prevent large groups of customers arriving or leaving at the same time.
5. The capacity of the premises was for 300 plus.
6. That there was one entrance which would be used for access and egress.
7. That the landlord was the same for the premises and for the residents living above the premises.
8. There were concerns that Police had not objected to the application.
9. That SPIRE and the Spitalfields Community Group had been consulted.
10. That alcohol was a fundamental part of the service.
11. Concerns were raised about the Applicant's interpretation of the Cumulative Impact Zone policy of the London Borough of Tower Hamlets, given that the premises relating to the application lay within such zone.
12. Noted that according to the Cumulative Impact Zone policy of the London Borough of Tower Hamlets, anything that adds to the burden to/cumulative impact upon residents with regard to any of the licensing objectives, in particular in this case, public nuisance through noise disturbance including noise from customers arriving and leaving premises situated below and adjacent to residential accommodation is reason to refuse the application, and it was for the Applicant to demonstrate how they would rebut this presumption against granting a premises licence application for premises in a Cumulative Impact Zone.
13. That the branches in Bloomsbury and Shoreditch were also in Cumulative Impact Zones.

At that point the Legal Officer in accordance with the London Borough of Tower Hamlets Constitution extended the meeting by one hour as the Applicant's presentation and objectors' representations needed more time.

In summation, the objectors stated that the premises was within the Cumulative Impact Zone, the hours applied for were outside the Council's Framework Hours, the premises would be attracting more people into area and have customers spilling into residential streets potentially causing public nuisance.

Mr Phipps referred to the Council's Licensing Policy sections 14.7 and 14.8 and suggested that these should be considered. He stated that they were applying for 6 hours less each day by choosing to open at 12:00 hours (midday) then 06:00 hours, as per the Council's Framework Hours. He also offered that the hours for late night refreshments and regulated entertainment to be reduced in line with the same hours for sale of alcohol and also offered 32 conditions.

Members adjourned the meeting at 9.45pm to deliberate and reconvened at 9.55pm.

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 both the Applicant's Legal Representative and the Objectors with particular regard to the licensing objectives of the prevention of public nuisance, the prevention of crime and disorder and the protection of children from harm.

The Sub-Committee noted that the premises in question are situated in the cumulative impact zone (CIZ). With reference to the Council's Statement of Licensing Policy, the effect of premises subject to a licensing application being in a CIZ is that there is a rebuttable presumption that where relevant representations are received by one or more of the responsible authorities and/or other persons objecting to the application, the application will be refused.

The Sub-Committee noted that under the Council's Statement of Licensing Policy, the Applicant can rebut the above presumption if they can demonstrate that their application for a premises licence would not add to the cumulative impact of licensed premises already in the CIZ.

The Sub-Committee considered that the onus lay upon the Applicant to show this through the operating schedule, with appropriate supporting evidence that the operation of the premises, if licensed, would not add to the cumulative impact already being experienced in the CIZ in terms of eg. public nuisance in terms of noise disturbance including increased footfall in the CIZ arising from having an additional licensed premises in the CIZ .

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

That said, the Sub-Committee also took into account the Council's Statement of Licensing Policy saying that the policy regarding applications for premises within a CIZ will be strictly applied, and where relevant representations are received, it is the view of the Council that the application will be refused, and applicants will need to demonstrate that there are exceptional circumstances, such that granting the application would not add to the cumulative effect of having more licensed premises in the CIZ, with regard to the licensing objectives.

The Sub-Committee noted the written representations made by Objectors and also heard oral representations from Objectors regarding the impact of the premises on the CIZ. The Sub-Committee noted Objectors' concerns relating to public nuisance, public safety 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 CIZ.

The Sub Committee noted the Applicant's representation that the impact of the premises licence would not be significant and if granted, would be mitigated by the proposed conditions agreed and offered. However, the Sub Committee considered that they had not heard sufficient evidence to demonstrate that there are exceptional circumstances, such that granting the application would not add to the cumulative effect of having more licensed premises in the CIZ, with regard to the licensing objectives. Whilst the Sub-Committee heard extensively from the Applicant's legal representative with reference to the Council's Statement of Licensing Policy and the Secretary of State's Statutory Guidance, the Sub-Committee considered that the Applicant and its legal representative had missed the point in the Council's Statement of Licensing Policy that where a premises licence is sought for premises within a CIZ, if an applicant does not demonstrate that there are exceptional circumstances, such that granting the application would not add to the cumulative effect of having more licensed premises in the CIZ, with regard to

the licensing objectives, the application will be refused. The Sub-Committee were concerned that the Applicant did not appear to sufficiently address what is a very high bar to cross in terms of premises licence applications for premises in a CIZ.

The Sub-Committee acknowledged that the Applicant had explained how the Applicant would manage the activities within the premises. However, the Sub-Committee felt that the Applicant was unable to demonstrate how they would manage the noise from groups of patrons leaving the premises. The Sub-Committee noted that a large number of people would be attending and leaving the premises at similar times and noted that, although the Applicant's dispersal policy covered the people leaving the premises, there were not sufficient measures in place for when patrons leaving would be spilling into adjacent residential streets in the CIZ.

The Sub-Committee was also concerned about the impact of importing a significant increase in footfall into the CIZ (300 plus people was talked about) who would also then be leaving through the CIZ, which already experiences a high volume of crime and disorder, public nuisance and anti-social behaviour, these issues being factors behind the creating of the CIZ in the first place. The potential increased footfall arising from any grant of the application in this instance requires a particularly robust operating schedule, which should demonstrate particular measures at the premises to address the likely impact of increased clientele and potential alcohol fuelled disorder and/or alcohol fuelled noise arising therefrom. The Sub-Committee was not satisfied that the operating schedule as presented at the Sub-Committee meeting met that very high bar.

The Sub Committee was therefore not satisfied that the Applicant had successfully demonstrated enough to rebut the presumption against granting a premises licence for a premises situated in a CIZ, in that the Sub-Committee were of the view that on the balance of probabilities, the premises was more likely than not to negatively add to the CIZ. The Sub-Committee was particularly mindful of the licensing objective of preventing public nuisance.

Accordingly, the Sub Committee unanimously;

RESOLVED

That the application for a New Premises Licence for Electric Shuffle, 3-6 Steward Street & 50 Gun Street, London E1 6FQ be **REFUSED**.

3.2 Application for a New Premises Licence for (The Tap Room) Railway Arch 162, Malcolm Place, London E2 0EU

At the request of the Chair, Ms Lavine Miller-Johnson, Licensing Officer, introduced the report which detailed the application for a new premises licence for The Tap Room, Railway Arch 162, Malcolm Place, London E2 0EU. It was noted that objections had been received on behalf of the Ward

Councillor and local residents including a petition. It was noted that conditions had been agreed with the Police and Environmental Health.

At the request of the Chair, Mr Stephen Thomas, Applicant's Legal Representative explained that the Applicant Mr Ross Blake runs four other licensed premises which were well managed with no problems/complaints. He worked with the local community and wished to do so with this community too. It was noted that the Applicant had spoken to Cllr Sirajul Islam the Ward Councillor and residents however has had no response from the local mosque.

He explained that the area was redundant and therefore the introduction of this premises would be helping regenerate the area. He said that the hours applied for were modest hours between the hours of 11am-11pm and therefore within the Council's Framework hours. He highlighted the training manual which was an integral part of the day to day running of the premises. It was noted that conditions had been agreed with the Police and Environmental Health and therefore no representations have been made from any Responsible Authorities.

It was noted that the outside drinking area was a concern for the residents, however they would be closing at 11pm and would have the tables and chairs rendered unusable after 11pm. Mr Thomas informed Members that the Applicant wishes to work with the local community and highlighted conditions that been offered since the application, such as no off sales, food to be available throughout the trading period, to be a part of the PubWatch Scheme and to introduce the Challenge 25 policy. He then urged Members to grant the application.

Members then heard from Cllr Eve McQuillan, who spoke on behalf of Cllr Sirajul Islam and local residents. She stated that they did not have concerns regarding the management or experience the Applicant had, but more so serious concerns over the area the premises was in, she said it was not appropriate for such an establishment. She explained that the area was redundant, poorly lit, dark and dingy. She highlighted the crime and disorder in the area and the daily drug dealing that takes place in and around that part of the area. She said that the park opposite the premises was now included in the new Cumulative Impact Zone in Bethnal Green, that the premises was very close to the local community mosque which the community had been fundraising for years for a peaceful area to worship in.

Cllr McQuillan stated that there would be public nuisance arising from noise from people entering and leaving the premises, and when customers would be drinking or congregating outside the premises, all of which would impact on the nearby mosque. Cllr McQuillan suggested that there should be no drinking outside the premises and reduced hours should be considered during Ramadan and the Summer period. It was noted that the area was poorly lit and very dark in places and a prime location for drug dealing and therefore serious concerns/issues of public safety and crime and disorder.

She concluded by asking Members to refuse the application on the basis that it would affect all four of the licensing objectives.

In response to questions the following was noted:

1. That the hours applied for were within the Council's Framework hours.
2. That the Applicant was happy to apply the Council's Framework hours on Sundays.
3. That the premises was not appropriate for the area, it was dark and unsafe and requires a lot of works.
4. That this particular area was known for drug dealing and if a licence was granted it would heighten the problem.
5. That the Applicant would be investing into the area, which already has a number of units which will help brighten and open up the area.
6. The new lighting would discourage drug dealing
7. That according to the Applicant, a premises licence of this nature would not cause a problem or pose a threat to children.
8. The Applicant confirmed that he would like to work with the local mosque and local residents.
9. That the Applicant had agreed with the Police that there would be one SIA accredited door supervisor on duty on Fridays and Saturdays.
10. That the premises would be selling specialist craft beer with food offerings throughout the trading period.
11. That the Applicant would be improving the street, taking over derelict arches, landscaping the area, introducing cycle stands, better lighting, remove hoardings etc.

In summing up, Cllr Eve McQuillan stated that the area was dark and dingy, opening a Bar would increase drug use in the area. She stated that it was unfair that there would be tables and chairs outside the premises to encourage people to congregate outside. She explained that there was a similar set of premises in the area causing nuisance, and residents have been complaining about those similar premises in the same area having a negative impact on the area; so that if this licence application were granted, there would be further issues of public nuisance and public safety.

Mr Thomas stated that if there were concerns of crime and disorder and noise nuisance, then the Police and Environmental Health would have objected to the application. However, there have been conditions agreed and therefore there had been no objections from those two authorities. He acknowledged that there were appropriate concerns and the Applicant was happy to invest in the area, brighten up the place, discourage drug users and put a derelict area into good use.

Members adjourned the meeting at 7.25pm to deliberate and reconvened at 8.10pm.

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 both the Applicant and his representative and from Councillor Eve McQuillan, Ward Councillor who spoke on behalf of the objectors with particular regard to all four licensing objectives of the prevention of public nuisance, the prevention of crime and disorder, the protection of children from harm and public safety.

The Sub-Committee noted that the premises in question are situated in a derelict and poorly lit area that attracts crime and disorder especially drug dealing and drug use. However, Members noted the fact that the Applicant had acquired a number of units in the area and noted the substantial investment the Applicant would be investing to improve the area, through better lighting, CCTV, removing hoardings, landscaping outside the units etc. and were of the view that these changes will help deter crime and disorder in this particular area.

Members did note the concerns raised by Objectors and in particular the potential public nuisance that licensed premises may cause in an area which was in close proximity to faith buildings and in particular at times during late evenings where customers of the proposed licensed premises would be likely to cause noise nuisance. Therefore Members felt that a conditions to not allow alcoholic drinks to be consumed outside the premises and a restriction on the number of smokers outside the premises together with the conditions agreed with the Responsible Authorities and conditions offered by the Applicant such as no off sales of alcohol and food to be available throughout the trading period would help alleviate concerns raised and help promote the licensing objectives.

Members reached a decision and the decision was unanimous. Members granted the application subject to conditions to help promote the licensing objectives.

Accordingly, the Sub Committee unanimously:-

RESOLVED

That the application for a New Premises Licence for The Tap Room, Railway Arch, 162, Malcolm Place, London E2 0EU be **GRANTED** with conditions.

Sale of Alcohol (on sales only)

Monday to Saturday 11:00 hrs to 23:00 hrs
Sunday from 11:00 hrs to 22:00 hrs

Hours premises open to the public

Monday to Saturday from 11:00 hrs to 23:30 hrs
Sunday from 11:00 hrs to 22:30 hrs

Non-Standard Timings

News Year's Eve, from 11:00 hrs to 01:30 hrs the following day.

Conditions

1. There shall be no off sales
2. Food will be available throughout the trading period.
3. No alcohol to be consumed outside the premises.
4. No more than four smokers to be allowed to smoke outside the premises at any one time.
5. All staff will be trained in licensing and records kept for inspection by the licensing authority and the police
6. The applicant will be a member of the local pub watch scheme or any similar scheme operating in the area of the Licensing Authority.
7. A Challenge 25 proof of age scheme shall be operated at the premises.
8. A CCTV system to be put in place, the cameras are to be of sufficient quality so that people are clearly identifiable from the footage. The cameras are to be placed in such a way as they cover both the internal areas any external area, with a camera to cover the entrance so that it captures images of people's faces as they enter the premises. The system is to record the footage and to keep it for a minimum of 28 days and a copy off CCTV footage is to be made available to Police or the Local Authority upon request While the premises are open to the public a member of staff must be on duty who can operate the CCTV system.
9. On Friday and Saturday one SIA accredited door supervisor will be employed from 8pm until the premises has closed.
10. A refusals book shall be maintained documenting people refused the sale of alcohol.

11. A incident book shall be maintained that records all incidents of note, including but not limited to, crimes that take place at the premises, people removed from or refused entry to the premises, incidents of anti-social behaviour
12. Notices shall be prominently displayed at all exists requesting patrons to respect the needs of local residents and businesses and leave the area quietly.
13. No noise shall emanate from the premises nor vibration be transmitted through the structure of the premises which gives rises to a nuisance (including music from outside speakers).
14. No waste or recyclable materials, including bottles, shall be moved, removed from or placed in outside areas between 23:00 hours and 08:00 hours on the following day.
15. No collections of waste or recycling materials (including bottles) from the premises shall take place between 23:00 hours and 08:00 hours on the following day.

Suggestion from the Sub Committee

The Sub Committee strongly suggested that the Applicant meets and works with the local mosque, Islamic school and local residents to discuss the hours and how they can be adjusted to benefit the community and in particular during prayer times.

4. EXTENSION OF DECISION DEADLINE: LICENSING ACT 2003

There were no applications that required deadline extensions.

The meeting ended at 10.00 p.m.

Chair, Councillor Dan Tomlinson
Licensing Sub Committee