

LONDON BOROUGH OF TOWER HAMLETS

MINUTES OF THE LICENSING SUB COMMITTEE

HELD AT 6.30 P.M. ON TUESDAY, 23 APRIL 2024

COUNCIL CHAMBER - TOWN HALL, WHITECHAPEL

Members Present in Person:

Councillor Ana Miah
Councillor Iqbal Hossain
Councillor Amy Lee

Apologies:

None.

Others Present in Person:

Frank Fender	(Item 3.1)
Lekan Moweta	(Item 3.1)
Andrew Dempster	(Item 3.1)
Kevin Bell	(Item 3.1)
Robert Sutherland	(Item 3.2)
Adrian Studd	(Item 3.2)
Owen Blackwood	(Item 3.2)
Matthew Blewitt	(Item 3.2)
Nicola Cadzow	(Item 3.2)
Michael Dover	(Item 3.2)
Samantha Clark	(Item 3.2)

Others In Attendance Virtually:

PC Mark Perry	(Item 3.1)
---------------	------------

Officers Present in Person:

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

1. DECLARATIONS OF INTEREST

There were no declarations of interest.

2. RULES OF PROCEDURE

The rules of procedure were noted.

3. ITEMS FOR CONSIDERATION

3.1 Application for a New Premise Licence for Code Floors 3-4, 34 Westferry Circus London E14 8RR

At the request of the Chair, Ms Kathy Driver, Licensing Officer introduced the report which detailed the application for a new premises licence for E14 Lounge Ltd. to be held in respect of Code, Floor 3-4, Westferry Circus, London, E14 8RR (“the Premises”). The application sought authorisation for the sale by retail of alcohol, regulated entertainment, and the provision of late night refreshment. With the exception of late night refreshment, which commences at 23:00 hours, the hours sought for all licensable activities were 12:00 hours to 02:00 hours seven days per week. The premises would close to the public at 02:30 hours although the report before the Sub-Committee incorrectly stated this to be 02:00 hours.

The application attracted representations against it from the police, Environmental Health, the Licensing Authority, and local residents. The representation from the residents was in the form of a letter undersigned by eighty people.

The Sub-Committee was informed at the start of the meeting that conditions had been agreed with the Environmental Health officer and the Police. As a result, the representation from Environmental Health was withdrawn, however the police objection remained. The objections were based predominantly on the licensing objectives of public safety and the prevention of public nuisance.

The Sub-Committee heard from Frank Fender on behalf of the applicant. He reminded the Sub-Committee that the Premises were not located within a Cumulative Impact Zone and that the presumption was in favour of granting unless there were good reasons to refuse. The Premises operated only on two floors. The fourth floor would be a restaurant only with no regulated entertainment and only background music. The third floor was intended to be a lounge bar with regulated entertainment. There was no dance floor or flashing lights; it was intended to be a cabaret-style operation. It was not to operate as a disco.

The applicant stated that the main entrance, located by the riverside, had the potential to give rise to noise disturbance later in the evening and so this entrance and exit would be used only to 22:30 hours. After that time, entry and exit would be via the underground car park only. Security staff would patrol in the car park, which would address any noise concerns. All the proposed police conditions were agreed.

The applicant had various policies in place except for a transport management plan. The applicant was willing to accept a condition that a plan be produced and agreed with the police and the licensing authority before licensable activity takes place.

Mr. Fender suggested that the residents may not have been fully aware of what they were signing, as this was common with petitions. The representation expressed a number of concerns and the applicant has sought to address those concerns. Mr. Fender also explained that an agreement for no entry or exit after 22:30 hours applied only to the riverside entrance, not to the premises as a whole.

At the request of the Chair PC Mark Perry explained that conditions had been agreed. However, his main concern related to a terminal hour of 02:00 hours and the use of the car park. The car park was shared with residents and users of a gym. There was the potential for it to become congested with patrons, Ubers, with the associated nuisance that comes with that. There was also the risk of taxis and other vehicles pulling up and blocking the roundabout underneath Westferry Circus and which gave rise to the risk of crime and disorder. That issue had not been resolved to the police's satisfaction. PC Perry said it was unique in that entry and exit at certain times would be via an underground roundabout and an underground car park. Adding alcohol to the mix also gave rise to a public safety risk from road traffic collisions.

PC Perry welcomed the proposal for a traffic management plan but did not agree that it should be for the police to agree; his view was that it should be before the Licensing Sub Committee for them to approve. No plan has been put in place and he suggested that the lack of a plan to date indicated the possibility that there is no safe plan for the egress of patrons, which was the greatest concern to him.

The Sub Committee then heard from Corinne Holland on behalf of the Licensing Authority, she explained that one of her concerns was around the potential for public nuisance arising from large numbers of people leaving at around 02:30 hours. She noted also that the planning permission allowed for the use of bi-folding doors and these were shown on the plans. This had the potential to create a internal terrace area that could be opened to the front of the building. That potential for noise escape had not been mentioned in the management plan.

Smoking was another area of concern. After 22:30 hours, if the main doors were closed, it was said that smoking would take place on Westferry Circus. The noise management plan, at Page 83, stated that after 22:30 hours the Premises would not be able to accommodate smokers. Escorting smokers from the Premises would appear to require four staff members and she expressed doubts as to whether this was workable.

Ms Holland stated that if granted, there would need to be clear conditions to manage smokers. There was also a planning permission for the use of the roof terrace, which was not part of the plans included with the licensing application, but which could be used for non-licensable activity. Finally, she referred to links between the directors of the applicant company who had also been directors of another company, Nine Lounge Ltd., which operated a shisha bar in Greenwich and which had been convicted of offences relating to indoor smoking and blocking of fire exits.

Kevin Bell then addressed the Sub-Committee on behalf of the residents. He asked that the application be rejected for non-compliance with various planning policies. He stated that there were around 1,000 residents in the nearby vicinity, many of whom were only thirty metres away from the Premises. Two hundred properties could look

into the Premises and the residents would suffer a considerable degree of loss of privacy.

Mr. Bell asserted that the applicant would restrict noise but only from 01:30 hours and that it could therefore be assumed that music would be played at maximum volume before then. He suggested that if a noise limiter was to be put in, then the application should be withdrawn and an application made for no noise. He referred also to the possibility of light pollution and that the planning permission required a lighting strategy to be approved by the planning authority. That had not been done.

He stated that the Premises were not suitable for smokers and that this too was recognised in the planning permission. He also expressed concerns around the lack of a traffic management plan. People would inevitably congregate under Westferry Circus and that would lead to litter, public urination and the like. He also stated that there had been no discussion with the estate management over the extent to which they could control the car park.

In response to questions from Members the following was noted;

The applicant confirmed that the capacity of each floor was 160 people and that the light levels would be raised as the evening draws to a close as this indicates to patrons that the venue is close to closing. The applicant was asked how long it would take to disperse 320 people and replied that not everyone would leave at once; dispersal usually occurred gradually over a period of time. When asked how long it would take, in the event that everyone did leave at once, the applicant was unable to give an answer.

Members also explored the issues around egress and use of the car park, noting PC Perry's concerns. It was accepted by the applicant that it would be security-intensive but it would be implemented. They would ensure that no-one smoked in the car park and that the footpath by the car park would be supervised.

When asked about the likely impact of 320 people on the community late at night, the applicant asserted that the Premises were not in the middle of the estate, but on the edge. The conditions agreed with the Noise Service would mitigate noise nuisance. Further, the applicant stated that they proposed to close the restaurant at midnight or 01:00 hours. When asked by the legal adviser which time was being proposed, the response was that people would stay out later at the weekend and that the Premises were not a nightclub.

With respect to the application seeking authorisation for activities such as films and what was meant by "occasional" the applicant clarified that it would likely be Thursdays to Sundays. They did not anticipate having people in the Premises until 02:00 every day but wanted the flexibility.

Members also sought more information about the car park and a nearby taxi rank. Mr. Bell explained that the car park had 620 spaces, of which 400 belonged to residents. The exit routes would go through those car parking spaces, which contained about £12m worth of cars. The lift down to the car park can hold about six people at a time. The area to the side of the car park was in use 24 hours per day. Mr. Bell asserted that it would not be appropriate to use an unsafe, unlit car park.

When asked how dispersal could be managed in light of this, the applicant again reiterated that not everyone would leave at once. The restaurant would close earlier than the third floor and not everyone would go to the third floor. The security staff

would escort everyone and the applicant would have to manage it since that would be a condition of the licence. With respect to a traffic management plan, it was said that this would cost around £3,000.00 to £5,000.00 and the applicant did not wish to do that without knowing a licence would be granted.

Concluding remarks were made. Mr. Bell commented that money could be spent on other measures to reduce some concerns, such as curtains and glazing. He maintained that the application was not appropriate for the location.

Ms. Holland noted that sound limiters could only control music noise, not noise from patrons. She also highlighted that there was no corresponding reduction in opening hours for the fourth floor, if the hours for licensable activity were reduced and that one lift from the Premises to the car park could be problematic.

PC Perry emphasised that the egress route was via an underground car park to an underground roundabout on a busy arterial road. A traffic management plan should have been produced in advance of the meeting. There was a real risk to public safety, both of patrons and other road users, and to suggest that perhaps sixty taxis turning up at once was a viable means of dispersal was not a viable means of removing people from the area.

Mr. Fender asserted that the proposal to devise a traffic management plan upon grant of the licence would suffice to address the concerns raised. The Premises had previously been licensed. The hours sought were not excessive and the nearby Canary Wharf hotel was licensed to 03:00 hours.

This application engages the licensing objectives of the prevention of public nuisance, public safety and, to a lesser extent, the prevention of crime and disorder. The Sub-Committee had had regard to all the written representations and documentation as well as the oral submissions of the parties.

It should be stated at the outset that many of the concerns raised could be dealt with by way of conditions. Music noise, for example, could be addressed by a sound limiter condition as agreed. The suggestion that this required a new application was not correct. Issues such as lighting, whilst potentially of relevance to the prevention of public nuisance, are more appropriately left to the planning regime to be dealt with, particularly as the planning permission requires a lighting strategy to be provided to the planning authority. Further, it was not unreasonable to consider that residents themselves have some responsibility for preventing unwanted light from entering their flats and it is not unreasonable to suggest that many flats would have curtains or blinds.

Similarly, the Sub-Committee did not consider there to be a real risk of overlooking and loss of privacy; the nearest properties were around thirty metres away, which is a considerable distance. The Sub-Committee understands it also to be arguable as to whether this would, in any event, suffice to constitute a public rather than private nuisance. However, it too is something that could be mitigated by the imposition of conditions and would not, of itself, justify a refusal of the premises licence.

The Sub-Committee noted the issues around the escorting of patrons wishing to smoke and the practicalities of that. Again, that is something that potentially could be conditioned as suggested or even by the imposition of a condition prohibiting people leaving after 22:30 to smoke from re-entering.

Issues such as the age of the company or its trading history are not relevant to the licensing objectives. The suggestion that there should be a waste management plan

is similarly not relevant. Waste is addressed by other statutory controls and it is only in respect of discrete issues where it would be appropriate for waste matters to be relevant to the licensing objectives e.g. conditions restricting the emptying of bottle banks.

The main areas of concern for the Committee, however, were the terminal hour and the issues flagged around dispersal of patrons and the potential risks arising. The terminal hour of 02:00, with the Premises closing to the public at 02:30, gave rise to potentially large numbers of people in the vicinity as late as 02:30 or 03:00. Whilst the applicant suggested that these were not particularly late hours, the Sub-Committee disagrees. These were sought seven days per week. Whilst the applicant points to another nearby premises, that is of no assistance. Each application must be dealt with on its own merits and the fact that another premises nearby may have later hours is not a relevant consideration for the Sub-Committee. The Statutory Guidance at paragraph 2.25 provides that:

“Where applications have given rise to representations, any appropriate conditions should normally focus on the most sensitive periods. For example, the most sensitive period for people being disturbed by unreasonably loud music is at night and into the early morning when residents in adjacent properties may be attempting to go to sleep or are sleeping.”

Similarly, paragraphs 16.6 to 16.8 address the issue of hours. These provide that:

“16.6 The Licensing Authority considers that the possibility of disturbance to residents late at night and in the early hours of the morning, and the effect that any such disturbance may have, is a proper matter for it to consider when addressing the hours during which licensable activities may be undertaken.

16.7 The Licensing Authority is concerned to ensure that extended licensing hours do not result in alcohol-related antisocial behaviour persisting into the night and early hours of the morning. For these reasons, applications to carry on licensable activities at any time outside the framework hours will be considered on their own merits with particular regard to the matters set out in the Policy section below...

Applications in respect of premises licences and club premises certificates to authorise licensable activities outside the framework hours, and in respect of which relevant representations are made, will be decided on their own merits and with particular regard to the following.

The location of the premises and the general character of the area in which the premises are situated. (i.e., does the area include residential or business premises likely to be adversely affected).

The proposed hours during which licensable activities will be take place and the proposed hours during which customers will be permitted to remain on the premises.

The adequacy of the applicant’s proposals to address the issues of the prevention of crime and disorder and the prevention of public nuisance.

Where the premises have been previously licensed, the past operation of the premises.

Whether customers have access to public transport when arriving at or leaving the premises at night time and in the early hours of the morning.

The proximity of the premises to other licensed premises in the vicinity and the hours of those other premises.”

This application seeks to operate considerably outside of framework hours in an area that the Sub-Committee considers to be highly residential. The Premises are surrounded by flats and this gives rise to a very real risk of public nuisance. Whilst the Sub-Committee sought to explore the hours with the applicant, it was not particularly assisted by a suggestion that the restaurant would probably close at midnight or 01:00 hours. The Sub-Committee accepts that it could impose different hours if it saw fit to do so, but it does expect a degree of assistance from applicants as to what may or may not be realistic.

The Sub-Committee was similarly concerned, as were the responsible authorities, by the egress arrangements. There were photographs of the car park in the report pack (Pages 132-133). The Sub-Committee noted that it was often not the case that all patrons would leave at once. However, it is nonetheless a possibility and one which the applicant had not countenanced. There was only one lift, which could accommodate six persons, which went to the car park. That would likely result at times in people, some of whom are intoxicated, becoming noisier as they are obliged to wait for the lift. They would then need to wait to be escorted through the car park. There would be no realistic way to control noise from those patrons beyond asking them to be quiet. It was also easy to see the potential for other issues arising, such as patrons running off around the car park, which would also give rise to public safety risks.

Equally, in the absence of a traffic management plan the Sub-Committee was concerned to know exactly how traffic issues would be managed. The photographs did show the possibility for the car park entrance and the road into it to become congested. That again gives rise to the possibility of public nuisance as drivers sound their horns. There is, it appears, little public transport in the immediate vicinity after midnight. The Sub-Committee was also concerned as to possible public safety risks in dispersing people through the car park and into the underground route under Westferry Circus, which is a very busy road and not suited to pedestrians. Again, when alcohol is added to the mix, the potential for accidents seemed to be high. This was not, in the Sub-Committee's view, a matter to be addressed by way of conditions and plans produced after the licence is granted, but before grant so that Members and the responsible authorities can be satisfied that the proposals are workable and address the risks.

The lack of clarity in the answers given to some questions posed did not give the Sub-Committee a great deal of confidence. Whilst it is right to say, for example, that the applicant must, if a condition is imposed, comply with it the Sub-Committee still needs to have confidence both in the feasibility of the condition as well as in the applicant's ability to ensure compliance. Whilst there was a dispersal plan, the Sub-Committee was concerned that it was not sufficient, particularly combined with the lack of a traffic management plan.

The Sub-Committee has considered the options open to it. It did not consider that it had heard enough to justify granting the application as sought by the applicant. The Sub-Committee considered the imposition of the agreed conditions and whether any other conditions could also be imposed so as to mitigate its concerns and those of the responsible authorities. This also included consideration of reduced hours to framework hours, although the Sub-Committee had no useful information about that.

It was not satisfied that this would suffice to mitigate the concerns raised. The issues of egress and dispersal remained.

It did not consider it appropriate to remove any licensable activities from the scope of the licence as that would not have mitigated its concerns. The Sub-Committee has noted the Statutory Guidance at paragraphs 9.42 to 9.44 and, in particular, the opening sentence of paragraph 9.42 which recognises that licensing authorities are best placed to determine what actions are appropriate for the promotion of the licensing objectives in their areas. Given the points made above, the Sub-Committee was not satisfied that it had before it sufficient evidence to allay its concerns that the risks to public safety and the prevention of public nuisance, especially at the late hours proposed, would be suitably mitigated so as to ensure that the licensing objectives would be promoted.

The decision of the Sub-Committee is therefore to refuse the application.

3.2 Application for a New Premise Licence for Little LND, Studio 2, Unit3a, 39 Autumn Street, London, E3 2TT

At the request of the Chair, Ms Corinne Holland, Licensing Officer introduced the report which detailed the application by Little LND Ltd. for a new premises licence to be held in respect of Studio 2, Unit 3a, 39 Autumn Street, London, E3 2TT ("the Premises"). The application sought authorisation for licensable activity as follows:

Sale by retail of alcohol (on-sales only)

Monday to Sunday 09:00 hours to 03:00 hours

Regulated entertainment (films, recorded music, dance (indoors))

Monday to Sunday 06:00 hours to 03:00 hours

Live music (indoors)

Monday to Sunday 12:00 hours to 03:00 hours

The opening hours would be Monday to Sunday 0600 hours to 03:00 hours. Non-standard timings were sought for licensable activity and opening in respect of Christmas, New Year and bank holidays.

The application attracted representations against it from the Licensing Authority, Environmental Health, the London Legacy Development Corporation (LLDC) and from a number of local residents. The police had agreed a number of conditions to be imposed in the event that the licence was granted. The objections were concerned with the prevention of crime and disorder, the prevention of public nuisance, and public safety,

At the start of the meeting, the Sub-Committee was informed that Appendix 18 (Pages 313-400 of the main pack) had been updated and replaced with plans provided in a supplemental agenda.

At the request of the Chair, Mr Robert Sutherland, informed the Sub-Committee at the commencement of his submissions that the times sought for licensable activity were being amended. These were:

Sale by retail of alcohol (on-sales only)

Monday to Thursday 09:00 hours to 23:30 hours
Friday and Saturday 09:00 hours to 03:00 hours
Sunday 09:00 hours to 22:30 hours

Regulated entertainment

Friday and Saturday 06:00 hours to 03:00 hours

Live music

Friday and Saturday 12:00 hours to 03:00 hours

The Premises would close to the public thirty minutes after the cessation of licensable activity.

Mr. Sutherland drew the Sub-Committee's attention to the conditions proposed and agreed which appeared in sections 6 and 7 of the report pack. The police were satisfied that these conditions would suffice to promote the licensing objectives. He drew particular attention to conditions 19 and 21 and the effect in particular of condition 19, which would allow the hours to be reduced by the Council and the police in the event of the transport plan not working effectively. The applicant, Mr. Blewitt, would be on-site and would provide his mobile number to local residents so that he could be contacted in the event of problems.

Kathy Driver explained that the Licensing Authority welcomed the reduction in hours. However, her main concern related to the potential for public nuisance. The LLDC, which is the local planning authority, had imposed a planning condition that restricted use of the premises to the hours of 09:00 to 23:30 and that this had been imposed in order to avoid the risk of public nuisance. The area had been changing and continues to do so and is becoming increasingly residential. The Premises had previously operated as a nightclub and that had generated a lot of complaints.

Ms. Driver noted the transport and egress plan. People would exit and leave on foot, by taxi and night bus. Problems had been experienced in the past when people walked and got taxis close to residential properties. There had similarly been issues with public urination. There was no bus service after 01:00 hours. Taxis pulling up near residential properties would inevitably have some noise impact. There was also a nearby petrol station which was used as a taxi pick-up point by patrons and which gave rise to noise complaints and complaints of public urination. Ultimately, the club operation, which is where the money is, was not suitable for this location. Ms. Driver also considered that these plans would be hard to manage in practise.

Ms. Cadzow addressed the Sub-Committee on behalf of the Environmental Health Service. The capacity of the venue was around 300 people. The last bus in the area was at 01:00 hours, which meant a considerable number of Ubers and taxis to collect patrons. Autumn Street was a very small road and potentially 75 to 100 vehicles on that road collecting patrons would lead to noise issues. She too referred to the nearby petrol station and the noise complaints that arose as a result of patrons going there. She drew attention to the proximity of nearby residential properties, with the nearest ones being on the corner of Autumn Street and Wick Lane.

Mr. Dover spoke to his representation. He stated that noise was a guaranteed outcome. He was very concerned about the prospect of road closures by the applicant. He noted that this venue was very different to others that had been managed by the applicant; running a festival in a field was a different proposition to running a nightclub in an urban area. He also drew attention to the fact that planning permission had not been obtained.

He referred to the photographs provided, which showed some of the issues experienced over the years. He noted that the traffic management plan proposed to suspend twelve parking bays in an area with already limited parking. The applicant relied upon the Council granting those suspensions in order for the premises to be able to operate.

Ms. Clark also addressed the Sub-Committee. She was the freeholder of two warehouses in Autumn Yard. Her tenants needed access to the yard at all times and some engaged in noise-sensitive work. She also referred to other issues such as drug use, littering and security. The courtyard was owned by the owner of Unit 3 and there were issues with the surface of the yard, which needed potholes filled in and which presently posed a trip hazard.

She also referred to the changing nature of the area and the problems experienced over the years when the Premises had operated under a premises licence. She considered it likely that these issues would arise again if the licence was granted.

In response to questions from Members, the following was noted;

Mr. Sutherland confirmed that there was no intention of closing the road and that this was a misreading of the plans. Parking in the nearby bays at night was minimal and so there would be no impact if the bays were to be suspended. There would be one community safety-accredited person present as they would have power to impose some traffic controls and could report offenders to the authorities. With respect to taxi pick-up points, the Sub-Committee was told that apps were now more sophisticated and drivers could be directed to specific pick-up points. It was anticipated that around 80% of patrons would leave by a vehicle. The only barriers to be placed in the road were barriers parallel to the carriageway to assist in maintaining public safety.

Mr. Dover disputed the assertion about the parking bays and that they were in regular use at all times. He also stated that he had been threatened on three occasions for asking people to keep noise down. Since the last club had been closed down, there had been no problems. Ms. Driver suggested that the potential for road closures gave rise to a risk of people hanging around and not dispersing.

Mr. Sutherland noted that planning was a separate regime and that a planning application was to be made. There would be no issue with people needing access to the yard getting in. In his view, the application could be granted given the main use of the Premises during the week, the traffic management plan would address many of the issues, capacity was only 300 hundred people and the applicant had the experience to run this venue.

Decision

This application engages the licensing objectives of the prevention of crime and disorder, the prevention of public nuisance, and public safety. The Sub-Committee had regard to the oral and written submissions of all the parties, including those who had not attended. The Sub-Committee welcomed the reduction in hours offered by the applicant. However, it must be borne in mind that if the application was granted, the applicant would benefit from the deregulation provisions applicable to live and recorded music and that no licence would be needed for regulated entertainment between 08:00 hours and 23:00 hours. Thus, whilst it certainly addresses the concern of a nightclub operating until 03:00 hours seven days per week, it did not entirely mitigate all the issues raised.

The Sub-Committee accepted, and it did not seem to be disputed, that when a nightclub had operated in the Premises between 2013 and 2019, problems had arisen on a regular basis. This was despite there being a good management company in place (Page 223). It is also of note that several of the representations were very clear about the lack of problems being experienced since the Premises ceased to operate.

The Sub-Committee noted an email from Lottie Metrebian at Page 307 to (presumably) those making representations to explain what they intended to do within the Premises, such as providing a work space and a social space. A similar document was contained in the Supplemental Agenda at pages 75 to 85, indicating a variety of uses. Many of those uses, however, did not require a premises licence. Whilst the Sub-Committee accepted that these might well be the likely daytime uses and unlikely to give rise to problems, the Premises' operation in the evening until closing was more likely than not going to be closer in style to a bar or a club than to a creative community space. The application itself described the Premises as intended to be used predominantly for music events (Page 188). Notwithstanding the reduction in hours, that intention did not appear to have changed.

The Sub-Committee also had regard to the proximity of the Premises to residential properties as well as the changing nature of the location, with more residential development being constructed. This was recognised in the applicant's own documentation, at Page 230, which also refers to three stations around 0.8 miles away and bus stops at the junction of Autumn Street and Wick Lane. These also support the points made by the representations about the lack of public transport in the area after about 23:00 hours. That therefore limits the dispersal options and raises the likelihood of noise from and associated with Ubers and taxis, especially on a Friday and Saturday. Members also had regard to what Ms. Clark said about the yard itself being very small and not suitable for vehicles turning around in it. Given that Autumn Street is a dead-end, that would mean vehicles having to turn around in the road, which again can give rise to noise issues, whether from engines, sounding of horns, and similar.

The Sub-Committee noted, but was not particularly assisted by, the report of Adrian Studd. He refers to having seen the traffic management plan dated 29th January 2024 but the plan was updated in March 2024. The Sub-Committee found it odd that he referred, at paragraph 23, to it being “beneficial to identify who will perform the role of Designated Premises Supervisor”, given that the DPS must be and is specified in the application. He appeared to only address the police proposed conditions and the Licensing Authority representation but makes no mention of any other representation or the issues raised by those other representations. It is also not clear whether or not he has visited the area. He did not consider that the previous history meant that similar problems were likely to occur with this operator.

The options open to the Sub-Committee are to grant with appropriate conditions and modifications, to exclude any of the licensable activities from the scope of the licence, or to refuse the application (the option to refuse to specify the proposed DPS not being an option in this instance). Given the modification proposed by the applicant in respect of regulated entertainment from Sunday to Thursday, the only licensable activity that could now be removed from the scope of the licence on those days is the sale of alcohol. That would be the equivalent of a refusal. It was also not a viable option, given the nature of the application, to remove any of the licensable activities on a Friday or a Saturday. If alcohol were removed, it would be open to patrons to bring their own; if regulated entertainment were removed, it would fundamentally change the nature of the intended operation and likely be unworkable.

The Sub-Committee noted the planning permission, which was addressed by the LLDC in their representation, and which made clear that the permitted hours were imposed in order to avoid public nuisance. Whilst the licence, if granted, would not alter the hours as far as planning law is concerned, the two regimes are separate. Moreover, non-compliance with a planning condition is not an offence. However, given that the planning authority had imposed a condition intended to prevent public nuisance, the Sub-Committee considered that this was a relevant consideration to take into account.

The Sub-Committee accepted the representations made by the responsible authorities and the residents. Notwithstanding Mr. Studd’s belief that the conditions and plans would mitigate any impact on the licensing objectives, the Sub-Committee found the representations of those who live and work in the area to be more compelling given their local knowledge and their ability to talk to their experience on a day-to-day basis. The Sub-Committee accepted their evidence as to the issues that had arisen during the previous operation of the Premises and accepted that granting this licence, even with the conditions proposed, would lead to a significant impact on the licensing objectives and which could not be mitigated by the proposed conditions. The Sub-Committee had regard to the fact that there is only one route out of Autumn Street, given that it is a dead end, and that patrons would leave via Wick Lane, where the closest residential properties were located.

The Statutory Guidance at paragraph 2.25 provides that:

“Where applications have given rise to representations, any appropriate conditions should normally focus on the most sensitive periods. For example, the most sensitive period for people being disturbed by unreasonably loud music is at night and into the early morning when residents in adjacent properties may be attempting to go to sleep or are sleeping.”

Similarly, paragraphs 16.6 to 16.8 and 16.10 address the issue of hours. These provide that:

“16.6 The Licensing Authority considers that the possibility of disturbance to residents late at night and in the early hours of the morning, and the effect that any such disturbance may have, is a proper matter for it to consider when addressing the hours during which licensable activities may be undertaken.

16.7 The Licensing Authority is concerned to ensure that extended licensing hours do not result in alcohol-related antisocial behaviour persisting into the night and early hours of the morning. For these reasons, applications to carry on licensable activities at any time outside the framework hours will be considered on their own merits with particular regard to the matters set out in the Policy section below...

Applications in respect of premises licences and club premises certificates to authorise licensable activities outside the framework hours, and in respect of which relevant representations are made, will be decided on their own merits and with particular regard to the following.

The location of the premises and the general character of the area in which the premises are situated. (i.e., does the area include residential or business premises likely to be adversely affected).

The proposed hours during which licensable activities will be take place and the proposed hours during which customers will be permitted to remain on the premises.

*The adequacy of the applicant’s proposals to address the issues of the prevention of crime and disorder **and** the prevention of public nuisance.*

Where the premises have been previously licensed, the past operation of the premises.

Whether customers have access to public transport when arriving at or leaving the premises at night time and in the early hours of the morning.

The proximity of the premises to other licensed premises in the vicinity and the hours of those other premises.”

“In addition, and in relation to all applications, whatever the hours applied for where its discretion is engaged, the Licensing Authority will generally deal with the issue of licensing hours having due regard to the individual merits of each application. However, consideration will be given to imposing stricter

conditions in respect of noise control where premises are situated close to local residents.”

Patrons would not necessarily be leaving the Premises until thirty minutes after licensable activity ceases. It would take some time to disperse everyone from the area and the Sub-Committee considered that the representations evidenced the likely impact. The Sub-Committee considered impact to be inevitable on a Friday and Saturday. Consideration was given to reducing the hours on those days. However, the intended operation of the Premises combined with the lack of public transport in the area from around the cessation of licensable activity led the Sub-Committee to conclude that there was still likely to be a degree of noise nuisance to the neighbours, even at framework hours, and which would not be mitigated by the conditions. For that reason, although welcomed, the Sub-Committee did not consider that a reduction to framework hours seven days per week combined with the various conditions would suffice to address the concerns raised by the representations. Condition 19, whilst welcomed as being a genuine attempt to provide a degree of comfort during late hours, would be rendered redundant by a reduction in hours seven days per week. Ultimately, the Sub-Committee was satisfied that there were no measures that could be taken in relation to this application to mitigate the impact upon the licensing objectives and which would allow the licence to be granted.

The Sub-Committee is therefore satisfied that the only decision open to it is to **refuse** the application.

4. EXTENSION OF DECISION DEADLINE: LICENSING ACT 2003

The following application decision deadlines were extended to 31st July 2024;

- We Are Bard Books 341-343 Roman Road London E3 5QR
- Perfecto Pizza, 391 Cambridge Heath Road, London, E2 9RA
- Fabwick, Unit 4a Queens Yard, 43 White Post Lane, London, E9 5EN
- The Yard Theatre, Unit 2a Queens Yard, 43 White Post Lane, London, E9 5EN
- Victoria Park Market), Land between Bonner Gate and Gore Gate, London E3 5TB

The meeting ended at 9.20 p.m.

Chair, Councillor Ana Miah
Licensing Sub Committee