

**LONDON BOROUGH OF TOWER HAMLETS****MINUTES OF THE LICENSING SUB COMMITTEE****HELD AT 6.30 P.M. ON TUESDAY, 28 JANUARY 2020****THE COUNCIL CHAMBER, TOWN HALL, MULBERRY PLACE, 5 CLOVE  
CRESCENT, LONDON, E14 2BG****Members Present:**

Councillor Eve McQuillan (Chair)  
Councillor Shad Chowdhury  
Councillor Gabriela Salva Macallan

**Officers Present:**

Lavine Miller-Johnson – (Licensing Officer)  
David Wong – (Legal Services)  
Nicola Cadzow – (Environmental Health Officer)  
Mohshin Ali – (Senior Licensing Officer)  
Simmi Yesmin – (Democratic Services)

<b>Representing applicants</b>	<b>Item Number</b>	<b>Role</b>
Winston Brown	3.1	(Legal Representative)
Andrew Crompton	3.1	(Applicant)
Kirsty Adams	3.1	(Proposed DPS)
Ms Nadina	3.1	(Member of Staff)
Tony Garwood	3.2	(Applicant)
Sharful Islam	3.2	(Applicant)

<b>Representing objectors</b>	<b>Item Number</b>	<b>Role</b>
Nicola Cadzow	3.1 & 3.2	(Environmental Health)

**Apologies**

None

**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 Unity Diner, 60 Wentworth Street, London E1 7AL**

At the request of the Chair, Mr Mohshin Ali, Licensing Officer, introduced the report which detailed the application for a new premises licence for Unity Diner, 60 Wentworth Street, London E1 7AL. It was noted that objections had been received by Officers on behalf of the Licensing Authority and Environmental Health.

At the request of the Chair, Mr Winston Brown, Legal Representative on behalf of the Applicant explained that the premises licence was being sought for a vegan restaurant/diner and cocktail bar. He explained that it was mainly a booking only restaurant, and when entering, customers would be seated by a host, there was a seated waiting area and it was a very controlled environment. The clientele they attracted were calm and measured. He explained that hours had been amended subject to the comments from the Licensing Officer.

He explained that the Licensing Officer visited the premises on 29 November 2019, and found the premises selling and displaying alcohol without a licence. He explained that the applicant believed that having made an application for a premises licence meant they could sell alcohol and therefore accepted that there had been a breach. Mr Brown highlighted the fact that there had been seven temporary event notices so far, and all carried out successfully with no complaints or concerns. He said that if Members had concerns about the Designated Premises Supervisor (DPS) named on the application then the Applicant would be happy to change the DPS as the Applicant accepts that there was a breach.

Mr Brown stated that Environmental Health had come to an agreement, as the Applicant was happy to accept the conditions proposed and believed to have met their concerns.

He also said that the licensing conditions proposed met the concerns regarding the Cumulative Impact Zone (CIZ) and that the clientele which the premises would attract would not be the type to cause problems. It was further noted that six members of staff had Level 2 training for the relevant field and all staff were trained to use and download images from the CCTV system. Mr Brown concluded that the Applicants took the licensing objectives seriously.

Members then heard from Ms Lavine Miller-Johnson, Licensing Officer. She referred to her representation on pages 62-62 of the agenda pack and explained that during her visit to the premises, alcohol was on display for sale during the consultation period, and therefore she was not confident that the Applicant would uphold the licensing objectives. She further explained that the premises was in the CIZ and that the application and the oral representation made at the meeting did not justify a premises licence being issued in the CIZ given the presumption against grant of a licence for premises in the CIZ.

Members also heard from Ms Nicola Cadzow, Environmental Health Officer. She explained that she had initially agreed to conditions, but upon visiting the premises, concerns had been raised. She stated that the Applicant had a lack of understanding of the Licensing Act and the Licensing Objectives.

She said she welcomed the training undertaken by members of staff but there needed to be greater knowledge of the licensing objectives. However there had been some TEN applications and there have been no complaints or problems.

In response to questions the following was noted;

- That staff and the Applicants have had training and were aware of the licensing objectives.
- That the Applicants were under the assumption that they could sell alcohol once an application had been made.
- The premises had a CCTV camera system in place and had notices displayed around the premises asking customers to leave quietly and respect the needs of local residents.
- That the restaurant mainly had pre-bookings but it was possible to accommodate walk in customers.
- Customers would mostly be seated.
- That it was a food led environment and happy to have a condition to only serve alcohol with a meal.
- That doors are kept closed and the premises were well insulated, therefore there was no noise escape.
- That there had been seven TEN applications without complaints.
- That there was a bar area where customers could eat and drink.
- There would be no drinks promotions.
- The restaurant had 75 covers (seats).

Members adjourned again at 7.25pm for deliberations and reconvened at 7.45pm.

### **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 licencing 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's Legal Representative and the Officers representing the Responsible Authorities objecting to the application, with particular regard to the four Licensing Objectives.

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, and Environmental Health regarding the impact of the premises on the Brick Lane Cumulative Impact Zone (CIZ) and concerns relating to the previous breach of trading without a licence.

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. For instance, the Sub-Committee were concerned that the applicant had insufficiently addressed how there would be no addition to the cumulative impact in the particular area in relation to the prevention of crime and disorder objective. The Sub-Committee was not satisfied that the operating schedule as presented at the Sub-Committee meeting rebutted the above presumption.

The Sub Committee were 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 unanimously;

**RESOLVED**

That the application for a New Premises Licence for Unity Diner, 60 Wentworth Street, London E1 7AL be **REFUSED**.

### **3.2 Application for a New Premise Licence for S & T Wines, 210a Brick Lane, London, E1 6SA**

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 S&T Wines, 210a Brick Lane, London E1 6SA. It was noted that objections had been received by Officers on behalf of the Licensing Authority and Environmental Health and a local resident.

It was noted that the premises was for a wine tasting and art exhibitions space serving wine and food, it was noted that conditions had been agreed with the Police.

At the request of the Chair, the Applicant, Mr Tony Garwood explained that the premises licence was for a basement area, a small area with a capacity of 15 people for wine tasting. He said he was an experienced personal licence holder and was the Chairman for the Otley PubWatch scheme.

He explained that notices would be displayed around the premises asking customers to leave quietly, there would be no regulated entertainment, they would operate the Challenge 25 policy, and there would be no smoking or drinking allowed outside the premises.

Mr Garwood sought to argue that the local resident's premises were in fact bed and breakfast accommodation, on the basis of something he had looked up on the internet via his mobile 'phone; but the Sub-Committee disallowed this and disregarded this because this was being introduced late by the Applicant, and the local resident in question was not present even to be asked if they agreed to the late introduction of that material.

Members then heard from Mr Mohshin Ali, Licensing Officer. He referred to his statement on pages 133-137 and explained that his representation was based on the licensing objectives of the prevention of public nuisance and prevention of crime and disorder. He said there was no mention by the Applicant of the impact on the Cumulative Impact Zone in the application or during the Applicant's oral representations at this meeting, nor there were there any details in the operating schedule in the application form specifying how the Applicant would promote the licensing objectives or not add to the cumulative impact in the Cumulative Impact Zone. He questioned if the Applicant was a limited company or a sole trader as it was not clear from the application. He pointed out that background music did not require a licence as it did not count as regulated entertainment, yet the application form sought permission for low background music at voice level, and so it was unclear what was applied for in respect of a non-licensable activity. In conclusion the Licensing Authority believed that there was not enough in the application on how they would promote the licensing objectives and how the premises would not add to the cumulative impact in the Cumulative Impact Zone.

Members also heard from Ms Nicola Cadzow, Environmental Health Officer. She explained that her representation was based on the licensing objective of the prevention of public nuisance. She further explained that there was nothing in the operating schedule which sufficiently addressed the licensing objectives or how the premises would not add to the cumulative impact in the Cumulative Impact Zone. The application did not indicate what additional measures the Applicant would implement so as to avoid adding to the cumulative impact in the Cumulative Impact Zone above and beyond what would be the norm outside a Cumulative Impact Zone.

It was noted that the resident objector was not present at the meeting, therefore the Sub-Committee noted and considered their written representation contained in the agenda.

In response to questions the following was noted;

- That if there were problems with customers then the Applicant would at first instance call the police, they also had CCTV to monitor any bad behaviour.
- Have signs displayed to ensure there is no smoking outside the premises.
- That customers would be invite only, and artists would be able to rent the space but the Applicant would provide the alcohol and staff to manage the event.
- That it would not be a late night venue, and would only operate within the set hours.
- It was clarified that the business was a limited company, with two Directors – both Directors were present at the meeting.
- Both the Directors have had experiences running licensed premises and have had no problems.
- There was one door for entry and exit.
- That the ground floor was an off licence, but the Applicant had no connection to the premises.
- The Applicant had no connection to the Brick Lane Gallery.

Members adjourned again at 8.25pm for deliberations and reconvened at 8.55pm.

### **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 Applicants, the two Directors of the Company and from the Officers representing the Responsible Authorities objecting to the application, with particular regard to the Licensing Objective for the prevention of public nuisance.

It was noted that the resident objector was not present at the meeting. However their representation was noted and considered by the Sub-Committee.

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, and Environmental Health regarding the impact of the premises on the Brick Lane Cumulative Impact Zone (CIZ). Members heard the premises would only accommodate up to 15 people at any one time and would be for invite only events. However, there were concerns as to how this would be managed. The Sub-Committee considered that the Applicant had not provided sufficient and clear evidence as to how there would be no addition to the cumulative impact in the Brick Lane 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 operating schedule lacked clarity on how the licensing objectives would be promoted and adhered to.

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 unanimously;

### **RESOLVED**

That the application for a New Premises Licence for S&T Wines, 210a Brick Lane, London E1 6SA be **REFUSED**.

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

Members agreed to extend the decision deadlines for the following applications;

<b>Premises</b>	<b>Hearing Date</b>	<b>Decision by</b>
The Gun, 54 Brushfield Street, London E1 6AG (MA)	<b>04/02</b>	<b>24/01</b>
Hohaki Ltd, 68 Middlesex St, London E1 7EZ (LMJ)	<b>04/02</b>	<b>29/01</b>
Brushfield Pavilion, 37 Brushfield Street, London E1 6AA (CH)	<b>25/02</b>	<b>24/01</b>
Noodle & Beer, 31 Bell Lane, London E1 7LA (CH)	<b>25/02</b>	<b>24/01</b>
Tobacco Dock, 50 Porters Walk, London E1 (KD)	<b>03/03</b>	<b>10/03</b>
Mudchute Park and Farm, Pier Street, Isle of Dogs, London E14 3HP (MA)	<b>03/03</b>	<b>27/01</b>

#### **5. APPLICATION FOR TEMPORARY EVENT NOTICE FOR AUTUMN STREET STUDIOS, UNIT 3, 39 AUTUMN STREET, LONDON E3 2TT**

This item was withdrawn prior to the meeting.

The meeting ended at 9.10 p.m.

Chair, Councillor Eve McQuillan  
Licensing Sub Committee