

LONDON BOROUGH OF TOWER HAMLETS**MINUTES OF THE LICENSING SUB COMMITTEE****HELD AT 6.30 P.M. ON TUESDAY, 8 FEBRUARY 2022****THE COUNCIL CHAMBER, TOWN HALL, MULBERRY PLACE, 5 CLOVE
CRESCENT, LONDON, E14 2BG****Members Present:**

Councillor Eve McQuillan (Chair)

Councillor Amina Ali
Councillor Kevin Brady**Officers Present:**

Jonathan Melnick	–	(Principal Lawyer-Enforcement)	
Corinne Holland	–	(Licensing Officer)	
Simmi Yesmin	–	(Democratic Services Officer, Committees, Governance)	

Representing applicants	Item Number	Role
Gregorio Carullo	3.1	(Applicant)
Dario Truden	3.1	(Applicant)
Sheila Esposito	3.1	(Designated Premises Supervisor)
Alex Brander	3.2	(Trading Standards Officer)

Representing objectors	Item Number	Role
Howard Redgewell	3.1	(Resident)
Jane Earl	3.1	(Resident)
Surenda Panchal	3.2	(Licensing Agent)
Raj Jani	3.2	(Premises Licence Holder)

Apologies**1. DECLARATIONS OF INTEREST**

There were no declarations of interest made.

2. RULES OF PROCEDURE

The rules of procedure were noted.

3. ITEMS FOR CONSIDERATION

3.1 Application for a New Premises Licence Tondo Pizza Ltd Unit 2 Hermitage Court London E1W 1NR

At the request of the Chair, Ms Corrine Holland, Licensing Officer, introduced the report which detailed the application for a new premises licence for Tondo Pizza Ltd, Unit 2 Hermitage Court, London E1W 1NR. It was noted that objections had been received from local residents in relation to the prevention of public nuisance. It was also noted that conditions had been agreed with responsible authorities and those agreed with Licensing Services had been omitted from the report and were therefore circulated at the meeting for reference.

At the request of the Chair, Ms Shelia Esposito, Proposed Designated Supervisor addressed the Sub-Committee on behalf of the Applicant and explained that the premises had been opened since 16th December 2021 with no complaints or issues at the premises. She said she had personally emailed all the objectors to try and address their concerns by explaining that there would be no drinks allowed outside the premises, and all alcoholic drinks would only be served to customers seated at a table and ancillary to a meal. It was noted that in order to appease the objectors they would stop the sale of alcohol one hour before closing time and there would be no deliveries of goods late in the evening.

Ms Esposito told the Sub-Committee that there were 24 covers at the restaurant and there would be no increased footfall in the area as the customers were local residents. She said they currently did not offer a takeaway delivery service and if they were to consider this in the future this would be done using bicycles to avoid causing noise nuisance. She highlighted that the CCTV conditions as proposed by the responsible authorities would be adhered to and she as the DPS would be in charge of training staff and the premises would operate the Challenge 25 policy. It was noted that they had installed a new oven which did not generate noise or smoke, the premises was fully insulated and therefore noise or smell would not emanate from the premises.

Ms Esposito explained that there had been one complaint made since opening, where there had been a hole in the wall, and this had been rectified immediately by the applicant. Other than this she confirmed that there had been no complaints regarding the premises. In conclusion, Ms Esposito said that it was a family run business mainly attracting local residents and families and that the premises would be closing at 11pm seven days a week and did not envisage serving alcohol would not negatively affect the area.

Members then heard from Mr Howard Redgwell, local resident, who expressed his concerns around the likely increase in noise and public

nuisance if a licence were to be granted. He also raised concerns about the terms of the lease and questioned whether the applicant was operating within the terms of his lease. He believed that the applicant was sub-leasing the premises and therefore without direct contact with the company for commercial units there would be a lack of control and therefore urged the Sub-Committee to be mindful of how residents have been affected in the past due to public nuisance when considering the application.

Members also heard from Ms Jane Earl, local resident, who also expressed similar concerns of increased noise nuisance and public nuisance and raised issues of additional traffic in the area, late night noise and disruption. She acknowledged the efforts made to reduce the hours of operation. She also highlighted the fact that currently there was no plan for delivery service; however, if this was added later on, this could possibly change the character of the business. Ms Earl also raised concerns around planning consent and thus a premises licence would evade some of the rules.

Upon the Chair's request the Legal Officer confirmed that Planning and Licensing were two separate regimes and that any licence granted would not obviate the need to comply with planning controls.

In response to questions from Members the following was noted;

- That the restaurant was a small premises and since opening there have been no problems or complaints.
- The restaurant was fully insulated, and there would be no music played at the premises.
- That smoking or drinking would not be permitted outside the premises, this would be monitored by staff and customers would be informed of this practice.
- That there was a pub in close proximity and it was more likely that the pub would give rise to noise nuisance and public nuisance rather than the restaurant itself.

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

The Sub-Committee considered an application by Tondo Pizza Ltd. for a new premises licence to be held in respect of Unit 2, Hermitage Court, Wapping High Street, London, E1W 1NR (“the Premises”). The licence sought the sale by retail of alcohol as follows:

Monday to Friday	12:00 hours to 15:00 hours 18:00 hours to 23:00 hours
Saturday	12:00 hours to 17:00 hours 18:00 hours to 00:00 hours
Sunday	12:00 hours to 17:00 hours 18:00 hours to 23:00 hours

These were also the times at which the Premises would be open to the public. The application attracted ten representations from local residents. The Licensing Authority had made a representation, which had been withdrawn following the agreement of conditions.

The Sub-Committee heard from Sheila Esposito on behalf of the applicant. She informed the Sub-Committee that there would be no consumption of alcohol outside. Alcohol would only be sold and consumed inside and with meals. The alcohol offering would be beer and wine. The terminal hour for licensable activity would be reduced by one hour so that sale of alcohol would cease at 22:00 hours Sunday to Friday and at 23:00 hours on Saturday.

As to the issues raised by the objectors the Sub-Committee was told that the Premises were small, with only 24 covers. They had been open for two months already and had no problems. The equipment used was modern so that there would be no noise or smell. The patrons tended to be local residents. They were not currently doing deliveries, but if they did so subsequently those would be by cycle in order to minimise the possibility of noise disturbance. CCTV was in place and staff would be trained and the Premises were insulated in respect of both noise and smells.

The Sub-Committee heard from two residents, Howard Redgwell and Jane Earl. Mr. Redgwell confirmed that the applicant had written to him, which was appreciated, but it had not addressed his concerns. His oral representation focused on the requirements of the lease and that there had been issues surrounding the enforcement of the leases by the commercial operator. He suggested that the applicant ought to arrange with the commercial operator to address the various measures in his written representation.

Ms. Earl told the Sub-Committee that she was concerned about late-night traffic and noise late at night. She was also concerned about whether or not the applicant had planning permission.

During questions the applicant explained that there was no additional traffic resulting from their use of the Premises thus far. As far as preventing patrons from causing a nuisance outside by smoking, for example, Ms. Esposito stated that patrons would not be permitted to leave to smoke.

During concluding remarks Mr. Redgwell observed that the Premises would have difficulty stopping people from smoking and, if patrons did leave temporarily, the noise would travel upwards. He suggested it would be unbearable from spring to autumn. Ms. Earl suggested that it would be of assistance if the licence could be regularly reviewed.

This application engages the licensing objective of the prevention of public nuisance. The Sub-Committee took account of all the information provided to it at the hearing and in the written representations. Whilst the Sub-Committee appreciated the concerns of those making representations it was not satisfied that the representations justified the refusal of the application. Many of the representations raised the same issues with regard to the lease or planning permission. Several also suggested conditions to be imposed if the licence were to be granted and were also specifically concerned with the impact of noise after 23:00 hours.

Whether or not planning permission was required or had been obtained was not a matter with which the Sub-Committee could be concerned. Similarly, lease enforcement issues, were they to arise, were not relevant to the licensing objectives. The Sub-Committee welcomed the reduction in the terminal hour, which ensured that the Premises were within framework hours and noted that even if the licence were to be refused, this decision could not prevent the applicant from operating the restaurant.

The Sub-Committee took account of the fact that the Premises were now open and had been operating without issue for the last two months. Neither Mr. Redgwell nor Ms. Earl suggested that the matters about which they were concerned, especially the noise, had occurred. Further, the small number of covers suggested that there was unlikely to be noise disturbance. The Sub-Committee was satisfied that such impact as there might be on the licensing objectives would be mitigated by the reduction in hours and the agreed conditions. The Premises were food-led and would remain so unless and until a variation to amend the conditions was made and granted.

The decision is therefore to allow the application with the amendments to the hours for licensable activity and the conditions agreed with the Licensing Authority.

Accordingly, the Sub Committee unanimously;

RESOLVED

That the application for a new Premises Licence for Tondo Pizza Ltd, Unit 2 Hermitage Court, London E1W 1NR be **GRANTED with conditions**.

Sale of alcohol (on and off sales)

Monday to Friday from 12:00 hours – 15:00 hours then 18:00 hours – 22:00 hours

Saturday & Sunday from 12:00 hours – 17:00 hours then 18:00 hours – 22:00 hours

The opening hours of the premises

Monday to Friday from 12:00 hours – 15:00 hours then 18:00 hours – 23:00 hours

Saturday & Sunday from 12:00 hours – 17:00 hours then 18:00 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. 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
 - g) equipment;
 - h) any refusal of the sale of alcohol;
 - i) any visit by a relevant authority or emergency service.
4. Loudspeakers shall not be located in the entrance lobby or outside the premise building
5. Notices shall be prominently displayed at all exits requesting patrons to respect the needs of local residents and businesses and leave the area quietly.
6. Patrons permitted to temporarily leave and then re-enter the premises, e.g. to smoke, shall be limited to 8 persons at any one time.
7. The external area shall not be used after 22:30 hours, except for patrons permitted to temporarily leave and then re-enter the premises, e.g. to smoke, and shall be limited to 10 persons at any one time.

8. 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.
9. 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.
10. 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.
11. The supply of alcohol shall be by waiter or waitress service only.
12. Sales of alcohol for consumption off the premises shall only be supplied with, and ancillary to a take-away meal.
13. Every third party courier delivery box shall be labelled with the words "Age Restricted Product".
14. The premises licence holder will ensure that an age verification policy will apply whereby all delivery drivers/riders will be trained to ask any customer to whom alcohol is delivered, who appears to be under the age of 25 years to produce, before being sold alcohol, identification being a passport or photocard driving licence bearing a holographic mark or other form of identification that complies with any mandatory condition that may apply to this licence.
15. Alcohol shall only be delivered to a residential or business address and not to a public place.
16. All off sales to be in sealed containers.
17. A warning shall be displayed on the digital platform on which an order is placed informing customers that they must be aged 18 or over to make a purchase of alcohol and notifying customers that the rider will carry out age verification on delivery. The customer will be required to declare that he or she aged 18 or over. If the rider is not satisfied that the customer is aged 18 or over any alcohol in the order will be withheld.
18. The Licence holder shall notify the Licensing Authority of the digital platform(s) used for the sales of alcohol and any changes to those platforms.

3.2 Application to Review the Premises Licence for (Old Ford Mini Market) 389 Old Ford Road, London E3 2LU

At the request of the Chair, Ms Corrine Holland, Licensing Officer, introduced the report which detailed the application for a review of the premises licence for Old Ford Mini Market, 389 Old Ford Road, London, E3 2LU. It was noted

that the review had been brought by Trading Standards and was based on the licensing objectives of the prevention of crime and disorder and the prevention of public nuisance. Ms Holland brought the Sub-Committee's attention to an error in the report and confirmed that during the inspection of the premises 260 Benson & Hedges cigarettes and 80 Marlboro cigarettes were suspected of being counterfeit and not 260/80 packs as detailed in the report. It was also noted that the premises had had a licence since 2005 and that the premises licence holder and DPS, Mr Raj Jani, took over the licence in 2019.

At the request of the Chair, Mr Alex Brander explained that the grounds of review concerned the storage and supply of illegal tobacco products on the premises contrary to the licensing objective of the prevention of crime and disorder, as well as the supply of alcohol after licensable hours.

Mr. Brander told the Sub-Committee that on 19th October 2021 a routine inspection had been carried out at the Premises. Under the counter were found 260 Benson and Hedges cigarettes, which were suspected of being counterfeit, and 80 Marlboro Gold cigarettes which were suspected of being illicit due to non-compliance with certain packaging and labelling requirements. Mr. Jani was present at the time of the inspection and admitted during the inspection that he knew the cigarettes were counterfeit.

It was noted that during the course of the inspection one of the officers was accosted by a member of the public. The member of the public appeared to be under the influence of alcohol. During the inspection Mr. Jani took a can of beer and gave it to another member of the public outside the premises.

Ten days later, on 29th October 2021, Licensing Officers carried out a test purchase at the Premises and a can of Carlsberg lager was sold at 23:12 hours. The sale was made outside licensable hours, which ceased at 23:00 hours and therefore this was a breach of licensing conditions.

Mr Brander concluded that the premises licence holder had a blatant disregard for complying with the law or the conditions of the licence and therefore Trading Standards were seeking a revocation of the premises licence for failing to uphold the licensing objectives of crime and disorder and the prevention of public nuisance.

Members then heard from Mr Surenda Panchal, Licensing Agent on behalf of the premises licence holder. He told the Sub-Committee that the premises had been licensed since 2005 and that Mr. Jani had taken over the Premises in 2019 as the premise licence holder and DPS. He explained that there had been no problems at the premises prior to these incidents. Mr. Jani was said to have been running licensed premises since 2017, that he had trained staff, had a due diligence defence, and said that staff may have made a mistake.

Mr Panchal, further explained that there was no evidence of sales of the cigarettes and that they were left under the counter for Mr Jani to check. The account given was that somebody who supplied other goods offered Mr. Jani cigarettes. He said that he would need to check them first. However, while he was abroad, this person dropped the cigarettes off. His father, who was

working there at the time, told him and Mr. Jani had said to him to leave them under the counter until his return.

Mr Panchal acknowledged that Mr Jani was at fault by keeping them at the premises but there was no intention to sell as he wanted to check their authenticity first.

Mr Panchal explained that the sale of alcohol outside hours was a mistake and misunderstanding on Mr Jani's part because when the late-night levy was introduced, a minor variation was applied for to reduce the terminal hour to 23:00 hours. It was later realised that the licence could have allowed alcohol sales to 23:59 hours and they tried to get that authorisation back but had not done so during the period in question. Mr Panchal apologised to the Sub-Committee on behalf of Mr Jani for not communicating this message to staff.

Mr Panchal explained that following the inspections by officers, lots of improvements had been made at the premises and then questioned why officers had not gone back to visit the premises or conducted any further test purchases to check whether Mr Jani was complying with the conditions of his licence.

Mr Panchal explained that Mr Jani was a good and responsible operator and was very sorry for the breaches and urged members to consider a suspension of the licence in this instance rather than revocation of the premises licence.

In response to questions the following was noted;

- That according to Mr. Jani's account, the cigarettes had been dropped off that same day the seller visited the premises and that he had not had time to check them. However earlier on in the hearing, it had been said that Mr Jani was unaware of the box of cigarettes and did not realise that they were there as he was abroad when they were delivered.
- Mr Panchal told the Sub-Committee that as soon as Mr. Jani found out the cigarettes were counterfeit he did not wish to sell them.
- It was accepted that it was a coincidence that during the two visits made by officers, the two breaches had occurred.
- That payment for the cigarettes had not been made as Mr Jani wanted to check quality of the products first.
- That it was normal to have different wholesaler representatives visit the premises and sell goods and products.
- That according to Mr Panchal the day the cigarettes were dropped off to the shop, was the same day the officers had come to inspect the premises.

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:

5. The Prevention of Crime and Disorder;
6. Public Safety;
7. The Prevention of Public Nuisance; and
8. The Protection of Children from Harm.

Consideration

The Sub-Committee considered an application by Alex Brander, on behalf of Tower Hamlets Trading Standards, for a review of the premises licence held by Raj Singh Jani in respect of Old Ford Mini Market, 389 Old Ford Road, London, E3 2LU ("the Premises"). The review was based on the licensing objectives of the prevention of crime and disorder and the prevention of public nuisance.

Mr. Brander told the Sub-Committee that on 19th October 2021 a routine inspection had been carried out at the Premises. Under the counter were found 260 Benson and Hedges cigarettes, which were suspected of being counterfeit, and 80 Marlboro Gold cigarettes which were suspected of being illicit due to non-compliance with certain packaging and labelling requirements. Mr. Jani was present at the time of the inspection and admitted during the inspection that he knew the cigarettes were counterfeit.

During the course of the inspection one of the officers was accosted by a member of the public. During the inspection Mr. Jani took a can of beer and gave it to another member of the public outside the premises.

Ten days later, on 29th October 2021, Licensing Officers carried out a test purchase at the Premises and a can of Carlsberg lager was sold at 23:12 hours. Licensable activity should have ceased at 23:00 hours.

On behalf of the licence holder the Sub-Committee was told that the Premises had been licensed since 2005 and that Mr. Jani had taken over the Premises in 2019. There had been no problems at the Premises prior to these incidents. Mr. Jani was said to have been running licensed premises since 2017, that he had trained staff, had a due diligence defence, and that the staff may have made a mistake.

With regard to the cigarettes the Sub-Committee was told that there was no evidence of sales. The account given was that somebody who supplied other goods offered Mr. Jani cigarettes. He said that he would need to check them first. While he was abroad, this person dropped the cigarettes off. His father, who was working there at the time, told him and Mr. Jani said to leave them under the counter until his return.

When this was explored further by members, Mr. Jani's account was that they had been dropped off that same day, around 10:00 hours, and that he had not had time to check them. Earlier in the course of the hearing, however, he had said that he was unaware of the box of cigarettes and did not realise that they were there. Mr. Jani's agent told the Sub-Committee that as soon as Mr. Jani found out the cigarettes were counterfeit he did not wish to sell them.

As regards the alcohol sale, the Sub-Committee was told that the Premises previously held a later licence. However, when the late-night levy was introduced, a minor variation was applied for to reduce the terminal hour to 23:00 hours. It was later realised that the licence could have allowed alcohol sales to 23:59 hours and they tried to get that authorisation back.

This application engages the licensing objective of the prevention of crime and disorder and, to a lesser extent, the prevention of public nuisance. The Sub-Committee understands that its function is not to determine guilt or innocence but to determine what measures would be appropriate to ensure the promotion of the licensing objectives.

The Sub-Committee found the licence holder's explanations to be wholly unconvincing. It is noted that Mr. Jani was also the DPS and therefore held a position of responsibility. As far as the cigarettes were concerned, the Sub-Committee considered that these were not likely to be samples that had been dropped off. Even if they were, however, Mr. Jani's accounts were inconsistent with one another. Despite admitting at the time that he knew the cigarettes to be counterfeit and illicit, he also asserted that he did not know that they were present or he had no time to check them. Regardless of which account is in fact true, they should not have been present on the Premises. Combined with the fact that he was not getting them from a usual supplier and that, by his own account, he had said he'd need to check them first, he at least had suspicions about the items yet nonetheless chose to keep them on the Premises and under the counter, where there was an obvious risk of their being sold. If that is not correct, however, he clearly had some suspicion as to their provenance and took no measures to address that.

In this context the sale of alcohol outside permitted hours is less serious. However, the Sub-Committee understood that the variation to avoid being caught by the late-night levy had been made some time ago and the licence holder must have known what the permitted hours were. The Sub-Committee considered it reasonable to infer that this was unlikely to be an isolated incident.

The Sub-Committee carefully considered all the options open to it. It did not consider that doing nothing, imposing conditions, or removing the DPS would suffice either alone or in combination. Mr. Jani's agent submitted that this was not a case that warranted revocation and that the Sub-Committee could suspend. The Sub-Committee was not satisfied that this would address matters. Leaving aside the confused accounts, it was not clear that the licence holder really accepted any responsibility. He had only been operating the Premises for two years and the Sub-Committee considered it reasonable to infer that these issues had existed prior to 19th October 2021. The Sub-

Committee has paid particular regard to paragraphs 11.26 to 11.28 of the statutory guidance and notes that some problems may occur despite the best efforts of management. This is not such a case. The use of the Premises for the sale or storage of smuggled tobacco is something to be taken particularly seriously and justifies revocation even at first instance. The Sub-Committee is satisfied that revocation is the only appropriate and proportionate step that will suffice to promote the licensing objectives.

Accordingly, the Sub Committee unanimously;

RESOLVED

That the application for a review of the Premises Licence for Old Ford Mini Market, 389 Old Ford Road, London E3 2LU be **GRANTED with the revocation of the premises licence.**

4. EXTENSION OF DECISION DEADLINE: LICENSING ACT 2003

Nil items.

The meeting ended at 8.30 p.m.

Chair, Councillor Eve McQuillan
Licensing Sub Committee