

LONDON BOROUGH OF TOWER HAMLETS**MINUTES OF THE LICENSING SUB COMMITTEE****HELD AT 6.30 P.M. ON TUESDAY, 3 MARCH 2020****THE COUNCIL CHAMBER, TOWN HALL, MULBERRY PLACE, 5 CLOVE
CRESCENT, LONDON, E14 2BG****Members Present:**

Councillor Ehtasham Haque (Chair)
Councillor Mohammed Pappu
Councillor Gabriela Salva Macallan

Other Councillors Present:

Councillor Denise Jones

Officers Present:

Luke Wilson	– (Legal Services)
Kathy Driver	– (Principal Licensing Officer)
Simmi Yesmin	– (Democratic Services)

Representing Applicants**Item Number****Role**

Jack Hunter	4.1	(Applicant)
Olia Hunter	4.1	(Resident)
Gavin Mitchell	4.1	(Resident)

Representing Objectors**Item Number****Role**

Jon Wallsgrove	4.1	(Legal Representative)
Jonathan Read	4.1	(Director of Tobacco Dock)

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 Committee held on 14th January 2020 were agreed as a correct record of proceedings. The minutes of 4th December 2019 were deferred to the next meeting.

4. ITEMS FOR CONSIDERATION

4.1 Application to Review the Premises Licence for Tobacco Dock, 50 Porters Walk, London E1W 2SF

At the request of the Chair, Ms Kathy Driver, Licensing Officer, introduced the report which detailed the application for a review of the premises licence for Tobacco Dock, 50 Porters Walk, London E1W 2SF. It was noted that the review had been triggered by a local resident and was supported by a local ward councillor and other local residents. It was also noted that there was also a representation in support of the premises by a local resident.

Ms Driver highlighted that the premises licence covered the whole of the Tobacco Dock building, however, the review was specifically in relation to the Skylight Bar. It was also noted that no Responsible Authorities had made representations.

At the request of the Chair, Mr Jack Hunter, Applicant, explained that he had moved into his property in 2017, and had been aware that Tobacco Dock was a licensed premises when he moved in. He explained that it wasn't Tobacco Dock that was the problem but the issue was the Skylight Bar. Mr Hunter said that the months between April to September each year were completely ruined by the constant noise nuisance that he experienced as a result of the Skylight Bar. He then described how the noise had affected him. He said that from Thursday to Sunday he was unable to use the balcony, that there was constant noise disruption and he was unable to go to bed early.

Mr Hunter made a request to play noise recordings as evidence of the noise nuisance that was experienced. There were some concerns raised as to whether these recording had been circulated to all parties prior to the meeting. Ms Driver explained that a link was sent with the application but the file was unusable as Officers were unable to download the files.

Mr Jon Wallsgrove, Legal Representative on behalf of Mr Johnathan Read, Director of Tobacco Dock, confirmed that he had been provided the recordings prior to the hearing (quite some time ago) and had had the opportunity to listen to them, however questioned the authenticity of the recordings as it could not be confirmed where they were taken from, what time, what date etc.

The Chair conferred with the Sub-Committee and agreed to hear the recordings.

Mr Hunter stated that no noise was experienced on the ground level of Discovery Walk and it was the properties on the upper level where the noise

was experienced. Mr Hunter noted that at the onset of these problems the management team of Tobacco Dock were co-operative and there was a good rapport between him and the premises, however, as time passed the relationship broke down. Mr Hunter stated that he had asked to meet with Mr Read on a number of occasions but the requested meetings did not occur. He explained that as a result of the breakdown in the relationship there had been defamation of his character.

Mr Hunter said that Vanguardia, a sound acoustic company, was sent to his premises to conduct a sound check on 7 February 2020. The assessment took 15 minutes and was on a cold and windy day when the premises was not busy. Mr Hunter stated that the measurements taken were not a true reflection of what was normally experienced. He was told by the licence holder that there was a large event that day with 600 guests but Mr Hunter claimed that there were only a dozen people in the bar.

Members then heard from Cllr Jones, Ward Councillor for St Katherine's and Wapping. She expressed her disappointment at the fact that this issue had come before the Sub-Committee and could not be resolved prior. She explained that the noise was not audible from the ground floor but residents on the top floor experience the most noise nuisance and often have to use ear plugs. It was noted that Licensing Officers did come and visit but they could not hear much. Cllr Jones said that she supported the review and has witnessed the noise nuisance that was experienced by Mr Hunter.

At the request of the Chair, Mr Jon Wallsgrove, Legal Representative on behalf of Mr Jonathan Read, Premise Licence Holder, explained that the burden of proof was on the Applicant to demonstrate whether it was more likely than not that noise nuisance had been caused. The Sub-Committee would then need to consider what action was reasonable and proportionate.

He explained that the premises licence covered the whole of Tobacco Dock and it was noted that music was not a licensable activity as it was deregulated by the Live Music Act. Mr Wallsgrove contested the sound recordings played by Mr Hunter as it could not be established where and when the recordings were taken.

It was noted that the sound level on the noise limiter had been set by the Tower Hamlets Environmental Health Noise Team and there was no evidence that this had been tampered with or breached in anyway. The noise level was set to a level not to cause a public nuisance to residents and there had been no evidence from Licensing or Environmental Health to suggest that there had been a breach or that the noise levels had been exceeded. Mr Wallsgrove stated that if there were concerns, then the Council's own Responsible Authorities would have made representations and supported the review. He added that the Sub-Committee should place significant weight on the fact that Responsible Authorities had not made representations.

Mr Wallsgrove highlighted the fact that the music was not at a level that interrupts conversations as it's not a party venue or a club. He stated that a lot had been done to appease Mr Hunter but it had reached a point where

management of Tobacco Dock could no longer communicate with him. He said that there had been no drinks promotions except a prosecco brunch priced at £38. It was not a cheap event and not a party for people to get drunk and cause nuisance. He refuted the allegations of drunken behaviour. He concluded that the Authority was obliged to hold a hearing on the grounds of public nuisance but questioned whether the grounds of public nuisance had been established.

In response to questions, the following was noted:

1. Mr Wallsgrove stated that it would not have been appropriate for the premises holder to approach Responsible Authorities and request evidence to support their opposition to the review. He confirmed that it is for the Applicant to prove the ground of public nuisance.
2. A Responsible Authority must remain neutral and look at evidence and history and deem whether a representation is necessary.
3. There was no evidence of public nuisance found by the Officers during visits to the Applicant's address.
4. Mr Hunter would prefer that there was no music played in the Skylight Bar.
5. The capacity of the Skylight Bar was 600. Tobacco Dock as a whole had a capacity of 10,000 (there was no condition on the licence that limited capacity).
6. The noise limiter cuts off the music if the sound level goes beyond the set point.
7. Mr Read had not met Mr Hunter prior to the Review as the premises' Operations Team dealt with such matters. Once the review had been triggered, Mr Read had met with Mr Hunter.
8. The Operations Team had spent over 100 hours with Mr Hunter through communications via email, telephone calls and meetings.
9. Noise readings were taken from three prescribed areas to ensure that there was no noise nuisance.
10. Mr Hunter confirmed that he did not want the Bar to close.
11. The speakers were not directed towards Discovery Walk.
12. One option could be to put a screen up.
13. When Mr Hunter brought his property he was aware of the event space. Visibility was not an issue but the excessive music and noise was a concern.
14. The distance from the bar to Discovery Walk was approximately 90 meters.
15. There had been three visits from officers following noise complaints.

In summation, Mr Wallsgrove concluded that he disputed what had been said at the meeting by Mr Hunter. On three occasions Council Officers had visited the area allegedly affected and no noise nuisance was detected. He emphasised the fact that the Responsible Authorities had not made any representations supporting the review.

Mr Hunter added that all he wanted was to enjoy a summer at home.

Members adjourned again at 9.00pm for deliberations and reconvened at 9.20pm.

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 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 from the Applicant and their Ward Councillor, and from the Premises Licence Holder and his Legal Representative.

The Sub-Committee placed little evidential weight on the audio recordings played by the Applicant at the hearing as the level of the noise could not be quantified, however, it was accepted that the noise from the Skylight Bar had caused a public nuisance to local residents.

The Sub-Committee decided to modify the licence conditions by adding a condition that a screen be placed on the Discovery Walk side of the Skylight Lounge. The type of material and the size of the screen is subject to the approval of the London Borough of Tower Hamlets Environmental Health Noise Team. It was noted that Section 177A of the Licensing Act 2003 does not apply to this condition. The Sub-Committee believed that this measure is proportionate and would adequately address the noise nuisance experienced by residents.

Accordingly, the Sub Committee unanimously:

RESOLVED

That the application for a Review of the Premises Licence for Tobacco Dock, 50 Porters Walk, London E1W 2SF be **GRANTED in part**.

Additional Condition on the premises licence (Sec.177A of the Licensing Act 2003 does not apply to this condition)

A screen to help deflect noise is to be placed on the Discovery Walk side of the Skylight Bar. The type of material and the size of the screen is subject to

the approval of the London Borough of Tower Hamlets Environmental Health Noise Team.

5. EXTENSION OF DECISION DEADLINE: LICENSING ACT 2003

Members agreed to extend the decision deadlines for the following applications;

Premises	Hearing Date	Decision by
Sticks and Ball, 88 Mile End Road London E1 4UN	31/03	09/03
McQueens Flowers Limited 1 Maddox Street London W1S 2PZ	14/04	19/03
Spitalfields City Farm, Buxton Street, London E1 5AR	14/04	16/03
Dokke, (Ubergrub Ltd), Ivory House, East Smithfield London E1W 1AT	28/04	20/03
Unit D1, 20 Water Street, Wood Wharf, London E14	28/04	27/03
Manjal, 3 Turnberry Quay, London E14 9RD	05/05	28/04

The meeting ended at 9.30 p.m.

Chair, Councillor Ehtasham Haque
Licensing Sub Committee