

LONDON BOROUGH OF TOWER HAMLETS

MINUTES OF THE LICENSING SUB COMMITTEE

HELD AT 6.30 P.M. ON TUESDAY, 3 FEBRUARY 2015

**THE COUNCIL CHAMBER, TOWN HALL, MULBERRY PLACE, 5 CLOVE
CRESCENT, LONDON, E14 2BG**

Members Present:

Councillor Amy Whitelock Gibbs (Chair)
Councillor Mahbub Alam
Councillor Andrew Cregan

Other Councillors Present:

None

Apologies

None

Officers Present:

Kathy Driver – (Principal Licensing Officer)
Kirsty Panton – (Legal Services)
Simmi Yesmin – (Democratic Services)

Applicants In Attendance:

Mike Nickson (Item 4.1)
Joe Debono (Item 4.1)
Stephen Tyler (Item 4.1)

Objectors In Attendance:

PC Alan Crucickshank (Item 4.1)
Matthew Piper (Item 4.1)
David Gadd (Item 4.1)
Charles Gledhill (Item 4.1)

1. DECLARATIONS OF DISCLOSABLE PECUNIARY INTEREST

There were no declarations of disclosable pecuniary interest.

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 December 2014 were agreed and approved as a correct record.

4. ITEMS FOR CONSIDERATION

4.1 Application for a New Premises Licence for The Looove (formerly known as Public Life), 82A Commercial Street, London E1 6LY

At the request of the Chair, Ms Kathy Driver, Licensing Officer, introduced the report which detailed the application for a new premises licence for The Looove, 82a Commercial Street, London E1 6LY. It was noted that there had been objections from Local Residents, Residents Association, Local Businesses, the Local Church and the Metropolitan Police.

At the Licensing Sub Committee hearing on 16th December 2014, it was reported to the Sub Committee that the statutory notice for the application had not been in place for the relevant period. Following submissions from the Applicant's solicitor/representative, Members agreed for the consultation process for the application to restart due to this administrative error and discrepancies with the consultation end date in order to ensure fairness to both sides and compliance with legal requirements. It was noted that the applicant had now complied with this requirement. It was also noted that the premises was allowed to play live music between the hours of 8am and 11pm without a licence.

At the request of the Chair, Mr Mike Nickson, Licensing Representative on behalf of Mr Joe Debono, Applicant, explained that the application was only for the sale of alcohol and for on sales only. He explained that there was no application for late night refreshments or regulated entertainment. He also explained that the hours applied for were within the Council's Framework Hours and would not impact on the area as shown through the operating schedule which gives regard to policy and guidance.

It was noted that the Applicant having consulted with residents and the Police had proposed further conditions, which were listed on page 53 of the agenda. It was noted that the capacity limit for the lower ground floor was for 60 people.

Mr Nickson stressed the benefits for having this premise licence granted, he noted and gave due regard to previous management of premises however stressed that the reputation of previous management should not reflect on the Applicant and he should be given a fair chance and any evidence should be clear and not based on speculation. He explained that Mr Debono wanted to work with residents and develop a good relationship and wanted to be part of the community.

Mr Nickson confirmed that the previous owner and manager had no involvement in the company and has asked the police to check this. It was noted that the previous premise licence holder/designated premise supervisor

was Mohammed Khan and Mr Debono had no relationship and no association with him. He stated that Mr Quadi was the representative of the Landlord, and runs licensed premises on Brick Lane and would have no control over the premises or the licence.

Mr Nickson then made the following points;

- That fire risk assessments had been made and there had been no objection from the Fire Authority.
- That there would be no regulated entertainment and therefore no noise nuisance, this had also been assessed by Environmental Health and no objections had been received. It was also noted that an independent sound check/report would also be done to alleviate residents concerns.
- That there would be no off sales and no takeaway food would be available.
- That CCTV conditions had been agreed and cameras would be covering all areas of the premises.
- That no alcohol would be allowed off the premises, alleviating concerns of patrons spilling on to the streets with drinks. This would be monitored and controlled by staff and CCTV cameras.

Mr Nickson concluded that Mr Joe Debono was a responsible and experienced operator and would change the premises and help address and alleviate the concerns of residents. He urged Members to grant the licence and not to judge him before even starting.

Members then heard from Mr Joe Debono, Applicant, who stated that he had met with residents and expressed to them that he would abide by the law and promote the licensing objectives. He stated that he would make a promise to residents that he would be a responsible operator. That he would prevent noise nuisance and litter pollution, and that he would appoint dedicated staff to monitor this. He stated that he would install CCTV cameras, and had reduced the terminal hours to 10pm on Sundays and 11pm on Mondays to Saturdays. He stated that he was aware of previous incidents under previous owners and has therefore accepted conditions proposed by the Police such as having no promoted events, no DJs, no karaoke etc.

Mr Nickson then stated that he had applied for another premises licence application in the same area, for more hours and no representations were made and therefore granted without opposition.

He stated that the hours applied for in this application were within framework hours, police conditions had been agreed, there was no risk of adding to the cumulative impact zone, and no other responsible authorities had objected to the application.

He urged members to grant the application for a new beginning, new change and new chance for the Applicant.

At the request of the Chair, PC Alan Cruickshank, Metropolitan Police, explained that although every new application had to be viewed individually, this venue was still leased by the same man who was arrested at the time a warrant was executed at the venue on 18th December 2011. It was noted that the living conditions of residents had been greatly improved by the closure of this venue. It was also noted that the premises was within the Cumulative Impact Zone and the licensing authority would normally refuse any new application or any variation in the CIZ unless the applicant could demonstrate there will be no negative cumulative impact on one or more of the licensing objectives. He questioned whether the use of the outdoor area would have great potential for anti-social behaviour and whether there was sufficient control to prevent alcohol being consumed off the premises. PC Cruickshank concluded that people under the influence of alcohol may well be disorderly or simply too loud for the surrounding area.

Members then heard from Mr Charles Gledhill, Mr David Gadd and Matthew Piper, local residents who shared similar concerns and risk of potential anti-social behaviour, public nuisance and crime and disorder in the area as result of the premise licence being granted.

Mr Gledhill explained that the premise was very close to the local church, the nursery, the school and the gardens. That patrons would be in direct view of local residents when they use the street level forecourt of the premises and noise nuisance would spread rapidly. He expressed concerns over the size of the premises and its capacity of 60 people and risk of previous patrons coming back and repeating previous anti-social behaviour etc.

Members then heard from Mr Gadd, who explained that residents had met with Mr Debono to discuss aspects of the application, however there have been many inconsistencies and vagueness in the plans, firstly it was noted that there would be no substantial food and now its said that there will be, that there would be no takeaway food available and no drinks allowed to be taken outside the premises. It was noted that Mr Debono had a lot of experience in large scale catering but no experience of dealing with difficult landlords and patrons. He concluded that the premise would be no benefit to the community.

Members lastly heard from Mr Piper, who spoke on behalf of himself, local residents and Residents Associations (SPIRE & Spitalfields Community Group). He said that for the past 15 years he has experienced patrons of the premises causing anti-social behaviour, being drunk, shouting, screaming, swearing and dealing drugs. He said he had two young children who were often scared due to the people hanging outside their house. He said that the CIZ alone was enough to reject the application. He said the capacity of the premises had not mentioned until recently and that it would be trading as a wine bar/restaurant.

Mr Piper explained the history of the premises and that it was likely that troublemakers would come back to the premises once they found out that it was open again. There were also concerns that Mr Quadi, previous occupier would also get involved in the management of the premise. Mr Piper concluded that the plans lacked clarity and possibly would be the same

operation as before. He welcomed the conditions but believed these were not as restricted as the previous licence. He accepted that the Applicant wanted to work with the community but it was clear from evidence that the community did not want this establishment opening and therefore asked Members to take the opportunity through the Licensing Sub Committee to support the residents.

All interested parties were then invited to briefly sum up their representations.

In response to questions from Members the following was noted;

- That there would be designated staff to monitor and control the outside area so that food and drinks would not be taken off the premises.
- That the outside seating area had a capacity for 16 people but the Applicant would limit it to 12 people.
- That the types of food sold served would be pizza, sausages etc.
- That there would be no food served on the ground level after 8pm, however food would still be served in the lower ground level until closing.
- That Environmental Health had inspected the premises and had no objection, and that the Applicant would instruct a sound professional as an extra risk assessment.
- That the capacity of the premises would be monitored by designated staff.
- That there was vagueness in the operation plans.
- That they would employ two SIA door staff on Fridays and Saturdays to control the entrance and control the capacity/numbers of patrons entering and leaving the premises and this would be done with clickers.
- That there would only be a small number of smokers that would smoke outside at any one time.

Members retired to consider their decision at 7.40pm and reconvened at 8.20pm.

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.

Consideration

Each application must be considered on its own merits and the Chair stated that the Sub Committee had carefully considered all of the evidence before them and had heard representation from all interested parties.

Members reached a decision and the decision was unanimous. Members considered the evidence submitted and heard at the hearing in light of the Licensing Act 2003, Home Office Guidance and the Saturation Policy. The Chair stated that the Cumulative Impact Policy was adopted by the London Borough of Tower Hamlets on 18th September 2013.

Where a premise is situated in the cumulative impact zone and a representation is received, the licence will be refused. However, the effect of this Special Cumulative Impact Policy is to create a rebuttable presumption.

The applicant can rebut the presumption if they can demonstrate that their application for a new licence premises would not undermine one of the four licensing objectives. The applicant is expected to show this through the operating schedule and with supporting evidence (if appropriate) that the operation of the premises will not add to the cumulative impact already being experienced.

The Committee recognises that the cumulative impact of the number, type and density of licensed premises in a given area may lead to serious problems of nuisance and disorder. However, the policy does not act as an absolute prohibition on granting or varying new licences in the Cumulative Impact Zone, neither will the policy be used to revoke an existing licence and will not be applicable during the review of existing licences.

It was noted that the Sub Committee did not take into consideration the issues relating to the previous owner, other premises recently licenced in the area and allegations of drug dealing.

Whilst making the decision Members considered the licensing objectives of crime and disorder and public nuisance. Members heard the strength of community concern, noted the volume of objections and also took into account Members own local knowledge of the area. It was noted that the prevention of public nuisance does include low level nuisance affecting a few people living locally as well as major disturbances.

Members felt that the Applicant had not shown through the operating schedule or with evidence that the operation of the premises would not add to the cumulative impact in the area. Members were not assured that sufficient consideration had been given to the management and supervision of the premises, particularly the outdoor spaces, in terms of capacity, behaviour and control of patrons. Members were not satisfied that the licensing objectives would be met particularly in terms of noise nuisance and anti-social behaviour caused by patrons in the external space of the premises which would impact negatively on residents.

The lack of clarity in the Applicant's management plans failed to convince the Sub Committee that he had rebutted the presumptions created by the cumulative impact zone and to meet the licensing objectives. Therefore the Sub Committee decided to refuse the application.

Decision

Accordingly, the Sub-Committee unanimously –

RESOLVED

That the application for a New Premises Licence for, The Loove, 82a Commercial Street, London E1 6LY be **REFUSED**.

5. ANY OTHER BUSINESS THAT THE CHAIR CONSIDERS URGENT

Application for a Temporary Event Notice for Arch 11 Gales Gardens, London E2 0EJ

This item was withdrawn by the Applicant and therefore required no consideration by the Licensing Sub Committee.

The meeting ended at 8.35 p.m.

Chair, Councillor Amy Whitelock Gibbs
Licensing Sub Committee