

LONDON BOROUGH OF TOWER HAMLETS
MINUTES OF THE LICENSING SUB COMMITTEE

HELD AT 6.30 P.M. ON TUESDAY, 9 JULY 2019

**COMMITTEE ROOM C3, TOWN HALL, MULBERRY PLACE, 5 CLOVE
CRESCENT, LONDON, E14 2BG**

Members Present:

Councillor Eve McQuillan (Chair)
Councillor Mohammed Ahabab Hossain
Councillor Zenith Rahman

Officers Present:

Luke Wilson – (Legal Services)
Kathy Driver – (Principal Licensing Officer)
Simmi Yesmin – (Democratic Services)

Representing applicants	Item Number	Role
Philip Kolvin QC	3.1	(Counsel)
Marcus Lavell	3.1	(Legal Advisor)
Robert Sutherland	3.1	(Legal Advisor)
Jamie Kerr	3.1	(Manager/DPS)
Adrian Studd	3.1	(Independent Consultant) Licensing
Jonty Stewart	3.1	(Noise Consultant)
Dino Constantinou	3.2`	(Applicant's Representative)
Faraz Nagree	3.2	(Applicant)

Representing objectors	Item Number	Role
Daniel Bland	3.1	(Resident)
Michele Scarr	3.1	(Resident)
Olivia Spring	3.1	(Resident)

Apologies

Councillor Kevin Brady – (Item 3.2 – To speak in objection on behalf of residents)

1. DECLARATIONS OF DISCLOSABLE PECUNIARY INTEREST

There were no declarations of interests made.

2. RULES OF PROCEDURE

The rules of procedure were noted.

3. ITEMS FOR CONSIDERATION

3.1 Application for a New Premises Licence for Hotel, 419 - 437 Hackney Road, London E2 8PP

At the request of the Chair, Ms Kathy Driver, Licensing Officer, introduced the report which detailed the application for a new premises licence for Mama Shelter Hotel, 419-437 Hackney Road, London E2 8PP. It was noted that objections had been received on behalf of local residents. It was further noted that since the publication of the agenda, the Licensing Authority had withdrawn their objection to the application.

At the request of the Chair, Mr Philip Kolvin QC, representative on behalf of the Applicant, explained that the hotel was a part of a chain of boutique hotels worldwide and would be the first of its kind to open in the UK. Mr Kolvin stated that following consultation, all Responsible Authorities had withdrawn their objections and were satisfied with the hours and conditions offered and agreed.

It was noted that the 10 local resident objections had been made to the original application which was for a 24 hour operation. The hours of operation had now been reduced . Mr Kolvin gave a brief background history of Mr Jamie Kerr, the manager of the hotel. It was noted that it was vital for the hotel to ensure that they were good neighbours to local residents. If there were any issues, there are powers of enforcement that could be taken. It was noted that the premises was not a night club or pub but an exclusive and premium hotel with a restaurant which would be open to the public. He explained that the revenue for the hotel was primarily from customers using the hotel to sleep and therefore any noise disturbance would be contrary to its interests. It was further noted that the inside courtyard would have a glass enclosure fitted to prevent any noise leakage.

Mr Kolvin then went on to highlight the following:

1. The restaurant had 80 percent seating area.
2. No drinks would be allowed to be taken outside the premises.
3. The CCTV system had been upgraded to cover all four sides of the premises.
4. Security staff would patrol the outside area regularly.
5. The hours proposed were consistent with the hours suggested by the Responsible Authorities.
6. Two SIA registered door supervisors would be on duty to manage customers entering and exiting the premises, and to monitor the smoking area.

The Acoustic Assessment report from Vanguardia and the Licensing Report from Mr Adrien Studd, Independent Licensing Consultant, were noted.

Mr Kolvin stated that the hotel seeks to attract families and tourists. The premises was not in the Cumulative Impact Zone and other venues in close proximity had longer licensing hours. He explained that objections were initially for a 24 hours licence however this had since been reduced. Management would be looking to enhance relations with residents and a number for the manager would be available so that he can be contacted directly. The directors had provided the manager with all necessary powers to enable him to effectively deal with any issues that may arise.

Members also heard from local residents Mr Daniel Bland, Ms Michelle Scarr and Ms Olivia Spring who expressed concerns about the public nuisance impact on local residents from a late night venue situated in a residential area. Concerns were raised as to why the hours were not in line with the Council's framework hours. Residents stated that other premises with late hours were a mile away and not in close proximity to residents. Concerns were raised about noise nuisance from customers, in particular smokers, standing and talking outside the premises late at night. Residents suggested that the noise report failed to adequately address the ambient noise levels in the area late at night. Lastly, there were concerns that the premises would attract beggars and increase drug use and crime in the area.

In response to Members questions, the following was noted:

1. The opening times would be the same as the existing premises licence.
2. The rationale to limit the number of smokers to 20 was decided using the Tower Hamlets methodology.
3. The hours and conditions had been accepted by the Responsible Authorities.
4. Security staff would manage the smoking area outside the premises.
5. There would be no drinks allowed outside the premises and this would be enforced by security staff.
6. There would be 45 members of staff and 195 guest rooms.
7. Any anti-social behaviour and beggars would be managed by the security staff.
8. Body cameras worn by security staff would act as a deterrent and there would be 24 hour CCTV on all four sides of the building.
9. Objectors were of the view that there had previously been no more than 8 smokers outside the premises at any one time. The noise of the smokers' conversations outside the hotel could be heard clearly from the nearby residential dwellings.
10. The pre-booked private events would operate under standard licensing hours and therefore non-standard hours were no longer required for private events and could be removed from the application.
11. Any less than 20 smokers allowed outside to smoke at any one time would make the venue non-operational.
12. The capacity of the restaurant was 250.

13. There would be no noise disturbance from the courtyard as a glass canopy would be fitted and the area would be covered from 10pm onwards.
14. The current licence would be surrendered subject to the granting of the new licence.
15. The Applicant agreed to conditions outlined in paragraph 6 of the Vanguardia report.

Both parties gave brief concluded remarks.

Members adjourned again at 7.45pm for deliberations and reconvened at 8.25pm. The Chair announced the decision to which Mr Kolvin urged Members to reconsider the limit on the number of smokers.

Members adjourned again at 8.30pm and reconvened at 8.40pm to reconsider a condition on the limit of smokers.

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 had heard representations from the Applicant's Legal Representative and from the Objectors present at the meeting.

Members welcomed the efforts made by the Applicant, in offering some robust conditions and also accepting and agreeing to the conditions suggested by the Responsible Authorities.

The Sub-Committee agreed to grant the licence subject to the following amendments and additional conditions: the non-standard times are amended to remove the exception for pre-booked private events, the premises is to have two SIA registered door supervisors on duty between 9pm and closing, no drinks are to be taken outside the premises, the Applicant is to implement a Challenge 25 Policy and the noise conditions suggested in the Vanguardia Acoustic Assessment Report are adopted. Members noted that one of the main concerns raised by objectors was the level of noise outside the premises late at night. Members were of the view that a condition requiring the Applicant to allocate a designated smoking area on Hackney Road and to limit

the number of smokers to 10 persons after 10pm would help alleviate those concerns and minimise the risk of noise nuisance.

These conditions, as amended by the Sub-Committee, gave Members the assurance that public nuisance would be prevented.

The Chair highlighted that the granting of this application would be subject to the surrender of the current licence for the premises.

Members reached a decision and the decision was unanimous. Members were satisfied that the granting of the licence on these stringent conditions will help promote the licensing objectives in particular the prevention of crime and disorder and public nuisance.

Accordingly, the Sub-Committee unanimously

RESOLVED

That application for a New Premises Licence for **Mama Shelter** Hotel, 419-437 Hackney Road, London E2 8PP be **GRANTED** with conditions.

Sale of Alcohol (on sales only)

Monday to Thursday from 08:00 hrs to 00:00 hrs (midnight)

Friday from 08:00 hrs to 01:00 hrs (the following day)

Saturday from 09:00 hrs to 01:00 hrs (the following day)

Sunday from 09:00 hrs to 00:00 hrs (midnight)

Provision of Regulated Entertainment (Indoors) (plays and films, live music, recorded music, performance of dance and anything of a similar description)

Monday to Thursday from 08:00 hrs to 00:00 hrs (midnight)

Friday from 08:00 hrs to 01:00 hrs (the following day)

Saturday from 09:00 hrs to 01:00 hrs (the following day)

Sunday from 09:00 hrs to 00:00 hrs (midnight)

The Provision of Late Night Refreshments

Sunday to Thursday from 23:00 hrs to 00:00 hrs (midnight)

Friday and Saturday from 23:00 hrs to 01:00 hrs (the following day)

Non-Standard Timings

24 hours to hotel residents and their guests (limit of 4 guests per resident)

Hours Premises Open to the Public

Monday to Thursday from 08:00 hrs to 00:30 hrs (the following day)

Friday from 08:00 hrs to 01:30 hrs (the following day)

Saturday from 09:00 hrs to 01:30 hrs (the following day)

Sunday from 09:00 hrs to 00:30 hrs (the following day)

Non-standard Timings

24 hours to hotel residents and their guests (limit of 4 guests per resident)

Conditions

1. No licensable activities shall take place at the premises until premises licence 27280 (or such other number subsequently issued for the premises) has been surrendered.
2. There shall be two SIA registered door supervisors on duty between 21:00 hours to 00:30 hours Sunday to Thursday and between 21:00 hours to 01:30 hours Friday and Saturday.
3. No drinks shall be taken outside the premises.
4. In order that music noise levels do not exceed the assumed 90dBA internal entertainment noise level, a sound limiting device shall be installed and set accordingly. Only the premises licence holder and the designated premises supervisor shall have access to the sound limiting device.
5. An audio cut-out device shall be connected to the sliding windows and doors on the Hackney Road façade. If any of these are open, the level of music shall cut out completely or fall to the ambient levels that are not intrusive to local residents.
6. The Premise Licence Holder or Duty Manager shall make regular patrols at no less than hourly intervals around the perimeter of the premises when regulated entertainment is taking place. Noise levels shall be adjusted to ensure local residents are not disturbed by noise breakout.
7. No noise generated on the premises, or by its associated plant or equipment, shall emanate from the premises nor vibration be transmitted through the structure of the premises which gives rise to a nuisance.
8. Notices shall be prominently displayed at all exits requesting patrons to respect the needs of local residents and businesses and leave the area quietly.
9. No waste or recyclable materials, including bottles, shall be moved, removed from or placed in outside areas between 23.00 hours and 07.00 on Monday to Friday and 08.00 hours on Saturday and Sunday.
10. The approved arrangements at the premises, including means of escape provisions, emergency warning equipment, the electrical installation and mechanical equipment, shall at all material times be maintained in good condition and full working order.

11. The means of escape provided for the premises shall be maintained unobstructed, free of trip hazards, be immediately available and clearly identified in accordance with the plans provided.
12. All emergency exit doors shall be available at all material times without the use of a key, code, card or similar means.
13. All emergency doors shall be maintained effectively self-closing and not held open other than by an approved device.
14. The edges of the treads of steps and stairways shall be maintained so as to be conspicuous.
15. Curtains and hangings shall be arranged so as not to obstruct emergency safety signs or emergency equipment.
16. All fabrics, curtains, drapes and similar features including materials used in finishing and furnishing shall be either non-combustible or be durably or inherently flame-retarded fabric. Any fabrics used in escape routes (other than foyers), entertainment areas or function rooms, shall be non-combustible.
17. Provision of emergency lighting system shall be implemented in all public areas, staircase and fire escapes.
18. The certificates listed below shall be submitted to the licensing authority upon written request.
 - i. Any permanent or temporary emergency lighting battery or system
 - ii. Any permanent or temporary electrical installation
 - iii. Any permanent or temporary emergency warning system
19. Staff are to receive documented training and refresher training in:
 - i. procedures to deal with spillages/hazards;
 - ii. emergency response, including evacuation procedures;
 - iii. dealing with illness or injuries.
20. A Challenge 25 proof of age scheme shall be operated at the premises where the only acceptable forms of identification are recognised photographic identification cards, such as a driving licence, passport or proof of age card with the PASS Hologram.
21. Signage shall be displayed in prominent positions highlighting the proof of age policy.

22. All staff who sell or supply alcohol shall be given induction training and annual refresher training on the legislation relating to the sales of alcohol to underage persons.
23. The premises shall install and maintain a comprehensive CCTV system as per the minimum requirements of the Metropolitan Police. 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. 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 is open. This staff member must be able to provide a Police or authorised council officer copies of recent CCTV images or data with the absolute minimum of delay when requested. Signage shall be displayed in prominent positions highlighting the CCTV system.
24. The lobby/reception shall be permanently staffed.
25. There shall be a personal licence holder on duty on the premises after 20:00.
26. An incident log shall be kept at the premises, and made available on request to an authorised officer of the Council or the Police, which will record the following: (a) all crimes reported to the venue (b) all ejections of patrons (c) any complaints received (d) all seizures of drugs or offensive weapons (e) any refusal of the sale of alcohol (f) any visit by a relevant authority or emergency service.
27. Substantial food and suitable beverages other than intoxicating liquor, including drinking water shall be available during the whole of the permitted hours in all parts of the premises where intoxicating liquor is sold or supplied.
28. Loudspeakers shall not be located in the entrance lobby or outside the premise building.
29. All windows and external doors shall be kept closed after 22:00 hours, or at any time when regulated entertainment takes place, except for the immediate access and egress of persons.

30. No collections of waste or recycling materials (including bottles) from the premises shall take place between 22:00 hours and 08:00 hours on the following day.
31. No substantial deliveries to the premises shall take place between 22:00 hours and 08:00 hours the following day.
32. The premises shall designate a smoking area on Hackney Road.
33. Between 08:00 hours and 22:00 hours, patrons permitted to temporarily leave and then re-enter the premises, e.g. to smoke, shall be limited to 20 persons at any one time. Between 22:00 hours and closing time, patrons permitted to temporarily leave and then re-enter the premises, e.g. to smoke, shall be limited to 10 persons at any one time.

3.2 Application for a New Premises Licence for Lean Kitchen Railway Arch 4, Gales Gardens, London E2 0EJ

At the request of the Chair, Ms Kathy Driver, Licensing Officer, introduced the report which detailed the application for a new premises licence for Lean Kitchen, Railway Arch 4, Gales Gardens, London E2 0EJ. It was noted that objections had been received on behalf of local residents.

At the request of the Chair, Mr Dino Constantinou, Representative on behalf of Applicant, explained that the premises was situated under the railway arch and was part of 10-15 kitchen units. It provided a delivery service of food and beverages over a 2 mile radius. He explained that they were not currently selling alcohol from the premises.

Mr Constantinou explained that the train lines run until 1am and deliveries were mainly made by bicycles and mopeds. It was noted that the Applicant had put in a petition which led to the introduction of a 5mph speed limit in the area. It was noted that the residential houses/flats have their kitchens and bathrooms facing the archway to minimise the noise disturbance from the trains.

It was noted there was no consumption of food and drink on the premises. The Applicant had met with the Responsible Authorities and had agreed conditions. They tried to communicate with the resident objectors but none had responded. Mr Constantinou explained that they had installed CCTV inside and outside the premises, implemented a driver's code of conduct, introduced an internal waiting/lobby area for delivery drivers, set up a designated parking area, displayed additional signage and published a feedback email address for residents to raise with management any concerns they may have. Mr Constantinou stated that they would report abusive drivers

to Uber Eats and have CCTV to deter such behaviour. It was noted that the hours applied for were within the Council's framework hours.

It was noted that the objectors were not present at the meeting, therefore the Sub Committee noted and considered the written objections contained in the agenda.

In response to Members' questions, the following was noted:

- There were two members of staff during the lunch period and four members of staff during busy periods.
- They were awaiting a Health & Safety rating from the Council.
- The unit was close to residential buildings but there was a fence in the middle creating a separation.
- The Overground trains above the railway arch pass by approximately every 7 minutes.
- A 5mph speed limit had been recently introduced as a direct result of the Applicant's petition.
- They could ask UberEats for a particular driver not to be used if the driver was found to be abusive or in breach of their code of conduct.
- They have not received any reports of bad behaviour by their drivers.
- In order to prevent noise, cowls had been fitted at the premises.
- They receive approximately 30-40 orders per day.
- It was difficult for members of the public to link a driver to a particular kitchen unit.
- A driver waiting area had been introduced in the last 1-2 weeks.
- There had been no response received by objectors in relation to the reduced hours and added conditions.

In accordance with Part 4, 9.1 of the Council's Constitution, Mr Luke Wilson, Legal Officer, extended the meeting by one hour.

Members adjourned the meeting at 9.15pm for deliberations and reconvened at 9.50pm.

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 licencing 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 the representation made by the Applicant and his Business Representative, and had noted and considered the written objections included in the agenda from local residents.

The Sub-Committee noted that the premises is situated in the Bethnal Green Cumulative Impact Zone. The Special Cumulative Impact Policy creates a rebuttable presumption that where relevant representations are received, the application will be refused.

The Sub-Committee noted that the onus was on the Applicant to adequately rebut the presumption by demonstrating why the granting of its application would not negatively add the cumulative impact already experienced in the Cumulative Impact Zone.

The Sub-Committee noted the written representations made by 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 their concerns about increased public nuisance if the application were to be granted.

The Sub-Committee acknowledged the efforts made by the Applicant. However, having carefully considered the material in the agenda and supplementary agenda and the representations made at the meeting, Members were not satisfied that the granting of this application would not negatively add to the public nuisance already experienced in the area. Accordingly, the CIZ presumption had not been rebutted.

Members made a decision and the decision was unanimous. The application was refused.

Decision

Accordingly, the Sub-Committee unanimously –

RESOLVED

That the application for a New Premises Licence for, Lean Kitchen, railway Arch 4, Gales Gardens, London E2 0EJ be **REFUSED**.

4. EXTENSION OF DECISION DEADLINE: LICENSING ACT 2003

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

Premises	Hearing Date	Decision by
Nelson's Head, 32 Horatio Street, London E2 7SB (MA)	30/07	15/07
Mick's Garage), Queens Yard, White Post Lane, London E9 5EN (MA)	30/07	12/07
The London Shuffleboard Club, 28 Redchurch St, London E2 7DP (SN)	27/08	20/07
Nomadic Community Gardens, Fleet Street Hill, London E1 5ES (CH)	27/08	25/07
Marquis of Cornwallis, 304 Bethnal Green Rd, London E2 0AG (SN)	17/09	23/07
Malinda, 62 Mellish Street London E14 8NS (KD)	17/09	10/06
Papa John's, Unit 2 Westward Pepper Street (LMJ)	24/09	30/07
24/7 Off Licence, 141 Commercial Road, London E1 1PX (CH)	24/09	08/08

The meeting ended at 9.55 p.m.

Chair, Councillor Eve Mcquillan
Licensing Sub Committee