

**LONDON BOROUGH OF TOWER HAMLETS****MINUTES OF THE LICENSING SUB COMMITTEE****HELD AT 6.30 P.M. ON TUESDAY, 12 NOVEMBER 2019****THE COUNCIL CHAMBER, TOWN HALL, MULBERRY PLACE, 5 CLOVE  
CRESCENT, LONDON, E14 2BG****Members Present:**

Councillor Dan Tomlinson (Chair)

Councillor Shah Ameen

Councillor Mohammed Pappu

**Officers Present:**

David Wong

– (Legal Services)

Mohshin Ali

– (Senior Licensing Officer)

Simmi Yesmin

– (Democratic Services)

**Representing applicants****Item Number****Role**

Mohammed Abdul Hafiz

3.1

(Applicant)

**Representing objectors****Item Number****Role**

Nicola Cadzow

3.1

(Environmental Health Officer)

Corinne Holland

3.1

(Licensing Officer)

PC Mark Perry

3.1

(Metropolitan Police)

**Apologies**

None

**1. DECLARATIONS OF DISCLOSABLE PECUNIARY INTEREST**

There were no declarations of disclosable pecuniary interests made.

Councillor Mohammed Pappu declared a personal interest on item 3.1, Application for a new premises licence for Balobashar B2B Pool Lounge & Café, 9-13 Osborn Street, London E1 6TD on the basis that he had visited the premises. However, he confirmed that he had not discussed this application with any parties prior to the hearing. There was therefore no reason for Councillor Pappu to recuse himself from hearing this application.

## **2. RULES OF PROCEDURE**

The rules of procedure were noted.

## **3. ITEMS FOR CONSIDERATION**

### **3.1 Application for a New Premises Licence for Balobashar B2B Pool Lounge & Café, First Floor, 9-13 Osborn Street, London, E1 6TD**

At the request of the Chair, Ms Corinne Holland, Licensing Officer, introduced the report which detailed the application for a new premises licence for Balobashar B2B Pool Lounge & Café, First Floor, 9-13 Osborn Street, London E1 6TD. It was noted that objections had been received by the Licensing Authority, Environmental Health and the Metropolitan Police.

At the request of the Chair, Mr Mohammed Hafiz, Applicant explained that he had lived in the borough since 1970, as a child went to the schools in the Brick Lane area, and has lived, worked and been brought up in the borough.

He explained that his premises catered for older members of the community and the second generation of migrant families. He explained that he had been at the premises since 2000 which he has been operating for the past 19 years catering to the demands of night workers. He explained that it had first started off selling small snacks, and over the years due to demand, he now provides full meals. He explained that serving his customers was his main aim and purpose. He continued to express his passion and love of providing and serving his customers and the community. It was noted that there was no signage for the premises, there was no advertising, and custom was through word of mouth only.

He assured the Sub Committee that the premises provided a family friendly environment, that there would be no noise nuisance emanating from the premises, and that there would just be background music and customers talking to each other.

He explained that the business owners occupying the ground floor were using the same business concept as his business which is based on the 1<sup>st</sup> floor. He concluded that he was happy to fulfil any security requirements and any other requirements that officers/Council wanted to impose.

At the request of the Chair, Mr Mohshin Ali, Licensing Officer explained the grounds for his representations. He explained the Applicant had not mentioned anything on the impact of the Cumulative Impact Zone (CIZ) and how he would rebut the presumption against granting a licensing application relating to premises in a CIZ. It was noted that the application sought late night refreshments until 5am, so technically if granted the premises could operate 24 hours.

Mr Ali then briefly went through the history of the premises and explained that there had been three complaints that the premises had been trading without a licence. Two visits were made and warning letters sent advising the Applicant

that he required a licence to serve late night refreshments. Officers undertook a test purchase and visited the premises on the 1<sup>st</sup> June 2019 and purchased hot food after 23:00 hours. It was noted that the Applicant was present and had served the Officers. Mr Hafiz was cautioned and the offence was currently being investigated.

Mr Ali stated that the application should be refused. However if Members were minded to grant the application, then conditions should be imposed and referred to suggested conditions on pages 65 and 66 of the agenda.

Members then heard from Ms Nicola Cadzow, Environmental Health Officer. She referred to her objection on page 68 of the agenda pack and stated that the hours were beyond the Council's framework hours. She explained that there was potential for noise outbreak during access and egress to the premise. She also raised concern that neither what was written in the application, nor what was said by the applicant demonstrated addressed how the application, if granted, would not add to the cumulative impact in a CIZ. She asked that the application be refused, and that if the Members were minded to grant the licence, the hours should be reduced.

Members lastly heard from PC Mark Perry, Metropolitan Police. He referred to his statement contained in the agenda. He explained that the hours were excessive and that the applicant had not contacted him during the application process to discuss the application. PC Perry highlighted the fact that there were high levels of ASB and crime and disorder in the Brick Lane area.

He then referred to two incidents of crime and disorder, one in April 2019 and one in September 2019. Although both incidents were not caused by the applicant's business, on one of those occasions, the suspect got into the premises and obtained a knife from the kitchen and left to have a fight with people outside in Brick Lane; whilst in the other incident, a suspect whilst trying to escape from the Police, ran into the premises and was then caught by the Police. Whilst neither incidents were caused by the applicant's business, these highlighted concerns that the premises could easily be accessed by persons coming from outside committing ASB or criminal activities. PC Perry added that trading without a licence should not be condoned and therefore suggested that the hours should be reduced or the application should be rejected.

In response to questions the following was noted;

- That the application was formally amended and the Applicant no longer wanted to apply for regulated entertainment in the form of recorded music.
- That the incidents referred to were not directly associated to the premises.
- The applicant was unsure on whether the knife was taken from his premises or from the separate premises on the ground floor.
- That there had been no complaints of noise nuisance over the past years.

- The applicant was willing to accept conditions proposed by Responsible Authorities in the event that the application was granted.
- The applicant presented that there had been one incident in 19 years and the incident was not related to the premises.
- That the hours were sought by the applicant were due to customer demand.
- The applicant apologised for trading without a licence.
- The police had concerns over the lack of control over the premises and unable to manage customers who enter the premises.
- If the application were granted, the Responsible Authorities considered that a CCTV camera system should be installed.
- That according to the applicant, on average, there would be 15–20 customers at any one time.
- That according to the applicant, his customers if he were granted a late night refreshment licence, would be mainly mini-cab drivers, shift workers, and other similar visitors to the area.

Members adjourned again at 7.35pm for deliberations and reconvened at 7.55pm.

### **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. The Prevention of Public Nuisance; and
4. The Protection of Children from Harm.

### **Consideration**

Each application must be considered on its own merits. The Chair confirmed that the Sub-Committee had carefully considered all of the evidence before them and heard oral representations at the meeting made by the Applicant and the Officers from Responsible Authorities objecting to the application, with particular regard to the prevention of public nuisance and prevention of crime and disorder.

The Sub-Committee noted that the premises are in a cumulative impact zone (CIZ), and so, the effect of a 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 undermine any of the four licensing objectives by not adding to the cumulative impact of licensed premises already in the CIZ.

The Sub-Committee considered that the onus lay upon the applicant to show through their operating schedule, with appropriate supporting evidence that the operation of the premises, if licensed, would not add to the cumulative impact already being experienced.

The Sub-Committee noted the representations from the Licensing Authority, Environmental Health and the Police regarding the impact of the premises on the Brick Lane Cumulative Impact Zone (CIZ) and concerns relating to the previous breaches of trading without a licence. Members also expressed concern in relation to the evidence presented on the evening by PC Perry, where there had been two incidents where suspects had used the premises although there was no direct link to the crimes and the premises, it was concerning that suspects were able to enter the premises without any due diligence on the part of the applicant's business.

The Sub Committee acknowledged the applicant's passion and purpose to serve his customers, who were a large part of the community. Members also noted the applicant's willingness to work with the responsible authorities and willingness to accept conditions suggested by Officers. However, the Sub Committee was concerned that this in itself did not address how the grant of a premises licence would not add to the cumulative impact of licensed premises already in the CIZ.

The Sub-Committee therefore considered that it had not heard enough evidence that rebutted the presumption against granting any further premises licence within the CIZ. The Sub-Committee was not satisfied that the operating schedule as presented at the Sub-Committee meeting rebutted the above presumption.

The Sub Committee was therefore not satisfied that there were exceptional circumstances to justify a grant of the application, and were of the view that the applicant had failed to rebut the presumption against granting a premises licence for a premises situated in a cumulative impact zone, in that the applicant failed to demonstrate how they would not undermine any of the four licensing objectives by adding to the cumulative impact in the area.

Accordingly, the Sub Committee by a majority vote;

### **RESOLVED**

That the application for a New Premises Licence for Balobashar B2B Pool Lounge & Café, First Floor, 9-13 Osborn Street, London E1 6TD be **REFUSED**.

**3.2 Application for a New Premises Licence for Panetteria Number 54, 54 Hanbury Street, London, E1 5JL**

This item was withdrawn by the Applicant prior to the meeting.

**4. EXTENSION OF DECISION DEADLINE: LICENSING ACT 2003**

There were no decision deadlines to extend.

The meeting ended at 8.00 p.m.

Chair, Councillor Dan Tomlinson  
Licensing Sub Committee