

LONDON BOROUGH OF TOWER HAMLETS**MINUTES OF THE LICENSING SUB COMMITTEE****HELD AT 5.30 P.M. ON TUESDAY, 9 JUNE 2020****ONLINE 'VIRTUAL' MEETING - [HTTPS://TOWERHAMLETS.PUBLIC-I.TV/CORE/PORTAL/HOME](https://towerhamlets.public-i.tv/core/portal/home)****Members Present:**

Councillor Dan Tomlinson (Chair)

Councillor Shad Chowdhury

Councillor Sufia Alam

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)

Representing Applicants	Item Number	Role
Alun Thomas	3.1	(Legal Representative)
Stephen Bagatti	3.1	(Applicant)
Anthony Gaughan	3.1	(Applicant)
Winston Brown	3.2	(Legal Representative)
Edward Gaunt	3.2	(Applicant)
Sofia Medina	3.2	(Designated Premises Supervisor)
Representing Objectors	Item Number	Role
Nicola Cadzow	3.1 & 3.2	(Environmental Health Officer)
Lavine Miller-Johnson	3.1 & 3.2	(Licensing Officer)

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 Variation of the Premise Licence for Boom Bap Burgers, Arch 252 Paradise Row, London E2 9LE

At the request of the Chair, Mr Mohshin Ali, Licensing Officer, introduced the report which detailed the application for a variation of the premises licence for Boom Bap Burger, Arch 252 Paradise Row, London E2 9LE. 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 Alun Thomas, Legal Representative on behalf of the Applicant explained that the nature of the variation application was to amend the plans to include the external seating area for licensable activities and to add off sales of alcohol for consumption off the premises and to vary the commencement time for the sales of alcohol.

Mr Thomas explained that in October 2014 a minor variation was made. The intention of that application was to include a mezzanine level into the licensed area, which was granted. However, an unintended consequence of that application appeared to be that the plans delineating the external seating and dining area as part of the area covered by licensable activities inadvertently omitted that external area, unintentionally taking it out of the coverage for licensable activities.

He explained that they had now removed the mezzanine area and as a result reduced 36 covers, that they would restrict drinking outside after 10pm, and the area would not be used by customers, except for smoking. He explained that the earlier commencement time was to introduce breakfast/brunch opening times. It was noted that there were a number of conditions on the current licence and the additional conditions suggested by responsible authorities had been accepted.

Members then heard from Lavine Miller-Johnson, Licensing Officer who referred to her objection on page 76-80, and explained that as the application stands, it did not uphold the licensing objective of prevention of public nuisance, and this could be exacerbated once alcohol off sales are added. However, she said that if Members were minded to grant the application then the proposed conditions on her representation should be added to the licence.

Members also heard from Nicola Cadzow, Environmental Health Officer, she also expressed similar concerns and explained that there could be a likelihood of disturbance to residential premises during the use of the external forecourt area. She said that if Members were minded to grant the application, then restrictions should be applied for the use of the forecourt area.

In response to questions from Members the following was noted;

1. That the mezzanine area which had had a capacity of 36 was no longer in use.
2. That there had been three complaints in February/March 2015, but the premises was under a different operator then.
3. That the internal area had 55 covers and the external area would have 32 covers, so there would be no increase in capacity, as the former mezzanine area used to have a capacity for 36. In fact, there would be a slight reduction in the overall number of covers.
4. There had been no complaints since the current operator had taken over.
5. That off sales of alcohol would only be sold in sealed containers and would be a part of takeaway orders.
6. That early opening times were sought for breakfast/brunch opening.

Both parties made closing remarks.

The Chair advised all parties that a decision would be made by the Sub-Committee once this meeting was over and a decision notice, including the reasons for the decision, would be sent out to all parties within five working days.

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 from the Officers representing, Environmental Health and Licensing Authority, objecting to the application, with particular regard to the prevention of public nuisance.

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 that the premises had been licensed since May 2014, when there was a different premises licence holder .The Sub Committee heard from the Applicant's legal representative that under the management of the previous premises licence holder, the parts of the premises in which licensable activity was permitted included the external area which was the subject of the present application. The Sub Committee also heard from the Applicant's legal representative that due to an error by the previous premises licence holder on plans submitted by the previous premises licence holder during an application for a minor variation, the external area had ben inadvertently left out of the parts of the premises in which licensable activity was permitted. The Sub Committee also noted the Applicant's representation that the impact of the premises licence if granted, would be mitigated by the conditions on the existing licence and the new proposed conditions, together with the removal of the mezzanine licensed area, would not increase the capacity of the premises.

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 the concerns relating to the external area being licensed again, with the view that the addition of off sales would further exacerbate the area once this is added to the licence. Members welcomed the efforts made by the Applicant by restricting the use of the outside area from 10pm and accepting further conditions proposed by the Responsible Authorities in relation to off sales and the use of the external area.

The Sub Committee was therefore satisfied that the granting of the variation would not negatively impact on the CIZ and the conditions imposed would help promote the licensing conditions.

Accordingly, the Sub Committee unanimously;

RESOLVED

That the application for a Variation of the Premises Licence for Boom Bap Burger, Railway Arch 252 Paradise Row, London E2 9LE be **GRANTED**.

Sale of Alcohol (on and off sales)

Monday to Thursday from 09:30 hours to 23:30 hours
Friday and Saturday from 09:30 hours to 00:00 hours (midnight)
Sunday from 09:30 hours to 23:00 hours

Plans

Plans to be amended to include the external seating area as part of the licensed area.

Amendments to existing conditions on the premise licence

Annex 2

Condition 21 - 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.

Condition 24 – The placing of refuse, such as bottles, into the receptacles outside the premises shall not take place between 22:00 hours and 08:00 hours on the following day.

Condition 25 – Deliveries of kegs, bottles, food or other materials necessary for the operation of the business shall not take place between 22:00 hours and 08:00 hours on the following day.

New Conditions to be imposed on the premises licence

1. No drinking allowed outside the premises external area after 22:00 hours.
2. Off sales of alcohol for drinking away from the premises shall only be sold in sealed vessels and not consumed within the immediate vicinity of the premises.
3. Alcohol for consumption in the external area of the premises shall only be consumed by patrons seated at tables.
4. 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.
5. Notices shall be prominently displayed within the premises stating that Challenge 25 is in operation.
6. A direct telephone number for the manager at the premises shall be publicly available at all times the premises is open. This telephone number is to be made available to residents and businesses in the vicinity.

3.2 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 introduced the application and briefly explained the measures that would be in place as detailed in the operating schedule. 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. It was noted that this premises licence if granted would be replacing the premises licence for 'Ribshack', which would be closing and replaced by Unity Diner, which would therefore not add to the cumulative impact. Mr Brown confirmed that they were only seeking on sales of alcohol and no longer wanting off sales of alcohol.

He referred to the objections regarding noise nuisance, and explained that doors and windows would be kept shut except when entering and exiting. It was also noted that there were no objections from local residents, there were residents who lived above the premises who had the same landlord, and there were also no objections from them. Mr Brown stated that the applicants have had many Temporary Event Notices and there have been no complaints arising from those.

Mr Brown explained that there were concerns with the previous application regarding the same premises, as it was thought that another set of licensed premises would negatively add to the Cumulative Impact Zone (CIZ). Mr Brown expressed that this application, if granted, would result in the replacement of an existing set of licensed premises with another, which would have lesser opening hours, and therefore cause less cumulative impact.

Members then heard from Ms Nicola Cadzow, Environmental Health Officer. She explained that the premises was in the CIZ and raised concerns about the potential noise breakout from the venue affecting neighbouring residents, and the likelihood of public nuisance due to access and egress to and from the venue, especially if patrons who are likely to be in high spirits.

Members also heard from Ms Lavine Miller-Johnson, Licensing Officer. She referred to her representation on pages 156-160 of the agenda pack and explained that during a visit to the premises, it was noted that there was a bar area. This was a restaurant, not a bar, and therefore she expressed concerns over the possibility of the premises turning into a bar.

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. Ms Miller-Johnson recommended that if

Members were minded to grant the application, there should be no vertical drinking and there should be the conditions proposed in her written representations, to ensure that the premises trades as a restaurant.

In response to questions the following was noted;

- The premises had a CCTV camera system in place.
- That the restaurant mainly had pre-bookings, but it was possible to accommodate walk in customers.
- Customers would be seated.
- That there had been no noise complaints.
- That there were 70 covers in total
- That the difference between the previous premises licence application for these premises and the present one, was that there was now a dispersal policy in place, there would be SIA accredited door staff to manage customers, and there would be signage around the premises asking customers to leave the area quietly and respect the needs of local residents.
- That they had a new contract with a new waste dispersal company (Biffa) and have had no problems with waste disposal.

Both parties made closing remarks.

The Chair advised all parties that a decision would be made by the Sub-Committee once this meeting was over and a decision notice, including the reasons for the decision, would be sent out to all parties within five working days.

The Licensing Objectives

In considering the application, Members are normally 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 and the Applicant's Legal Representative and Officers representing the Licensing Authority and Environmental Health with particular regard to the prevention of public nuisance.

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 heard from the Applicant that the premises was food-led and alcohol would only be supplied ancillary to a meal. When questioned Members were satisfied that granting a premises licence for the nature of business the applicant intends use for and with conditions limiting the licence to a restaurant use only would not negatively add to the cumulative impact zone.

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 the concerns relating to the likely disturbance to residents nearby. However the conditions proposed by the Applicant with the addition of a SIA door supervisor to manager customers entering and leaving the premises and accepting conditions that the premises would only operate as a restaurant gave The Sub Committee the assurance that this will help alleviate concerns raised by the Responsible Authorities and not negatively impact on the cumulative impact zone and the conditions imposed would help promote the licensing conditions.

Decision

Accordingly, the Sub Committee unanimously;

RESOLVED

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

Sale of Alcohol (on sales only)

Monday to Friday from 12:00 hours to 23:00 hours
Saturday, from 12:00 hours to 23:30 hours (midnight)
Sunday, from 12:00 hours to 21:30 hours

Hours premises are open to the Public

Monday to Friday from 12:00 hours to 23:30 hours

Saturday, from 12:00 hours to 00:00 hours

Sunday, from 12:00 hours to 22:00 hours

Conditions

1. There shall be no vertical drinking.
2. The supply of alcohol at the premises shall only be to a person seated taking a table meal there and for consumption by such a person as ancillary to their meal.
3. Notices shall be prominently displayed at all exits requesting patrons to respect the needs of local residents and businesses and leave the area quietly.
4. 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.
5. The premises shall install and maintain a comprehensive CCTV system as per the minimum requirements of the Tower Hamlets Police Licensing Team. 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.
6. 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. 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.
7. A minimum of two notices stating that CCTV is in operation shall be displayed throughout the premises where the public have access. The notices shall be at least A4 size.
8. There shall be no re-entry or admission of new customers after 21:00 hours on Sundays, 22:30 hours Mondays to Fridays, and 23:00 hours on Saturdays.

9. A log shall be retained recording all refusals of alcohol. The log book shall be available for inspection by a Police Officer or an Authorised Council Officer.
10. The Premises Licence Holder must ensure that all staff are aware of their social and legal obligations, and their responsibilities regarding the sale of alcohol.
11. Training shall be given to all staff to ensure compliance with the four licensing objectives. Training records will be kept on the premises, and the training records will show the date of the training. The training record is to be signed by the staff member receiving the training and then countersigned by the Designated Premises Supervisor (DPS). The training on the compliance with the four licensing objectives shall be repeated on an annual basis.
12. An adequate and appropriate supply of first aid equipment and materials must be available on the premises.
13. Staff will be trained on health and safety procedures. New employees will receive training within one month of commencement of employment and it will be a condition of their continued employment that they satisfactorily complete the training.
14. The premises shall display the telephone number of at least three local taxi firms which patrons may use when leaving the premises.
15. The premises shall operate a Dispersal policy to be approved by the Council and Police to ensure that patrons leave the immediate area quietly without causing a disturbance, or other anti-social behaviour.
16. Doors to the premises to be kept shut at all times, save when the patrons enter or leave the premises.
17. Children (persons under the age of 18) shall only be admitted if in the company of an adult (a person over the age of 18).
18. A designated door supervisor will be on duty during all shifts who will deal with customers coming in and out who, in the event of a patron being loud, asks them to be quiet upon leaving and ensures that the doors are closed behind them. The designated door supervisor also asks patrons who are congregating around the door to either be quiet, or to move away from the residential area.
19. The premises shall only operate as a restaurant;
 - a) in which customers are shown to their tables
 - b) where the supply of alcohol is by waiter or waitress service only

- c) which provide food in the form of substantial table meals that are prepared on the premises and are served and consumed at the table using non disposable crockery
- d) which do not provide any takeaway service of food or drink for immediate consumption
- e) which do not provide any takeaway service of food or drink after 23:00, and
- f) where alcohol shall not be sold or supplied, otherwise than for consumption by persons who are seated in the premises and bona fide taking substantial table meals there, and provided always that the consumption of alcohol by such persons is ancillary to taking such meals.

20. An incident log shall be kept at the premises, and be available on request to the Police or an authorised officer. It must be completed within 24 hours of any incident and will record the following:

- a) all crimes reported to the venue;
- b) all ejections of patrons;
- c) any complaints received concerning crime and disorder
- d) any incidents of disorder;
- e) all seizures of drugs or offensive weapons;
- f) any faults in the CCTV system, searching equipment or scanning equipment;
- g) any refusal of the sale of alcohol;
- h) any visit by a relevant authority or emergency service.

4. EXTENSION OF DECISION DEADLINE: LICENSING ACT 2003

Members agreed to extend the decision deadlines for the following application to 14 July 2020;

Premises
Barzinho, 60-62 Brick Lane, London E1

The meeting ended at 7.45 p.m.

Chair, Councillor Ehtasham Haque
Dan Tomlinson
Licensing Sub Committee