

LONDON BOROUGH OF TOWER HAMLETS**MINUTES OF THE LICENSING SUB COMMITTEE****HELD AT 5.30 P.M. ON TUESDAY, 16 MARCH 2021****ONLINE 'VIRTUAL' MEETING - [HTTPS://TOWERHAMLETS.PUBLIC-I.TV/CORE/PORTAL/HOME](https://towerhamlets.public-i.tv/core/portal/home)****Members Present:**

Councillor Kahar Chowdhury (Chair)

Councillor Shah Ameen

Councillor Kyrsten Perry

Officers Present:

David Wong

– (Legal Services)

Simmi Yesmin

– (Democratic Services
Committees, Governance)

Officer,

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

Olu Olusola

4.1

(Licensing Agent)

Samuel Aduba

4.1

(Applicant)

Mohammed Ali

4.2

(Applicant)

Emdadur Rahman

4.2

(Manager)

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

Lavine Miller-Johnson

4.1

(Licensing Authority)

Nicola Cadzow

4.1

(Environmental Health)

PC Mark Perry

4.1

(Metropolitan Police)

John Fortune

4.1

(Community Safety Manager)

Patrick Spottiswoode

4.1

(Resident)

Kathy Driver

4.2

(Licensing Authority)

Apologies

None

1. DECLARATIONS OF INTEREST

There were no declarations of interest made.

2. RULES OF PROCEDURE

The rules of procedure were noted.

3. MINUTES OF THE PREVIOUS MEETING(S)

The minutes of the Licensing Sub Committee meeting held on 2nd and 23rd February 2021 were agreed and approved as a correct record. The minutes of the 26th January were deferred to the next meeting.

4. ITEMS FOR CONSIDERATION

4.1 Application for a New Premises Licence for (Morley's) 60-62 Brick Lane, London E1 6RF

At the request of the Chair, Ms Kathy Driver, Licensing Officer, introduced the report which detailed the application for a new premises licence for Morley's, 60-62 Brick Lane, London E1 6RF. It was noted that objections had been received on behalf of four Responsible Authorities and local residents.

At the request of the Chair, Mr Olu Olusola, Licensing Agent on behalf of the Applicant explained that the hours applied for licensable activities had been amended and reduced as detailed in the supplemental agenda. He explained that the modification in hours was following a risk assessment that was carried out. As the premises are in the Cumulative Impact Zone (CIZ) an acoustic engineer was appointed to carry out an acoustic check. Following advice from the acoustic engineer, works were carried out for sound insulation, and windows had been internally glazed to reduce noise breakout. He also said that there would be SIA accredited Door Staff on duty to help minimise noise disturbance. He explained that the premises were on three floors, the basement floor, where the toilets are, the ground floor, from where the takeaway service operates, and first floor, where the restaurant and bar are situated. Mr Olusola highlighted the number of conditions proposed to help promote the licensing objectives.

Members also heard from Mr Samuel Aduba, Applicant, who explained the ethos and background of the brand 'Morley's', that it was a chain of food-outlets which had been operating for 35 years and had 80 shops across London, and that it was very much a part of the community. He explained that an acoustic engineer had visited the premises and carried out checks. Upon the engineer's advice sound insulation had been fitted, and the windows had been internally glazed, which was very effective in reducing noise by up to 70%. He explained that SIA accredited Door Staff would be employed as added security to help deter crime and prevent big crowds from gathering, help disperse crowds and identify problems of public nuisance or crime and disorder. Mr Aduba explained that he had an advanced CCTV camera system, capturing extended areas outside the premises for extra security. It was noted that the Mr Aduba had signed up to the Government Apprenticeship Scheme to help train and develop skills for young people between the ages of 16-24 on Universal Credit. He said that he wanted to

work with the local community, local businesses, and the Council to make this successful.

Members then heard from Ms Lavine Miller-Johnson, Licensing Officer. She expressed concerns in relation to the CIZ and the general impact on the area. She explained that such a late licence with licensable activities for on and off sales of alcohol and regulated entertainment would affect residents, people who work, those who are elderly and vulnerable and those with young families, as this would most likely increase alcohol related public nuisance in an area which already experiences high levels of anti-social behaviour. It was also noted that an application for a pavement licence for this premises had been applied for.

Ms Nicola Cadzow, Environmental Health Officer, also made reference to the CIZ, the cumulative impact in the area and the impact on residents. She stated that the hours that had been applied for were excessive, and new hours sought were still beyond the Council's framework hours. She believed that there was a great likelihood of disturbance to residential premises at the hours sought, and there should be consideration given to the fact that the premises was in the Brick Lane CIZ. Ms Cadzow stated that she had not received a copy of the acoustic report nor received evidence of sound proofing.

PC Mark Perry, Metropolitan Police questioned why premises wanting to operate as a restaurant needed a licence for regulated entertainment and off sales of alcohol. He expressed concerns that if a licence was to be granted, then the premises could turn into anything and everything with a temptation to drinkers in the area, and increased crime and disorder and public nuisance. He also stated that no plans of dispersal policy or drug policy had been submitted until requested, and there remained serious concerns that granting a licence in the terms sought would lead to an increase in crime and disorder in the area. PC Perry stated that if the Sub Committee was minded to grant the application, then they should consider removing off sales.

Mr John Fortune, Community Safety Manager, stated that he dealt with community safety issues in the area and complaints arising from the night time economy. He said that there was a big concern, as the issue was not just the particular premises but the area as a whole. Another set of licensed premises would only exacerbate the high levels of crime and disorder and public nuisance already experienced in the area. Mr Fortune also raised concern about particular impact in the CIZ, and the effects on local residents. He was of the opinion that SIA accredited Door Staff would have no effect, and stated that another set of licensed premises of such nature would lead to an increase crime and disorder and public nuisance.

Members also heard from Mr Patrick Spottiswoode, local resident who shared similar concerns to the officers. He said the modified hours were still unsocial able hours and there would be the likelihood of nuisance – off sales would make things worse and the premises had a narrow pavement in front with no space for members of the public to walk by, often leaving residents feeling intimidated when walking past. He said the premises sold budget food, and it

was not clear why alcohol sales and regulated entertainment were needed. He strongly objected to the application on the basis that this would lead to an increase in crime and disorder and public nuisance.

In response to questions the following was noted:-

- That recorded music would be played and on occasions there would be live performances and music from well known artists.
- That works had been carried out following advice from the acoustic engineer.
- That the brand 'Morley's' was a supporter of arts and has had music videos shot in their premises.
- Employing SIA accredited door staff would be seen as a deterrent, as they are experienced in mitigating risk, dispersing crowds, reducing large gatherings, conducting risk assessments inside and outside the premises, and helping to ensure order on the streets.
- That a minimum of two SIA accredited door staff would be on duty during the week, and a minimum of three SIA accredited door staff would be on duty during Thursday to Saturday.
- That the sound insulation that had been installed in the premises was the best in the industry with a reduction of 70% noise.
- That the applicant was happy to remove off sales of alcohol from the application.
- That the Environmental Health Officer had not received any evidence of sound insulation works carried out at the premises.
- That the premises was turning into a nightclub and moving away from being food led.
- That the seating capacity was between 30-40 people maximum.
- That there were currently no issues with takeaway deliveries as SIA accredited door staff would provide an extra layer of security.
- That alcohol would not be ancillary to a meal, as the applicant would like the flexibility for alcohol to be sold separately.

Concluding remarks were made by both parties.

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, the Applicant's Licensing Representative and from the objectors objecting to the application.

The Sub-Committee noted that the premises is in a cumulative impact zone (the CIZ). The cumulative impact policy creates 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 it can demonstrate exceptional circumstances and that the granting of the application would not negatively add to the cumulative issues already experienced within the CIZ.

The Sub-Committee noted the representations made by the Responsible Authorities, in particular from the Licensing Authority and Environmental Health regarding the risk of noise nuisance and effects on the CIZ. It also noted residents' concerns about the existing levels of noise nuisance and anti-social behaviour in the area, the quality of life of other local residents in the area and the risk of increased noise nuisance and disturbance if the premises licence was to be granted.

Members also noted the serious concerns raised by the Metropolitan Police and Community Safety Manager in relation to the likely increase in crime and disorder in the area, were there to be another late night venue attracting people into the area, increasing alcohol fuelled crime and disorder.

The Sub Committee welcomed the efforts made by the Applicant in offering some robust conditions and also offering a reduction in the hours originally applied for. However, the Sub Committee were not satisfied that the Applicant or his Licensing Representative were able to sufficiently demonstrate or provide information on how a venue of such nature would not add to the cumulative impact in the area and therefore were not satisfied that the Applicant had rebutted the presumption against granting an application for a licence relating to alcohol and regulated entertainment for premises in the CIZ.

The Sub-Committee were of the view that a late night venue with a licence for the sale of alcohol and regulated entertainment would potentially increase crime and disorder and public nuisance in an area which already experiences high levels of anti-social behaviour. Therefore, the Sub Committee was not satisfied that the presumption against grant of an application for a licence for alcohol and regulated entertainment regarding premises in the CIZ had been rebutted. The Sub-Committee were not satisfied that the Applicant had demonstrated any exceptional circumstances to justify a grant of a licence for alcohol and regulated entertainment relating to premises in the CIZ.

The Sub-Committee did, however, decide to grant the application in part by granting late night refreshments only and in line with the Council's Framework hours to enable the premises to offer hot food later than the standard hours. The Sub-Committee considered that this would not result in the same impact as a licence permitting the sale of alcohol and regulated entertainment in the CIZ, as late night refreshment would not add to alcohol fuelled crime and disorder, nor noise nuisance, as would arise from granting a licence for alcohol and regulated entertainment.

The Sub-Committee was satisfied that the hours for late night refreshments with additional conditions would ensure that licensing objectives would be upheld, and the conditions imposed would adequately mitigate any risk of public nuisance and crime and disorder.

Therefore, Members made a decision and the decision was unanimous. Members granted the application in part with conditions.

Accordingly, the Sub Committee unanimously

RESOLVED

That the application for a New Premises Licence for Morley's, 60-62 Brick Lane, London E1 6RF be **GRANTED in part with conditions.**

The Provision of Late Night Refreshments

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

Hours premises are open to the public:

Monday to Thursday from 11:00 hours – 00:00 hours (midnight)
Friday and Saturday from 11:00 hours – 00:30 hours (the following day)
Sunday from 11:00 hours – 23:00 hours

Conditions

1. 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.
2. 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.

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. 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 visit by a relevant authority or emergency service.
5. In the event that a serious assault is committed on the premises (or appears to have been committed) the management will immediately ensure that:
 - the police (and, where appropriate, the London Ambulance Service) are called without delay; all measures that are reasonably practicable are taken to apprehend any suspects pending the arrival of the police;
 - the crime scene is preserved so as to enable a full forensic investigation to be carried out by the police; and such other measures are taken (as appropriate) to fully protect the safety of all persons present on the premises.

4.2 Application for a New Premises Licence for (Adana) 267 Bethnal Green Road, London E2 6AH

At the request of the Chair, Ms Lavine Miller-Johnson, Licensing Officer, introduced the report which detailed the application for a late night refreshment licence for Adana, 267 Bethnal Green Road, London E2 6AH. It was noted that an objection had been received on behalf of the Licensing Authority.

At the request of the Chair, Mr Mohammed Ali, Applicant, explained that the premises were a small restaurant and takeaway, and had only been operating as a takeaway since COVID-19. He explained that the timings listed on their external website were published by a third party, he was not aware that those timings remained incorrect, and he would rectify that immediately. Mr Ali explained that once he had received the warning letter, he had contacted the landlord to query the licensable hours and during this process a test purchase was conducted which the business subsequently failed.

He said that the premises were on the main road, residential properties were not in close proximity, and there would be no loitering outside the premises. It was noted that late night refreshments would be provided between 11pm-2am and through delivery websites such as Just Eat and Uber-eats. Delivery drivers would only come into the premises once the food was ready for collection. It was also noted that the kitchen was based in the rear end of the premises, there were CCTV cameras in operation, and the premises had been trading as a restaurant for the past 10 years, with no noise complaints, no alcohol, and only Turkish food being sold, with delivery only after 11pm. Mr Ali said that there were good transport links, and notices would be displayed asking customers to leave quietly and respect the needs of local residents.

Members then heard from Ms Kathy Driver, Licensing Officer, who explained that a complaint was received on 9th July 2020 that the premises was trading without a late night refreshment licence, so that a warning letter was issued. Following that letter being sent, a test purchase took place and hot food was served beyond the hours permitted where there is no late night refreshment licence, so that a further warning letter was sent. It was confirmed that any further breaches would lead to a prosecution.

Ms Driver stated that she had checked the business' website today, and it still displayed an incorrect closing time for such premises whilst it had no late night refreshment licence, the website stating that the premises closed at 23:59. She highlighted that the hours applied for were beyond the Council's framework hours, and there was a lack of confidence in the applicant due to the history of the premises and the number of breaches. It was also noted that residents lived above the premises, and deliveries during late hours would likely cause disturbance.

In response to questions the following was noted;

- That the Applicant would ensure that no noise would emanate from the premises, and he would rectify the closing time on the website immediately.
- That CCTV cameras can verify that since the test purchase and warnings, the premises had been closing at 11pm.
- That the Applicant, not third party companies had control over the business' Google website, and he had asked for amendments to be made to the closing times published.
- The last complaint had been about the noise from the ventilation fans past 11pm.
- The Applicant claimed that he had only received one warning letter to date.
- That the premises had been trading for 10 years and was a family run business.
- That there were flats above the premises, which had a mix of office businesses and residential use.
- The business estimated that they would receive a maximum of 10 orders during the additional hours they had applied for.
- That there had been no objections from residents

- There would be no music, no TV, no speakers, so therefore noise levels would be low.
- Notices would be displayed around the premises asking those attending the premises to keep noise to a minimum.
- As a result of the complaint regarding the extractor fan, the carbon filters had been changed and works carried out to silence the fan.

Concluding remarks were made by both parties.

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 made at the meeting by the Applicant, the premises manager and the Officer representing the Licensing Authority.

Members noted the explanation given by the Applicant in his defence for continuing to trade without a late night refreshment licence on the occasions reported by the Licensing Authority. Members were concerned about the trading hours that were still being advertised on the internet, but were assured by the Applicant that this would be rectified immediately.

Members noted objections from the Officer representing the Licensing Authority, regarding the number of instances of trading without a late night refreshment licence, a failed test purchase of hot food during hours when hot food should not have been sold without a late night refreshment licence, and the warning letters sent to the business by the Licensing Authority. Members also noted the Officer representing the Licensing Authority stating that the hours applied for were beyond the Council's Framework Hours, were excessive, and there was the likelihood that a late night venue would increase public nuisance in particular noise nuisance as it may attract people who have been drinking, who are intoxicated and are more likely to be less aware of their surroundings and cause noise nuisance. Members also agreed that the hours applied for were excessive and were not confident that such late hours would not negatively impact on the area in terms of the stated public nuisance.

The Sub Committee was satisfied that the reduction in hours together with the conditions proposed would keep a balance between the licensing objectives, the objectives of the business, and the effects on residents nearby, alleviating the concerns raised by the Licensing Authority and helping reduce the risk of any disturbances.

Therefore, Members made a decision and the decision was unanimous. Members granted the application in part with conditions.

Accordingly, the Sub Committee unanimously

RESOLVED

That the application for a New Premises Licence for Adana, 267 Bethnal Green Road, London E2 6AH be **GRANTED in part** with conditions.

The Provision of Late Night Refreshments

Sunday to Thursday from 23:00 hours – 00:00 hours (midnight)
Friday and Saturday from 23:00 hours – 00:30 hours (the following day)

Hours premises are open to the public:

Sunday to Thursday from 12:00 hours – 00:30 hours (the following day)
Friday and Saturday from 12:00 hours – 01:00 hours (the following day)

Conditions

1. 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.
2. 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.
3. 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.

4. No idling of vehicles, being either patron or delivery vehicles outside the premises whilst the premises are in operation.
5. Notices shall be displayed in the premises asking customers to leave quietly and respect the needs of local residents.
6. Patrons permitted to temporarily leave and then re-enter the premises, e.g. to smoke, shall be limited to 3 persons at any one time.

5. EXTENSION OF DECISION DEADLINE: LICENSING ACT 2003

Members agreed to extend the decision deadlines for the applications below to the dates stated; Licensing applications were extended due to the impact of the pandemic, and were adjourned under regulation 11 of the Licensing Act 2003 (Hearings) Regulations 2005, and was in the public interest to do so and did not require representation from parties of the application.

| Premises | Extended to: |
|--|---------------------|
| Barkney Wick, 75 Smeed Road, London E3 2NE | 31/07 |
| Stop N Shop, 59 Commercial Street, London E1 6BD | 31/07 |

The meeting ended at 7.55 p.m.

Chair, Councillor Kahar Chowdhury
Licensing Sub Committee