

LONDON BOROUGH OF TOWER HAMLETS**MINUTES OF THE LICENSING SUB COMMITTEE****HELD AT 6.40 P.M. ON TUESDAY, 4 FEBRUARY 2020****THE COUNCIL CHAMBER, TOWN HALL, MULBERRY PLACE, 5 CLOVE
CRESCENT, LONDON, E14 2BG****Members Present:**

Councillor Dan Tomlinson (Chair)

Councillor Eve McQuillan

Councillor Sufia Alam

Officers Present:

Agnes Adrien	– (Head of Litigation, Legal Services)
Mohshin Ali	– (Senior Licensing Officer)
Corinne Holland	– (Licensing Officer)
Nicola Cadzow	– (Environmental Health Officer)
Simmi Yesmin	– (Democratic Services)

Representing applicants	Item Number	Role	
George Domleo	4.1	Legal Representative	
Patrick Frawley	4.1	(Applicant)	
Rachel Scallon	4.1	(Designated Supervisor)	Premises
Hiew Banh	4.2	(Applicant)	

Representing objectors	Item Number	Role
Jonathan Stebbibs	4.1	(Resident)

Apologies

None

1. DECLARATIONS OF DISCLOSABLE PECUNIARY INTEREST

There were no declarations of interests made.

2. RULES OF PROCEDURE

The rules of procedure were noted.

3. MINUTES OF THE PREVIOUS MEETING(S)

The minutes of the Licensing Sub Committees held on 19th & 26th November and 3rd December 2019 were agreed and approved as a correct record.

4. ITEMS FOR CONSIDERATION

4.1 Application for a Variation of a Premises Licence for (The Gun) 54 Brushfield Street, London E1 6AG

At the request of the Chair, Mr Mohshin Ali, Licensing Officer, introduced the report which detailed the application for a variation of the premises licence for The Gun, 54 Brushfield Street, London E1 6AG. It was noted that objections had been received on behalf of two of the Responsible Authorities, Licensing Authority and Environmental Health as well as local residents and a Resident Association. The application sought was for an extension to the sale of alcohol, regulated entertainment and the removal of existing conditions.

At the request of the Chair, Mr George Domleo, Legal Representative on behalf of the Applicant, Mr Patrick Frawley, explained that Condition 1 proposed in the supporting documents contained in the supplemental agenda should be removed.

He then explained that the Mr Frawley had been operating both The Ten Bells, a local pub in the area and The Gun. Both Mr Frawley's and Ms Rachel Scallon's (Proposed Designated Premises Supervisor) work history and experiences were noted. Mr Domleo further explained that Mr Frawley had been operating The Ten Bells since 2014, The Tavern since 2018 and the Gun since January 2019. He said the premises had been recently refurbished to a high premium décor and a lot of investment had been made into the premises. It was noted that the extra 30 minutes that was applied for was due to the growing customer demand so that customers can end their evening out in one place rather than having to move on to other premises once The Gun closed for the night.

It was noted the Police had not objected to the variation application and the concerns from the Licensing Authority and Environmental Health was mainly about drinking in the outside area. Mr Domleo explained that he would like the Committee to remove existing conditions which was not enforceable in relation to drinking outside the premises. Mr Domleo explained that the responsible authorities were suggesting that customers should be allowed to drink outside until 9pm, however the Applicant was requesting for 11pm. It was noted that there had been only one complaint during the period of a whole year, which was not sufficient in refusing the application.

He explained that members of staff follow the staff manual, which includes the responsible sale of alcohol and the dispersal policy etc. and that this could be

added as a condition to the licence. Mr Domleo concluded that appropriate conditions had been offered to regulate the licence and have enforceable and appropriate measures in place to prevent public nuisance. It was noted that SIA door staff will remain 30 minutes after closing time.

Due to the experience of the management team and the premises being accredited the Best Bar None Award it was believed that this was enough to rebut the presumption of the CIZ policy. Lastly it was noted that the applicant would promote the licensing objectives and the extended hours applied for were within the Council's Framework Hours.

At the request of the Chair, Ms Corinne Holland, Licensing Officer, explained her objection on the basis of public nuisance. She acknowledged that the hours were within the framework hours and agreed that the unenforceable conditions should be removed. However, proposed that the drinking outside should be until 9pm as opposed to 11pm which was far too excessive and affect the residents living close by. She referred to the complaint in August and explained that her main concern was the hours of the outside drinking area.

Members then heard from Ms Nicola Cadzow, Environmental Health Officer, who explained that the premises was in the Cumulative Impact Zone (CIZ) and also shared similar concerns to Ms Holland and believed that allowing drinking outside till 11pm was too late and would negatively impact residents living in close proximity to the premises and also suggested a restriction to allow drinking outside until 9pm.

Members also heard from Mr Jonathan Stebbins, Local Resident and Chair of SPIRE, he explained that he represented 800 residents in the local area as part of the resident association. He explained that the area was a mixed residential and commercial area and that an extension of 30 minutes to the licensable hours would disadvantage the residents and that incremental creeps would affect residents and set a precedent for other venues to extend their hours.

Mr Stebbins said that this was a gastro pub which was successful, therefore questioned the need for extending the hours. That there was no evidence to suggest customers were demanding longer hours. He also stressed the fact that allowing drinking outside would affect young children and families.

In response to questions the following was noted;

- The customer demand was based on the fact that customers were leaving the premises to go onto other venues once it had closed and therefore wanted to finish the evening in once place.
- That majority of customers leave from The Gun and go onto The Ten Bells.
- That 50% of the customers from last week were pre-booked.
- That Mr Stebbins lived closer to The Ten Bells pub.
- That there were 12 stalls and 4 tables outside the premises.
- That there was usually a crowd outside the premises in the evening.

- That there were no smoking conditions currently on the licence
- Exceptional circumstances were that the premise was part of the Best Bar None Scheme and had a robust business policy and security system was in place.
- That its clientele was of an older demographic between the ages of 25-30 and over.
- That 2/3 Managers and 2 security staff were on duty over the weekends.
- That there was another complaint made against the premises on 16th August 2019, where a letter was sent to the applicant on 19 August 2019.
- Visits were made at the premises following the complaints but there was no breaches reported upon visit.
- It was confirmed that there had been two complaints since January 2019.
- That the Applicant was not aware of any complaints.
- That there would be a dedicated number available for residents to call if there were any problems.
- The premises had a capacity of 300 people, had the facility to drink outside, food was available but it was very much a pub.
- Concerns that customers would spill onto the streets but noted that SIA door staff would manage this.
- Noted that there were already breaches of the licence as one of the condition was not to allow drinks outside when it was dark. Concerns raised as to when it constituted as being dark.
- The complaint on the 18th December 2019 was in relation to noise nuisance and described as night club level noise - this was denied by the Applicant as noise levels are tested regularly and are always at average noise levels.
- That residents would still be concerned with customers being allowed to drink outside till 9pm.

Members adjourned again at 7.40pm for deliberations and reconvened at 8.10pm.

The Licensing Objectives

In considering the application, Members were required to consider the same in accordance with the Licensing Act 2003 (as amended), the Licensing Objectives, the Home Office Guidance and the Council's Statement of Licensing Policy and in particular to have regard to the promotion of the four licensing objectives:

1. The Prevention of Crime and Disorder;
2. Public Safety;
3. The Prevention of Public Nuisance; and
4. The Protection of Children from Harm.

Consideration

Each application must be considered on its own merits. The Chair confirmed that the Sub-Committee had carefully considered all of the evidence before them and heard oral representations at the meeting made by the Applicant and his Legal Representative, from the Officers representing Responsible Authorities and a local resident, representing a Resident Association, objecting to the application, with particular regard to the prevention of public nuisance and prevention of crime and disorder.

The Sub-Committee noted that the premises are in a cumulative impact zone (CIZ), and so, the effect of a premises subject to a licensing application being in a CIZ is that there is a rebuttable presumption that where relevant representations are received by one or more of the responsible authorities and/or other persons objecting to the application, the application will be refused.

The Sub-Committee noted that under the Council's Statement of Licensing Policy, the Applicant can rebut the above presumption if they can demonstrate that their application for a premises licence would not undermine any of the four licensing objectives by not adding to the cumulative impact of licensed premises already in the CIZ.

The Sub-Committee considered that the onus lay upon the applicant to show through their operating schedule, with appropriate supporting evidence that the operation of the premises, if licensed, would not add to the cumulative impact already being experienced.

The Sub-Committee noted the representations from the Licensing Authority, and Environmental Health regarding the impact of the premises on the Brick Lane Cumulative Impact Zone (CIZ) and also heard from Mr Jonathan Stebbins who had serious concerns relating to the extended hours applied for and the condition to allow drinks to be consumed outside the premises until 23:00 hours. The Sub-Committee noted objectors' concerns relating to the existing levels of noise nuisance and anti-social behaviour; and noted objectors' concerns about increased noise nuisance, the impact upon family environment, and the likely increased numbers of clientele in the area if the application were to be granted, and thereby the likely impact on the cumulative impact zone.

The Sub Committee noted the applicant's representation that the impact of the premises licence if granted, would be mitigated by the proposed conditions. However, the Sub Committee heard no evidence that rebutted the presumption of the CIZ.

The Sub Committee was therefore not satisfied that there were exceptional circumstances to justify a grant of the variation of the hours applied for. However, Members acknowledged the efforts made by the Applicant and believed that the application could be granted in part, with the granting of regulated entertainment in line with the current hours of the licence and to add non-standard timings. Members also agreed to remove and update existing conditions to help promote the licensing conditions.

Accordingly, the Sub Committee unanimously;

RESOLVED

That the application for a Variation of the Premises Licence for The Gun, 54 Brushfield Street, London E1 6AG be **GRANTED in part**.

Provision of Regulated Entertainment – Indoors (Recorded Music)

Monday to Thursday from 11:00 hours to 23:00 hours

Friday and Saturday from 11:00 hours to 23:30 hours

Sunday from 12:00 hours 22:30 hours

Non-Standard Timings

Sale by retail of alcohol and recorded music – an additional one hour to the terminal hour on the Sunday preceding all Bank Holidays, Christmas Eve and New Year's Eve.

Removal of Conditions

Annex 2 – Condition 1 and Condition 2.

New Conditions to be imposed on the premises licence

1. No customer shall be allowed to use the external area after 21:00, except for customers permitted to temporarily leave the premises to smoke and no drinks shall be permitted to be taken into the external area after this time
2. A dedicated telephone number will be given to any resident on request to allow complaints to be made directly at all times the premises are open
3. Refuse, such as bottles, shall not be placed into receptacles outside the premises between 23:00 hours and 07:00 hours the following day
4. Notices shall be prominently displayed at all public exits requesting customers to respect the needs of local residents and leave the premises and area quietly
5. Staff shall monitor customers outside to the front of the premises to ensure they do not cause a public nuisance
6. When regulated entertainment is taking place, in the form of recorded music, all windows and external doors shall be kept closed, except in the event of an emergency and for the immediate access & egress
7. A cctv camera system covering both internal and external to the premises is to be installed and recordings are to be maintained for 31 days and to be provided upon request to either a police officer or an

officer of any other responsible authority. A system shall be in place to maintain the quality of the recorded image and a complete audit trail maintained. The system will be maintained and fully operational throughout the hours that the premises are open for any licensable activity

8. At all times the premises are open, a person who can operate the cctv system must be present on the premises who can download images and present them immediately on request to a police officer or other responsible authority
9. A record shall be kept detailing all refused sales of alcohol. The record should include the date and time of the refused sale and the name of the member of staff who refused the sale. The record shall be made available for inspection at the premises by either a police officer or an officer of any other responsible authority at all times whilst the premises are open
10. An incident log shall be maintained at the premises and details of all known incidents recorded within the log. The log shall be kept on the premises and produced to either a police officer or an officer of any other responsible authority at all times whilst the premises are open
11. A challenge 25 proof of age scheme shall be operated at the premises where the only acceptable forms of identification are recognised photographic identification cards, such as a driving licence, passport or proof of age card with the pass hologram

4.2 Application for a New Premises Licence for Hohaki, 68 Middlesex Street London E1 7EZ

At the request of the Chair, Ms Corinne Holland, Licensing Officer, introduced the report which detailed the application for a new premises licence for Hohaki, 68 Middlesex Street, London E1 7EZ. It was noted that objections had been received by the Licensing Authority and Environmental Health. It was noted that there was an error in the report and it should state Monday to Friday and not Monday to Thursday.

At the request of the Chair, Mr Hiew Banh, Applicant, briefly stated that the premises had been open since 2006 and has been operating between the hours of 11am - 3.30pm and 5pm -9pm and have been operating a bring your own drinks policy. Mr Banh explained he was applying for the licence due to customer demand and to improve his business viability. The premises was a restaurant and takeaway with 22 covers and 7 tables.

At the request of the Chair, Mr Mohshin Ali, Licensing Officer, referred to page 202, and explained that the premises was within the CIZ and that the onus was on the applicant to demonstrate how they would rebut the presumption of the CIZ and promote the licensing objectives.

He emphasized that the plan submitted did not have any fire safety measures in place and the applicant had not come back with any improvements to the plan. He also stated that the general conditions in the operating schedule were not tailored for this premises. Mr Ali suggested that there should be a break between the end of the sale of alcohol hours and closing time as a drinking up time and that if Members were minded to grant the application then Members should consider adding the conditions listed on his representation.

Members briefly heard from Ms Nicola Cadzow, Environmental Health Officer, who referred to her statement on page 199 and emphasised that the premises was in the CIZ, and that there was not enough in the operating schedule to rebut the CIZ presumption which demonstrated a lack of understanding by the Applicant.

In response to questions the following was noted;

- That there would be no speakers at the premises and only background music would be played.
- That the premises was busy during the lunch time period.
- There were 4 members of staff and they closed by 9pm.
- The condition relating to the children's play area was an error in the application.
- Mr Banh confirmed that there were 2 fire extinguishers on the ground floor and 1 in the basement.
- The kitchen was in the basement and the restaurant was on the ground floor.
- That if there were loud customers, they would be told to be quiet and respect the needs of local residents.
- That they usually didn't receive bookings for big groups and parties.
- That there have been no complaints about the premises.

Members adjourned again at 8.55pm for deliberations and reconvened at 9.10pm.

The Licensing Objectives

In considering the application, Members are normally required to consider the same in accordance with the Licensing Act 2003 (as amended), the Licensing Objectives, the Home Office Guidance and the Council's Statement of Licensing Policy and in particular to have regard to the promotion of the four licencing objectives:

1. The Prevention of Crime and Disorder;
2. Public Safety;
3. The Prevention of Public Nuisance; and
4. The Protection of Children from Harm

Consideration

Each application must be considered on its own merits. The Chair confirmed that the Sub-Committee had carefully considered all of the evidence before them and heard oral representations at the meeting made by the Applicant and Officers representing the Licensing Authority and Environmental Health with particular regard to the prevention of public nuisance. .

Members heard from the Applicant that the premises was a small restaurant/takeaway with 22 covers and open for limited hours within the Council's framework hours, and that he was currently trading as a restaurant where customers bring their own alcohol. When questioned Members were satisfied that granting a premises licence for the nature of business the applicant intends use for and with conditions limiting the licence to a restaurant use only would not negatively add to the cumulative impact zone.

The Sub-Committee referred to the Council's Licensing Policy, in particular the Special Cumulative Impact Policy - Section 19.8;

This policy will be strictly applied and where relevant representations are received it is the view of the Council that the application will be used. Applicants will need to demonstrate that there are exceptional circumstances and that granting their application will not negatively add to the cumulative effect on the licensing objectives within the brick lane and Bethnal green CIZ if they wish to rebut this presumption.

Examples of factors the Licensing Authority may consider as exceptional may include;

- Small premises with a capacity of fifty persons or less who will only intend to operate during framework hours.
- Premises which are not alcohol led and operate within the framework hours.

The Sub-Committee considered that this particular premises was exceptional to the CIZ rule due to size of the premises, the customer capacity was less than 50 persons and it was not an alcohol led premises.

The Sub-Committee was satisfied that the licensing objectives would be promoted and that the condition imposed would help alleviate any concerns raised by the responsible authorities.

Decision

Accordingly, the Sub Committee unanimously;

RESOLVED

That the application for a new premises Licence for, Hohaki, 68 Middlesex Street, London E1 7EZ be **GRANTED** with conditions.

Sale of Alcohol

Monday to Friday from 11:00 hours to 22:00 hours

Hours premises are open to the Public

Monday to Friday from 11:00 hours to 22:00 hours

Conditions

1. The supply of alcohol at the premises shall only be to a person seated taking a table meal there and for consumption by such a person as ancillary to their meal.
2. During the hours of operation of the premises, the licence holder shall ensure sufficient measures are in place to remove and prevent litter or waste arising or accumulating from customers in the area immediately outside the premises, and that this area shall be swept and or washed, and litter and sweepings collected and stored in accordance with the approved refuse storage arrangements by close of business.
3. Notices shall be prominently displayed at all exits requesting patrons to respect the needs of local residents and businesses and leave the area quietly.
4. Notices shall be prominently displayed at any area used for smoking requesting patrons to respect the needs of local residents and use the area quietly.
5. A Challenge 25 proof of age scheme shall be operated at the premises where the only acceptable forms of identification are recognised photographic identification cards, such as a driving licence, passport or proof of age card with the PASS Hologram.
6. No customers will permitted to take open containers of alcohol from the Premises
7. The Premise License Holder will ensure that all staff are trained regularly for the responsible sale of alcohol.
8. 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.

9. 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.
10. An incident log shall be kept at the premises, and be available on request to the Police or an authorised officer. It must be completed within 24 hours of any incident and will record the following:
 - a) all crimes reported to the venue;
 - b) all ejections of patrons;
 - c) any complaints received concerning crime and disorder
 - d) any incidents of disorder;
 - e) all seizures of drugs or offensive weapons;
 - f) any faults in the CCTV system, searching equipment or scanning equipment;
 - g) any refusal of the sale of alcohol;
 - h) any visit by a relevant authority or emergency service.

5. EXTENSION OF DECISION DEADLINE: LICENSING ACT 2003

There were no applications that required extensions to decision deadlines.

The meeting ended at 9.15 p.m.

Chair, Councillor Dan Tomlinson
Licensing Sub Committee