

**LONDON BOROUGH OF TOWER HAMLETS****MINUTES OF THE LICENSING SUB COMMITTEE****HELD AT 6.37 P.M. ON MONDAY, 8 SEPTEMBER 2008****ROOM C1, TOWN HALL, MULBERRY PLACE, 5 CLOVE CRESCENT, LONDON,  
E14 2BG****Members Present:**

Councillor Fazlul Haque (Chair)

Councillor Fozol Miah

Councillor M. Mamun Rashid

**Other Councillors Present:**

Councillor Clair Hawkins (Ward Member)

Councillor Bill Turner (Ward Member)

**Officers Present:**

Mohshin Ali

– Licensing Officer

Zakir Hussain

– Legal Officer

Margaret Sampson

– Democratic Services

**Applicants In Attendance:**

Mr M Davis

- Wellington Pub Company

Mr T Islam

- Director, Vicki Park

Ms S Naqshbandi

- Counsel

**Objectors In Attendance:**

Paul Johnson

Environmental Health

C McLean

Cyprus Street

J Wade

Cyprus Street

M Parkes

Mace Street

J Nockles

Cyprus Street

E Elgon

Bonner Street

J Warkins

Bonner Street

M Burns

Bonner Street

T Burns

Bonner Street

B Burns

Bonner Street

J McNiff

Cyprus Street

M Shannon

Cyprus Street

C O'Dwyer

Cyprus Street

J Dean

Cyprus Street

J Chernin

Cyprus Street

There were several other residents present who did not sign

the attendance book.

## **1. APOLOGIES FOR ABSENCE**

Several resident objectors had given their apologies.

## **2. DECLARATIONS OF INTEREST**

Councillor Haque reported that he did not have an interest but had been contacted by another Member of the Council regarding this application. He had advised that he could not comment as he was participating in the meeting.

Councillor Hawkins declared a personal interest as she was present in her capacity as a Ward Member to speak on behalf of residents. Councillor Hawkins also reported that she was the Member who had contacted Councillor Haque and confirmed that they had not discussed the application.

Councillor Turner declared a personal interest as he was present in his capacity as a Ward Member to speak on behalf of a resident. Councillor Turner also reported that he was a member of the Licensing Committee but had not discussed the application with any other Member.

## **3. RULES OF PROCEDURE**

Noted. Mr Hussain advised as to how the meeting would proceed.

## **4. UNRESTRICTED MINUTES**

The minutes of the meeting held on 10 July 2008 were agreed and approved as a correct record.

## **5. ITEMS FOR CONSIDERATION**

### **5.1 Application for New Premises Licence: Habanas, 74 Bonner Street, London E2 0QP (LSC026/809)**

The Chair stated that the report would be taken as read unless Mr Ali had additional information to report. Mr Ali confirmed there was no additional information and as Members had no questions for the officer, The Chair invited Ms Naqshbandi, Counsel for the applicant, to present the case for the applicant.

Ms Naqshbandi advised that she represented Wellington Pub Company, the freeholders of the premises. The previous tenants, Elite Leisure, had obtained the leasehold and run the premises from 1999. There had been a number of problems arising from the premises during this time, hence the objections from residents. Due to this and the non-payment of rent, the lease had subsequently been withdrawn. Wellington Pub Company had not been in a position to take on the licence at that time and the licence had since lapsed.

The company had submitted the current application in order to regularise the licensing position. Since then, discussions had identified a company (Vicky Park) to lease the premises to who propose to run the business as befits the premises and its location. If the application is granted there will be a subsequent application to transfer the licence to Vicky Park.

Ms Naqshbandi further reported that Mr Islam, who was present as a representative of Vicky Park, would be responsible for controlling the premises with a separate manager. Both Mr Islam and the proposed manager had extensive experience in the restaurant business and wished to run a Mediterranean style restaurant as smoothly as possible.

Mr Islam stated he would be at the premises, which would operate more as a restaurant than as a bar, most of the time. It would not be a club and there would be no music other than the occasional weekend and as was appropriate to the style of the premises. Recorded music would be for background purposes only and as the dance floor was extremely small, it was unlikely to be used.

Discussions had been held with the Police and the Commercial H&S team in Environmental Health; both had put forward conditions for consideration and the hours applied for had subsequently been amended.

The premises would be refurbished if the application was granted, with improvements to both the internal and external parts of the premises, which would improve the general environment.

The applicant did not agree with the hours put forward by the EH Noise officer for the use of the forecourt but was happy to accept the hours put forward by the Police for use of this area. A noise limiter was not felt to be necessary though all other conditions put forward were acceptable.

Both the pub company and the proposed licence holder did not wish to see the area or the premises being vandalised, this would not attract the type of clientele the premises would cater for; this would be a family orientated restaurant. The applicant had met with some residents though not necessarily those who were present and was happy to attend any meetings with residents and to make a contact number available.

Councillor Miah asked why it was felt there would be no nuisance caused by noise nuisance to adjoining residents when the properties shared a party wall and whether the applicant would consider carrying out soundproofing.

Ms Naqshbandi advised that soundproofing was not felt to be necessary as it was not intended that club or bass music would take place, mellow music would be provided. In replying to further points from Councillor Miah on this issue, the applicant confirmed he would take advice on what may be required.

The applicant further advised that 60 covers would be provided in the restaurant and there would be no separate bar.

As there were no further questions, the Chair invited those who had made representations to present their evidence.

Mr Johnson, Environmental Health, reported that his objections were detailed on page 143 and related to noise nuisance from the proposed use to the residential properties located in close proximity to the premise, particularly the nuisance to the property that shared a party wall with the premise which would occur from even recorded music being played.

He was happy to agree to the conditions put forward by the Police and Commercial EH with one exception. The evidence on which the Noise team objections were based had not been available to these parties and was the basis of the proposed hours of operation detailed on page 144, including restricting the use of the outside area to 8pm. No live music should be provided and recorded music should go through a noise limiter and/or sound attenuation carried out to ensure that music could not be heard in the adjacent property.

Mr Johnson confirmed the hours sought were 11:00 to 23:00 Sunday to Thursday and 11:00 to Midnight Friday and Saturday with all licensable activities ceasing 30 minutes before closing time on all days. All live music must go through a noise limiter and no drums or bass music should be operated.

A sound test would be required in order to identify and address any weak points within the premises and remedial work carried out if needed to ensure that the operation of the premises was inaudible within the nearest residential properties.

Mr McLean, Cyprus Street resident, expressed concern that if the licence was granted, the restaurant could be converted to a pub. A number of residents were only hearing about the proposed restaurant use and the amended hours for the first time. Residents had no wish to see the premises operate as a pub/restaurant; the area was predominantly residential which was why there had been so many representations. The Pub Company had failed to show any accountability for the premises when operated by the previous licensee and residents were not aware of the proposed management arrangements for this application.

A number of properties had no front gardens or parking spaces and there was no other licensed premise within the immediate area. There was a need for the premise to be substantially soundproofed and the applicant had not shown a willingness to address this, let alone undertake any work. Mr McLean stated that he was not confident that the applicant would run the premise in a way that would assist residents.

Ms Wade, Cyprus Street resident, queried why the Pub Company were making the application and presenting evidence to the Sub Committee when they would not be managing the premise or be the eventual licence holder. Mr Hussain advised.

Ms Wade stated that this was the first time any of the residents had seen a representative of the Pub Company and were now informed that the premises would be leased to someone else. The past history of the Pub Company to completely fail to respond to resident's concerns was indicated by the number of representations.

The applicant had said they did not intend to operate late or need regulated entertainment but they had applied for both and they remained within the licence being sought. The report showed how many residents had suffered in the past and their level of concern. There were four other licensed premises within half a mile, all of whom closed at 10.30 or 11pm on a Sunday. Residents did not wish to see customers leave these premises to come to this one, as had been the case in the past. The premises had also previously opened later than it had been licensed to.

Whilst residents would prefer to see no licence granted, if it were the EH proposed conditions should be adopted. The Council was the freeholder of the premise which was located on the edge of the estate and close to financial ruin. Residents had indicated that they wished to see an alternative use of the premise being considered.

Related noise nuisance had been suffered from cars, taxis and people, with related ASB also being experienced. There was no parking available and this caused difficulties for residents in the evening, especially as the premise was not near public transport links.

The applicant confirmed that the restaurant would provide 60 covers though Ms Wade pointed out that the Business Plan referred to 80 covers. Irrespective of what the applicant said they would do, the application covered a number of other points and hours of use.

Councillor Hawkins stated that she was a Ward Member and was present on behalf of Mr & Mrs Legon who lived in the property next to the premises. She was not a member of the Licensing Committee and had not discussed the application with any of the Committee Members.

Mr & Mrs Legon's property shared a party wall with the premises and had registered complaints with EH on numerous occasions regarding noise and reverberation throughout the house from amplified music. Their garden was also used as a rubbish dump and urinal by patrons. Mr Braun, who lived two doors away from the premise, also felt that no licence should be granted unless the premises were soundproofed.

The premise had not been used as a local pub for many years and its past operation had ignored residents. If a licence was to be granted, consideration should be given to the hours operated, whether music and dance should be available and sound proofing. The proposed EH conditions would mitigate some concerns though residents did not feel that any conditions would allow the premise to operate without nuisance given the previous history of the premise.

Councillor Turner stated that he was a Ward Member and was present on behalf of Mr Heyes, resident of Cyprus Street. Whilst he was a member of the Licensing Committee, he had not discussed the application with any of the Committee Members.

Councillor Turner stated the immediate area accommodated a number of elderly residents as well as those with young families. Endorsing Councillor Hawkins's comments, Councillor Turner also stated that the contents of the Business Plan that had been seen by some residents did not appear to support the need for all the licensable activities sought in the application and this, together with the past history of the premise and the lack of support from the Pub Company, had resulted in the number of objections that had been made to the application.

In response to a question from the Chair, Mr Davies (Applicant) advised that the name of the company had resulted in some confusion. Whilst called 'Wellington Pub Company Ltd.', it was not a pub company but a building company. The application had been made at a time when a suitable tenant for the property had been identified. Since then, a suitable tenant, Mr Islam's company, had been identified and if a licence were to be granted, an application to transfer the licence to the named tenant would be made.

At this juncture, the Chair advised that the Sub Committee would now, at 7.35pm, adjourn for a comfort break. The Sub Committee reconvened at 8.20pm.

Mr Dick, Cyprus Street, spoke on behalf of another resident who was unable to be present. Mr Dick stated that all residents had a right to quiet enjoyment under the Human Rights Act and queried whether, under S.17 of the Licensing Act 2003, Wellington Pub Company was the actual applicant.

The premise shared three party walls and had a single glazed frontage. He had been an EH Officer for many years and was aware that the insulation and additional extraction costs arising from the application would be expensive. He asked whether any costing for this work had been carried out.

Ms Naqshbandi, on behalf of the applicant, reported that no acoustician had been appointed but she had, during the adjournment, spoken to EH and the applicant was prepared to accept this matter as a condition of the licence.

The costs referred to by the last speaker were a matter for the applicant who was as stated in the report. Mr Islam was present in the capacity of the prospective tenant and was an experienced manager. Whilst the past history of the premises was acknowledged, there had to be a point where the new application was considered along with the realisation that there was no intention to run the premise as it had been in the past. The legislation was in place that would allow any problems to be addressed.

Mr Johnson, EH, advised that if an acoustic report was carried out and any work arising was completed to the department's satisfaction, it would address concern on this point though the use of the external area and external

smoking noise concern would only be addressed in part by reducing the hours of operation.

Mr Shannon, Cyprus Street resident stated that he believed the restaurant proposal was a red herring as once a licence was granted; the premises could operate any or all of the activities in the application for the hours being sought.

Insulating the building was all very well, but the noise and nuisance generated by those leaving the premise could not be tolerated; especially late at night when the general area was quieter. The layout of local streets and the number of properties that fronted directly onto the street meant that residents and their families were directly affected by the noise of those leaving the premise by foot and by car. There was no specific parking for residents let alone those visiting the area and vehicles parked on double yellow lines prevented access for emergency services.

People leaving the premises to smoke also caused nuisance to residents, particularly given the proximity to residential properties. Mr Shannon concluded by stating he did not believe the premises was particularly family friendly if proposed to open until midnight.

There being no further representations, the Chair thanked those present for their submissions to the Sub Committee and proposed that Members would now, at 8.35pm, adjourn to consider the evidence presented.

The Sub Committee reconvened at 8.55pm and the Chair reported that the Sub Committee had resolved:

That the application for a new Premises Licence for Habanas, 74 Bonner Street, London E2 0QP had been **REFUSED** as Members of the Sub Committee had not been convinced that the Licensing Objective relating to the Prevention of Public Nuisance would be upheld.

The Chair reported that Members had heard sufficient evidence from residents and Environmental Health that the type of establishment that this licence would potentially allow the premises to be would not be suitable in this location. Particular regard had been taken to the fact that the premises shared a party wall with residential accommodation. In addition, taking the character of the locality into consideration, Members had not been convinced that the Licensing Objective relating to the Prevention of Public Nuisance would be upheld.

The meeting ended at 8.58 p.m.

Chair, Councillor Fazlul Haque  
Licensing Sub Committee