

Committee :	Date	Classification	Report No.	Agenda Item No.
Licensing Sub Committee		Unclassified		

Report of : David Tolley Head of Environmental Health & Trading Standards Originating Officer: Kathy Driver Principal Licensing Officer	Title: Licensing Act 2003 Application for a Premises Licence for Barzinho Bar & Kitchen, 60-62 Brick Lane, London E1 6RF Ward affected: Spitalfields & Banglatown
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1.0 **Summary**

Applicant: **Barzinho Ltd**
 Name and Address of Premises: **Barzinho Bar & Kitchen**
60-62 Brick Lane
London E1 6RF

Licence sought: **Licensing Act 2003**
The Sale of Alcohol
Provision of Late Night Refreshment
Provision of regulated entertainment

Objectors: **Local Resident**

2.0 **Recommendations**

- 2.1 That the Licensing Committee considers the application and objections then adjudicate accordingly.

LOCAL GOVERNMENT 2000 (Section 97) **LIST OF "BACKGROUND PAPERS" USED IN THE DRAFTING OF THIS REPORT**

Brief description of "background paper"

Tick if copy supplied for register

If not supplied, name and telephone number of holder

File
 Section 182 Guidance
 LBTH Licensing Policy

Kathy Driver
 020 7364 5171

3.0 **Background**

- 3.1 This is an application for a premises licence for Barzinho, 60-62 Brick Lane, London E1 6RF.
- 3.2 A copy of the application is enclosed as **Appendix 1**.
- 3.3 The hours that have been applied for are as follows:-

Sale of Alcohol (on sales)

Monday to Thursday 11:00 hours to 23:00 hours
Friday 11:00 hours to 23:30 hours
Saturday from 10:00 hours to 23:30 hours
Sunday from 10:00 to 22:00 hours

The Provision of Late Night Refreshment (indoors):

Monday to Thursday until 23:30 hours
Friday and Saturday until midnight

The Provision of Regulated Entertainment in the form of Recorded Music (indoors):

Monday to Thursday from 08:00 hours to 23:30 hours
Friday and Saturday from 08:00 hours to midnight
Sunday from 08:00 hours to 22:30 hours

Hours premises are open to the public:

Monday to Thursday from 08:00 hours to 23:30 hours
Friday and Saturday from 08:00 hours to midnight
Sunday from 08:00 hours to 22:30 hours

- 3.4 A licensed existed at the premises but has since lapsed due to the company being dissolved. Details of its licensed hours is included in **Appendix 5**.

4.0 **Location and Nature of the premises**

- 4.1 The premises falls within Brick Lane Cumulative Impact Zone. See **Appendix 11** for latest maps of licensed premises in the CIZ.
- 4.2 Photographs of the venue and immediate vicinity are in **Appendix 2**.
- 4.3 The site plan of the venue is included as **Appendix 3**.
- 4.4 Maps showing the vicinity are included as **Appendix 4**.
- 4.5 Details of other licensed venues in the immediate vicinity are included as **Appendix 5**.

5.0 Licensing Policy and Government Advice

- 5.1 The Council has adopted a licensing policy and this is available from the Licensing Section, and at the hearing. The revised policy came into effect on 1st November 2018.
- 5.2 Relevant Sections of the policy are brought to the attention of Members within the Licensing Officers report.
- 5.3 The Home Secretary has issued Guidance under Section 182 of the Licensing Act 2003. This is available on the Government's website, www.homeoffice.gov.uk. It was last revised in April 2018.
- 5.4 Relevant Sections of this advice are brought to Members attention within the Licensing Officers report. Members should note however, that in some areas Tower Hamlets, after a proper consideration of local circumstances, has not followed the Government's advice, or has developed it further.

6.0 Representations

- 6.1 All representations have to meet basic legal and administrative requirements. If they fail to do so they cannot be accepted. When rejected the person sending in the representation must be written to, and an explanation for rejection given in writing
- 6.2 A responsible authority or other person can make a representation. There are two tests for other persons and only one for a responsible authority. The two tests are contained in Section 18 of the Act.
- 6.3 All representations must be "about the likely effect of the grant of the premises licence on the promotion of the licensing objectives." Likely means something that will probably happen, i.e. on balance more likely than not.
- 6.4 Representations by responsible authorities do not have to meet the second test of not being vexatious and frivolous. Other persons have to meet this test.
- 6.5 The Home Office recommends that in borderline cases, the benefit of the doubt should be given to the interested party making the representation.
- 6.6 All the representations in this report have been considered by the relevant officer (Team Leader Licensing & Safety) and determined to have met the requirements of the Licensing Act 2003.

- 6.7 This hearing is required by the Licensing Act 2003, because a relevant representation has been made by:
K. Sahota - See **Appendix 6**

There has been dialogue between Licensing Authority, local resident and applicant however have been unable to come to any agreement at the time of writing this report.

- 6.8 All of the responsible authorities have been consulted about this application. They are as follows:

- The Licensing Authority
- The Metropolitan Police
- The LFEPA (the London Fire and Emergency Planning Authority).
- Planning
- Health and Safety
- Noise (Environmental Health)
- Trading Standards
- Child Protection
- Primary Care Trust (Public Health England)
- Home office Immigration Enforcement

- 6.9 In addition the application was required to be advertised in a local newspaper and by a blue poster. Only objections that relate to the following licensing objectives are relevant:

- the prevention of crime and disorder
- public safety
- the prevention of public nuisance
- the protection of children from harm

- 6.10 The objections cover allegations of

- Noise while the premise is in use
- Disturbance from patrons leaving the premises on foot
- Close proximity to residential properties
- Noxious smells

- 6.11 There are strict time limits to any representations. The time limits are contained in The Licensing Act 2003 (Premises licences and club premises certificates) Regulations 2005.

- 6.12 The applicant has offered measures in the operating schedule of the application that address the promotion of the Licensing Objectives. If there were no representations, the Licensing Authority would grant the licence, with conditions consistent with the operating schedule, which are relevant, proportionate and enforceable. Members are asked to consider the schedule and incorporate any conditions as necessary to address the licensing objectives.

7.0 Conditions consistent with Operating Schedule

- 7.1 An incident log shall be maintained at the premises in either a handwritten or in electronic format to record:
- (a) All crimes reported to the venue;
 - (b) All ejections from the venue;
 - (c) Any complaints received to the venue;
 - (d) Any incidents of disorder;
 - (e) Any seizures of drugs or offensive weapons;
 - (f) Any refusal of sales of alcohol; (g) Any visit by responsible authorities.
- 7.2 Staff shall receive training in the Challenge 25 policy, underage sales prevention and completion and maintenance of the refusals log and the incident log.
- 7.3 All training will be properly documented and signed training records kept. The training records will be kept on the licensed premises and made available for inspection by Licensing, Trading Standards or the Police. This training shall be documented and refreshed at no greater than 6-monthly intervals.
- 7.4 CCTV shall be installed, operated, and maintained, to function all times that the premises is open for licensable activities. Said CCTV will comply with the following criteria:
- (a) The Licensee will ensure that the system is checked every two weeks to ensure that the system is working properly and that the date and time are correct;
 - (b) A record of these checks, showing the date and name of the person checking, will be kept and made available to the police or other authorised officer on request;
 - (c) The Police will be informed if the system will not be operating for longer than one day of business for any reason;
 - (d) One camera will show a close-up of the entrance to the premises, to capture a clear, full length image of anyone entering;
 - (e) The system will provide full coverage of the interior of the premises and any exterior part of the premises accessible to the public;
 - (f) The system will record in real time and recordings will be date and time stamped;
 - (g) At all times during operating hours, there will be at least 1 member of staff on the premises who can operate the system sufficiently to allow Police or authorised Council officers to view footage on request;
 - (h) Recordings will be kept for a minimum of 31 days and downloaded footage will be provided free of charge to the police or other authorised officers on request (subject to GDPR) within 24 hours of any request.
- 7.5 In the event that crime or serious disorder is, or appears to have been, committed on the premises, the management will immediately ensure that:
- (a) The police and, where appropriate, the London Ambulance Service, are called immediately;
 - (b) As far as is safe and reasonably practicable, all measures will be taken to preserve any identified crime scene pending the arrival of the

police;

(c) Any and all appropriate measures are taken to fully protect the safety of all persons present on the premises at all times during operating hours.

- 7.6 The premise will not knowingly allow any person, by payment or otherwise to solicit custom for that premise by offering inducements or other concessions.
- 7.7 No person shall be employed to solicit for custom or be permitted to solicit for custom for business for the premises in any public place within a 500 meters radius of the premises as shown edged in black on the attached plan.
- 7.8 All exit routes shall be kept unobstructed, with non-slippery and even surfaces, free of trip hazards and clearly identified. All exits doors shall be maintained easily operable without the use of a key, card, code or similar means.
- 7.9 Exit doors shall be regularly checked to ensure that they function satisfactorily and a record of the check shall be kept.
- 7.10 Adequate and appropriate supply of first aid equipment and materials will be available on the premises at all times.
- 7.11 Hot food and non-alcoholic beverages (including drinking water) will be available throughout the permitted hours in all parts of the premises where alcohol is provided.
- 7.12 A dedicated licensed taxi/mini cab service shall be available with the premises for customers, where customers are using a mobile operator, staff will be pro-active to encourage customers to remain in the premises until the taxi has arrived.
- 7.13 Staff will receive regular training on spotting signs of harassment, and how to intervene where safe and appropriate to do so, and/or reporting such harassment to management/emergency services. This training will be properly documented and signed training records kept. on the licensed premises and made available for inspection by Licensing, Trading Standards or the Police.
- 7.14 Prominent signage indicating that no drinking vessels are to be taken outside whether it is alcoholic or non-alcoholic shall be displayed so as to be visible to patrons where alcohol is on public display, at the point of sale and at the entrance of the premises.
- 7.15 Clear and prominent notices will be displayed requisition customers to respect local residents by keeping noise level to a minimum.

- 7.16 Doors and windows to the premises will be kept closed, so far as practicable, at all times when noise generating regulated entertainment is taking place i.e. live and recorded music.
- 7.17 Noxious smells from the premises are not permitted to cause a nuisance to nearby properties and the premises will be properly vented.
- 7.18 The contact telephone number for the premises duty manager shall be displayed inside the premises or immediately outside the premises such that it is clearly visible from outside without the need to enter the premises.
- 7.19 A challenge 25 policy will be employed where those individuals who appear to be under the age of 25 attempting to purchase alcohol must be asked for identification. The only type of ID that will be accepted is PASS accredited ID, passport or photo driving licence.
- 7.20 No nudity or semi nudity will be permitted.

8.0 Conditions Agreed with Police

- 8.1 CCTV shall be installed, operated, and maintained, to function all times that the premises is open for licensable activities. Said CCTV will comply with the following criteria: (a) The Licensee will ensure that the system is checked every two weeks to ensure that the system is working properly and that the date and time are correct; (b) A record of these checks, showing the date and name of the person checking, will be kept and made available to the police or other authorised officer on request; (c) The Police will be informed if the system will not be operating for longer than one day of business for any reason; (d) One camera will show a close-up of the entrance to the premises, to capture a clear, full length image of anyone entering; (e) The system will provide full coverage of the interior of the premises and any exterior part of the premises accessible to the public; (f) The system will record in real time and recordings will be date and time stamped; (g) At all times during operating hours, there will be at least 1 member of staff on the premises who can operate the system sufficiently to allow Police or authorised Council officers to view footage on request; (h) Recordings will be kept for a minimum of 31 days and downloaded footage will be provided free of charge to the police or other authorised officers on request (subject to GDPR) within 24 hours of any request.
- 8.2 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.

- 8.3 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.

9.0 Licensing Officer Comments

- 9.1 The Live Music Act removed licensing requirements for the following:

- amplified live music and recorded music between 8am and 11pm before audiences of no more than 500 people on premises authorised to sell alcohol for consumption on the premises;
- unamplified live music between 8am and 11pm in all venues.

Further exemptions apply see Section 16.5-16.6 of Section 182 Guidance.

- 9.2 The following is intended to advise Members of the relevant aspects of the Boroughs Licensing Policy, guidance from the Secretary of State, legislation and good practice. Members may depart from the Council's Licensing Policy and/or Government advice, provide they consider it appropriate to do so, and have clear reasons for their decision.

- 9.3 Guidance issued under section 182 of the Licensing Act 2003

- ❖ As stated in the guidance it is “provided to licensing authorities in relation to the carrying out of their functions under the 2003 Act.” It is a key medium for promoting best practice, ensuring consistent application and promoting fairness equal treatment and proportionality (1.7).
- ❖ Also “as long as licensing authorities have properly understood this Guidance, they may depart from it if they have good reason to do so and can provide full reasons. Departure from this Guidance could give rise to an appeal or judicial review, and the reasons given will then be a key consideration for the courts when considering the lawfulness and merits of any decision taken.” Therefore licensing authorities will need to give full reasons for their actions (1.9).
- ❖ Also Members should note “A Licensing Authority may depart from its own policy if the individual circumstances of any case merit such a decision in the interests of the promotion of the licensing objectives.” (1.12)
- ❖ Also, “The licensing authority may not impose any conditions unless its discretion has been exercised following receipt of relevant representations and it is satisfied as a result of a hearing (unless all parties agree a hearing is not necessary) that it is appropriate to impose conditions to promote one or more of the four licensing

objectives.” Therefore, conditions may not be imposed for the purpose other than promoting the licensing objectives and in some cases no additional conditions will be appropriate. (10.8)

- ❖ Necessary conditions should emerge from a risk assessment by the applicant, which should then be reflected in the operating schedule (10.4).
- ❖ The Guidance states: “Where there are objections to an application to extend the hours during which licensable activities are to be carried on and the licensing authority determines that this would undermine the licensing objectives, it may reject the application or grant it with appropriate conditions and/or different hours from those requested.” (10.14)
- ❖ Mandatory conditions must be imposed (10.25) and censorship avoided (10.17).
- ❖ The Guidance states: “It is still permitted to sell alcohol using promotions (as long as they are compatible with any other licensing condition that may be in force), and the relevant person should ensure that the price of the alcohol is not less than the permitted price. Detailed guidance on the use of promotions is given in the guidance document available on the Gov.uk website.” (10.58)
- ❖ Also, “Licensing authorities should not attach standardised blanket conditions promoting fixed prices for alcoholic drinks to premises licences or club licences or club premises certificates in an area.” (10.21)

- 9.4 The Licensing Act 2003 permits children of any age to be on the premises which primarily sell alcohol providing they are accompanied by an adult. It is not necessary to make this a condition.
- 9.5 In all cases the Members should make their decision on the civil burden of proof, that is “the balance of probability.”
- 9.6 In all cases Members should consider whether or not primary legislation is the appropriate method of regulation and should only consider licence conditions when the circumstances in their view are not already adequately covered elsewhere.
- 9.7 The Government has advised that conditions must be tailored to the individual type, location and characteristics of the premises and events concerned. Conditions cannot seek to manage the behaviour of customers once they are beyond the direct management of the licence holder and their staff and standardised conditions should be avoided where they cannot be shown to be appropriate. (1.16/1.17)

- 9.8 The Council's Licensing Policy generally expects applicants to address the licensing objectives and discuss how to do this with the relevant responsible authorities.
- 9.9 In **Appendices 7-11** Members are given general advice, and also have explanations of the Council's Licensing Policy, Government advice and other legislation relating to the matters previously identified.

10.0 Legal Comments

- 10.1 The Council's legal officer will give advice at the hearing.

11.0 Finance Comments

- 11.1 There are no financial implications in this report.

12.0 Appendices

Appendix 1	Application Form
Appendix 2	Photographs of the premises
Appendix 3	Site Plan
Appendix 4	Maps of the surrounding area
Appendix 5	Other licensed venues in the area
Appendix 6	Representations of local resident – K Sahota
Appendix 7	Licensing officer comments on Access and egress problems
Appendix 8	Licensing officer comments on Noise when the premises is in use
Appendix 9	Planning
Appendix 10	Licensing Policy relating to hours of trading.
Appendix 11	Brick Lane Cumulative Impact Area