

**LONDON BOROUGH OF TOWER HAMLETS****MINUTES OF THE LICENSING SUB COMMITTEE****HELD AT 6.30 P.M. ON MONDAY, 2 AUGUST 2021****C1 & COUNCIL CHAMBER, TOWN HALL, MULBERRY PLACE, 5 CLOVE  
CRESCENT, LONDON, E14 2BG****Members Present:**

Councillor Peter Golds (Chair)

Councillor Shah Ameen (Member)

Councillor Victoria Obaze (Member)

**Officers Present:**

Nicola Cadzow*	–	Environmental Health	
Corinne Holland*	–	(Licensing Officer)	
David Wong	–	(Legal Services)	
Mohshin Ali	–	(Senior Licensing Officer)	
Farhana Zia	–	(Democratic Services	Officer,
		Committees, Governance)	

<b>Representing applicants</b>	<b>Item Number</b>	<b>Role</b>
Suraj Desor*	4.1	Applicant's Solicitor
Sam Ader*	4.1	Applicant – Director of Expansion
Adam Crombie*	4.1	Applicant – Director of Operations
Michael Rogers	4.2	Applicant's Counsel
Declan Perkins	4.2	Applicant
Tom Day	4.3	Applicant's Counsel
Kevin Huynh	4.3	Applicant

<b>Representing objectors</b>	<b>Item Number</b>	<b>Role</b>
Nicola Cadzow	4.2	Environmental Health
Shamsu Bibi*	4.2	Objector
Peter Mayhew	4.2	Objector's Agent for the following objectors
Asheesh Bhatia - not in attendance	4.2	Objector
Benjamin Huddleston – in person	4.2	Objector
Freddie Camrass – in person &	4.2	Objectors
Nurilya Alymbekova* - 2 <sup>nd</sup> Objector in virtual attendance*		
Inderjit Dhani - not in attendance	4.2	Objector
Nadja Goldbach* - virtual attendance	4.2	Objector
Holly Johnson* - virtual attendance*	4.2	Objector
Adam Wagner & Sammy Kelly – not in attendance	4.2	Objectors
Kate Rose* - virtual attendance*	4.2	Objector
Nicola Cadzow	4.3	Environmental Health

**Apologies**

Councillor Rabina Khan & Petitioners – 4.1 Objectors

\*Indicates – Virtual attendance

**1. DECLARATIONS OF 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 from the 29th June 2021 were agreed to be an accurate record of the meeting.

**4. ITEMS FOR CONSIDERATION****4.1 Licensing Act 2003 Application for a New Premises Licence for Weezy-Whitechapel, Arch 154, Martha Street, London, E1 2PG**

At the request of the Chair, Mr Mohshin Ali, Licensing Officer, introduced the report which detailed the application for a new premises licence for Weezy-Whitechapel, Arch 154, Martha Street, London E1 2PG. It was noted that objections had been received on behalf of the ward councillor, Councillor Rabina Khan and Petitioners.

At the request of the Chair, the Applicant's Solicitor, Mr Suraj Desor stated that Weezy operated several grocery centres in London, where grocery is delivered directly to local customers. He said customers placed orders via the online website or the app, and as such there was no public access to the premises. Deliveries to customers were made by staff using electric vehicles to ensure noise and pollution was kept to a minimal.

Mr Desor said the grocery centre offered a variety of food produce and alcohol and had operated under TENs for the past few weeks without any issues to note. He said although alcohol was sold and was an important part of the overall offer, it made up a small portion of the goods ordered. Mr Desor stated less than 24% of orders placed contained the sale of alcohol with groceries and only 3% for just alcohol. He said this clearly showed the business was not alcohol-led, like an off-licence.

Regarding deliveries there were robust conditions offered in the application, which had been agreed with the Police and the Licensing Authority. He said the hours applied were until midnight, which were slightly more than the

framework hours. However, the Licensing Policy stated that these should not be rigidly applied. Mr Desor said the hours applied are appropriate for the business.

Addressing the concerns raised by the ward councillor, Mr Desor said they had written to Councillor Khan and had not received a reply. He said the concerns raised in the objection were general to the area as opposed to the premises. Mr Desor said the conditions offered mitigated against the concerns, as the business would not increase public nuisance or give rise to anti-social behaviour. In relation to the petition, Mr Desor said it was unclear what the petitioners were concerned about. He said there was a likelihood that they had not understood the nature of the business and that it would not be open to the public.

The Sub-Committee noted the concerns raised by the ward councillor and the petitioners, who were not in attendance at the meeting.

In response to questions from Members the following was noted:

- The Licensing Officer confirmed the premises would be used as a storage space for goods and would not be open to the public.
- The website had warnings that the sale of alcohol to those who are underage is prohibited. In addition, when the order is packaged, there is a sticker placed on the order so that delivery drivers can apply the Challenge 25 policy and check the ID of customers when making a delivery.
- There was no likelihood of anti-social behaviour as the alcohol sold would be part of the grocery offer and would be delivered directly to the customer.
- The concerns about street drinking, noise or public nuisance were unsubstantiated. The conditions offered mitigated against this, along with the use of electric vehicles for the delivery of goods.

Concluding remarks were made by the parties.

### **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 the evidence before them and heard oral representations at the meeting virtually made by the Applicant's solicitor. The Sub-Committee noted the apologies of the ward councillor, Councillor Rabina Khan and the petitioners.

The Sub-Committee noted the Applicant was seeking a new premises licence for the off sale of alcohol as part of a locally based home delivery grocery centre. The Sub-Committee noted the premises would not be open to the public and that groceries would be delivered by electric vehicles.

The Sub-Committee were satisfied that the conditions offered by the Applicant would support the four licensing objectives and address any concerns over noise nuisance, crime and disorder.

Therefore, Members made a unanimous decision to grant the application with conditions.

Accordingly, the Sub Committee unanimously

### **RESOLVED**

That the application for a new Premises Licence for Weezy-Whitechapel, Arch 154, Martha Street, London E1 2PG be **GRANTED** with conditions.

#### Opening Hours

Not open to the public

#### Sale of Alcohol (off sales)

Monday – Sunday 07:00 – 00:00 hours(midnight)

#### Conditions

1. All sales of alcohol arising from a [telephone/App/website] order for delivery must be paid for by debit or credit card. An alcohol verification sticker shall be applied to the delivery package so that alcohol can be easily retrieved by the delivery person to prevent an illegal sale. Details of the order (including the type, amount of alcohol, name, and address of the customer) must be included with the order. The details shall be shown on the printout receipt dispatched with the order. All delivery drivers and riders must allow any Police Constable or Local Authority Officer to inspect any alcohol or order details on request.
2. The premises will operate as a delivery only business. The premises will not open to the public and will be used for the dispatch of alcohol and other goods only. There shall be no collection of alcohol by the public from the premises.

3. The premises licence holder shall provide a closed-circuit television system (CCTV) at the premises. The CCTV system installed shall be maintained in effective working order and shall be in operation during licensing hours. All recordings made by the CCTV system shall be retained and stored in a suitable and secure manner for a minimum of 31 days. The licence holder shall notify the Licensing Authority within 24 hours when they become aware that the CCTV system is not functioning correctly.
4. A record of refusals shall be maintained which documents every instance that a sale or supply of alcohol is refused, indicating the date and time the refusal was made, and the member of staff making the refusal.
5. The record of refusals shall be available for inspection by authorised officers of the licensing authority, officers of the trading standards service and officers of the police.
6. Alcohol deliveries shall only to be made to business addresses and/or private residences and not to any public/open spaces.
7. A 'Challenge 25' Policy shall be in force at the point of delivery of the alcohol. No delivery shall be made if the person seeking to accept delivery appears under 25 and is unable to provide proof of age. Examples of appropriate ID include a passport; photographic driving licence; military ID; biometric residents permit and the Proof of Age Standards Scheme (PASS) approved age cards.
8. All staff that sale or supply of alcohol shall receive appropriate training in relation to undertaking appropriate age checks, before being allowed to sell or supply any alcohol.
9. Staff training records shall be available for inspection by authorised officers of the licensing authority, officers of the trading standards service, and officers of the Police.
10. There shall be no access by the public to the premises.
11. Full address details including postcode must be given when placing an order. Records of all orders to be kept for a period of 6 months.
12. 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 with copies of recent CCTV images or data with the absolute minimum of delay when requested.
13. When the designated premises supervisor is not on the premises, any or all persons authorised to sell alcohol will be authorised by the

designated premises supervisor in writing. This shall be made available on request by the Police or any authorised officer.

14. 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) any complaints received concerning crime and disorder
  - c) any incidents of disorder;
  - d) any faults in the CCTV system, searching equipment or scanning equipment;
  - e) any visit by a relevant authority or emergency service.
15. There shall be no signage on the outside of the premises or visible from the outside of the premises indicating the presence of alcohol inside of the premises.
16. To minimise disturbance to local residents when a delivery of a customer order is made utilising a vehicle, then only an electric or non-motorised vehicle will be used, except in the event of an emergency or breakdown.
17. The premises will encourage all riders involved in deliveries to use their vehicles in a responsible manner so as not to cause a nuisance to any residents or generally gather outside the premises; not to leave engines running when the vehicles are parked; and not to obstruct the highway.
18. The business will arrange for the telephone number for the premises and/or a member of the management team to be provided to residents upon request in order that any complaints can be made direct.
19. Prominent, clear, and legible notices must be displayed at all exits requesting staff to respect the needs of local residents and to leave the premises quietly.
20. A warning shall be displayed on the digital platform/ website on which an order is placed informing customers that they must be aged 18 or over to make a purchase of alcohol and notifying customers that the rider will carry out age verification on delivery in line with company policy.
21. The License Holder shall notify the Licensing Authority of the digital platform (website) used by the business and any changes in the platform used.

#### **4.2 Licensing Act 2003 Application for a Premises Licence for (Lofthouse Square Ltd) Lanterna Building, Fish Island Village, Wyke Road, London E3 3PL**

At the request of the Chair, Mr Mohshin Ali, Licensing Officer, introduced the report which detailed the application for a new premises licence for (Lofthouse Square Ltd) Lanterna Building, Fish Island Village, Wyke Road, London E3 3PL. It was noted that the application had received both support and objection to it.

At the request of the Chair, the Applicant's Counsel, Mr Michael Rogers presented his submission and referred to the supplementary pack, page 13 and said this set out what was being proposed for the premises. He said the premises would be used as a restaurant and bar, with workspaces and would operate as an all-day delicatessen during the daytime. He said the floor plan on page 14 of the supplementary agenda and Appendix 2 of the main agenda pack, pages 190 onwards, showed how the space would be used. He said there were two entrances, one at the rear to the delicatessen and another which led to the Square.

Mr Rogers said the Applicant hoped to attract both young professionals living locally, families and other people in the locality, to use the facility as a meet and eat, and hot desking space. He said the Applicant was not seeking to attract people after football matches and wanted local people to use the space as a community hub. Mr Rogers said the Applicant had met with local residents and had listened to their concerns. He said the main concern of the objectors, related to nuisance which had been constructively addressed by the applicant. Mr Rogers said there had been considerable support for the premises, with over a hundred supporters expressing their positive support.

Mr Rogers stated the premises was part of a new development and had been granted an A5 licence when the building was constructed. He said it was always anticipated that the premises would be used as a restaurant. He informed the Sub-Committee, that the Applicant Mr Declan Perkins was an experienced Designated Premises Supervisor (DPS) who ran four other premises licences. Mr Rogers referred members to page 16 of the supplemental agenda which detailed Mr Perkins experience.

Mr Rogers said the Police and the Licensing Authority had not objected to the licence and had agreed proposed conditions. Mr Rogers said he was puzzled as to why Environmental Health remained an Objector as a response had been sent to Ms Cadzow on the 23<sup>rd</sup> April 2021 agreeing to all the proposed conditions put forward by her.

Mr Rogers continued saying the hours had been amended further as per the Council's Licensing Policy and were now compliant with the framework hours. Mr Rogers had drafted conditions and asked if he could circulate these to everyone present at the meeting. On taking advice from the legal officer, the Chair requested Mr Rogers to read out the new timings and proposed conditions, so it was clear to everyone both physically and virtually present

what was being proposed. Upon doing so, Mr Rogers concluded his presentation.

The Sub-Committee then heard from Ms Nicola Cadzow, from Environmental Health who said she had sent an email to the Applicant on the 22<sup>nd</sup> April with a set of proposed conditions. She said she was unaware of the Applicant's agreement to the proposed conditions and could not account for why communication had not been received. She said she lodged her objection on the basis that no communication from the Applicant had been received. Ms Cadzow said in light of the conditions put forward at the meeting, she was satisfied these addressed the licensing objective of public nuisance and was in agreement with them.

Ms Shamsu Bibi, an objector addressed the Sub-Committee saying her main concern related to the entrance and egress from the restaurant. She asked why the entrance faced Wyke Road and not the Fish Island marketing suite. She said there were many families, some with disabled children and elderly residents who would be disturbed by the noise. Ms Bibi was concerned the influence of alcohol would lead to anti-social behaviour, which would be seen by young children.

The Sub-Committee then heard from Mr Peter Mayhew, an agent who was representing ten of the objectors. Mr Mayhew was in physical attendance with two of those objectors, Mr Camrass and Mr Huddleston, whilst other objectors had joined the meeting virtually.

Mr Mayhew said the area was a residential area with approximately 580 residential addresses within four buildings surrounding the Square. He said it was evident noise from the restaurant would create a funnel effect, as it would bounce off the residential buildings. He said the objectors were not opposed to the whole application, but were unhappy with the hours applied and the proposed conditions. Mr Mayhew said whilst discussions had been held with the Applicant, changes made to the application were not communicated prior to the meeting.

Mr Mayhew said the proposed hours stated at the meeting were 11:00 p.m. weekdays and 11:30 p.m. weekends, however it was not clear if these timings referred to the sale of alcohol or were the opening hours of the premises. Mr Mayhew continued saying the proposed conditions put forward by the objectors in the supplementary agenda from page 19 onwards ought to be considered by the Sub-Committee, as it proposed a half an hour drinking up time before dispersal of patrons. Mr Mayhew said it was unclear if this applied here, as someone could in theory order a drink at 11:29 p.m. and would have to leave the premises at 11:30 p.m.

Mr Mayhew continued saying the Objectors would like an early closing time for Sunday of 10:30 p.m. and were concerned about other issues such as the off-sale of alcohol with patrons leaving the premises to drink in the Square. Mr Mayhew said some of these issues had been addressed by the proposed conditions. However, the conditions put forward in the supplementary bundle



by the objectors would help reassure residents living in close proximity to the restaurant.

Furthermore, Mr Mayhew stated that residents living directly above the restaurant would experience noise nuisance, as the building is not air conditioned. He said windows were opened in the summer months and noise from patrons of the restaurant would disturb residents. In the interest of the prevention of public nuisance, consideration ought to be given to the concerns of the thirty objectors rather than the supporters whose representations stated that it would be nice for the unit to be occupied.

Mr Mayhew said the application had changed vastly at this meeting from the application originally submitted, and that there was an anomaly with the postcode as well as the plans at page 193 of the agenda. He said it was unclear where the seating area would cease to be. He said there was a red line delineating the licensable area. However, the plan showed seating continuing past this line. He said the smoking area had been mentioned in the proposed conditions read out, but again it was unclear where this would be located.

Mr Mayhew said the objectors had put forward conditions in relation to West Ham Stadium as inevitably there would be some impact on football days. He continued to say that a more definite condition was required in relation to the employment of SIA accredited staff on match days, rather than it saying that 'suitable' SIA staff will be employed.

The Sub-Committee then heard from Mr Freddie Camrass. He stated he lived directly above the premises and with the imminent arrival of a new-born baby, both his wife and he, were concerned about noise emanating from the restaurant. He said the quality of life for his family would be greatly affected by the premises, and he did not want to be dealing with noise issues after a long working day and caring for his child.

Mr Huddleston added both he and his wife worked from home, three days a week and would require the windows to be open for ventilation. He said they were concerned about the noise and the proposed scale of the seating area. Mr Huddleston said this would affect their quality of life.

In response to questions from members the following was noted:

- The Applicant was an experienced DPS and could manage the workload of looking after five different premises. A general manager with a personal Licence who is suitably qualified would be at the premises, at all times.
- The Applicant accepted the additional condition proposed by the Chair, that "there should be no off-sales of alcohol on match days."
- The Applicant confirmed that for the most part, recorded music would be played in the background, but agreed to have 'sound limiters' fitted

to the music system that were in accordance with the requirements of the Environmental Health Team's standards.

- There were 16 units above the premise and an approximate road width between others that lived close by.
- The capacity of the premises was confirmed to be 500, with 192 seats in the venue.
- The Applicant agreed to a reduction in the timings for the outdoor space, from 10:00 a.m. weekdays and 10:30 p.m. weekends to 09:00 p.m. and 09:30 p.m. respectively.

Concluding remarks were made by all the parties.

### **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 the evidence before them and heard oral representations at the meeting made by the Applicant's Counsel and the Objectors' representative who were physically present for the meeting. The Sub-Committee also heard from the objectors, some of whom were in physical attendance and some of whom were in virtual attendance at the meeting.

The Sub-Committee noted the application was for a new premises licence for a restaurant/delicatessen in a new development. The Sub-Committee noted the opening times and hours for the sale of alcohol had been reduced following consultation with the Responsible Authorities, and that the Applicant's Counsel had mentioned further reduction to these timings at the meeting. The Sub-Committee noted the letters of support for the restaurant from a number of residents and the objections from other residents.

The Sub-Committee noted the concerns from residents living in close proximity to the restaurant about noise nuisance from patrons sitting outside

the restaurant, as well as concerns relating to the entrance and exit points of the premises.

The Sub-Committee expressed concern regarding the off sale of alcohol on match days when West Ham United games were being played at the London Stadium, but were reassured when the Applicant accepted a condition prohibiting off sales of alcohol on match days. In relation to noise emanating from the outdoor terrace, the Applicant accepted that noise could disturb neighbours and agreed to the closing of the outdoor space at 21:00 hours Sunday – Thursday and 21:30 hours Friday and Saturday. The Sub-Committee were minded to reduce the number of tables in the outdoor area from 18 to 12, so as to ensure the number of patrons using the outdoor space would not disturb those living directly above the premises.

In relation to recorded and live music, the Applicant had amended the timings to the legal framework hours and therefore, as no licensable activity would be taking place after 23:00 hours a licence was not required for such music. However, the Applicant's intention to have live music events, twice a month was rejected by the Sub-Committee, as they felt that to allow this as part of the operating schedule to the premises licence would undermine the licensing objective of the prevention of noise and public nuisance, given the proximity of local residents, especially those above the premises.

The Sub-Committee were satisfied that granting a premises licence with appropriate conditions and restrictions on timings would support the licensing objectives; such as prohibiting off sales of alcohol on match days, a reduction in the number of tables in the outside area.

Therefore, Members made a unanimous decision to grant the application with conditions.

Accordingly, the Sub Committee unanimously

### **RESOLVED**

That the application for a new Premises Licence for (Lofthouse Square Limited), Laterna Building, Fish Island Village, Wyke Road, London E3 3PL be **GRANTED** with conditions.

#### Opening Hours of the premises

Sunday to Thursday 10:00 hrs to 23:30 hours

Friday and Saturday 10:00 hrs to 00:00 hours (midnight)

#### Non-standard timings

New Year's Eve from 10:00 hours to 02:30 hours (the following day)

#### The sale by retail of alcohol – On and off sales

Sunday to Thursday 10:00 hours to 23:00 hours

Friday and Saturday 10:00 hours to 23:30 hours

#### Non-standard timings

New Year's Eve – 10:00 hours to 02:00 hours (the following day)

#### Late Night Refreshment Hours

Sunday to Thursday – no licence required as refreshments will not be served after 23:00 hours

Friday and Saturday until 23:30 hours

Non-standard timings

New Year's Eve – until 02:00 hours (the following day)

Provision of Regulated Entertainment Hours (Recorded Music only – Live music was not granted)

Sunday to Thursday 10:00 hours to 23:00 hours

Friday and Saturday 10:00 hrs to 00:00 hours (midnight)

Non-standard timings

New Year's Eve from 10:00 hours to 02:00 hours (the following day)

Conditions

1. No noise generated on the premises, or by its associated plan or equipment, shall emanate from the premises nor vibration be transmitted through the structure of the premises which gives rise to a public nuisance.
2. A noise limiter must be fitted to the musical amplification system set at a level determined by and to the satisfaction of an authorised officer of the Environmental Health Service, so as to ensure that no noise nuisance is caused to local residents or businesses. The operational panel of the noise limiter shall then be secured by key or password to the satisfaction of officers from the Environmental Health Service and access shall only be by persons authorised by the Premises Licence holder. The limiter shall not be altered without prior agreement with the Environmental Health Service. No alteration or modification to any existing sound system(s) should be effected without prior knowledge of an authorised Officer of the Environmental Health Service. No additional sound generating equipment shall be used on the premises without being routed through the sound limiter device.
3. No loudspeakers will be located within 2 meters of the entrance doors or outside of the premises. They will be aimed low down and set in zones so that the sound will stay localised, and any music will not be audible outside or elsewhere in the building.
4. No music will be played outside at any time.
5. All windows and external doors shall be kept closed at all times including when regulated entertainment takes place, except for the immediate access and egress of persons.
6. Notices shall be prominently displayed at all exits and in the smoking area requesting patrons to respect the needs of local residents and businesses, to keep noise to a minimum and to leave the area quietly and not to take any glasses or bottles for the premises.

7. Patrons permitted to temporarily leave and then re-enter the premises (e.g. to smoke) shall be limited to 8 persons at any one time. 80% of outside seating will be no smoking.
8. All patrons in the external area must be seated. The number of tables in the external area shall not exceed 12 tables.
9. All external furniture shall be brought inside or locked out of use and all patrons dispersed from the outside area of the premises by 21:00 hours Sunday to Thursday and 21:30 hours on Friday and Saturday.
10. A suitable area shall be set aside for smokers to prevent their smoke causing nuisance to nearby occupiers.
11. Alcoholic drinks sold for consumption on the premises shall not be permitted to leave the premises (including the external area) at any time, including those leaving temporarily to smoke.
12. Alcohol shall not be sold for the consumption off the premises after 22:30 on any day.
13. No late-night refreshment shall be sold for consumption off the premises after 23:00 on any day. Late-night refreshment sold after 23:00 on any day may only be consumed inside the premises.
14. On West Ham United match days at the London Stadium:
  - a) There will be a "no football colours" shirt policy in force;
  - b) Only biodegradable plastic cups will be in use;
  - c) No bottled beers will be served;
  - d) Appropriate Security Industry Authority (SIA) accredited staff will be on duty;
  - e) No off-sale of alcohol will be allowed on match days.
15. There will be no disposal of refuse including glass bottles between 23:00 and 09:00, and no glass will be moved from one recycling receptacle into another in any external area of the premises during these hours.
16. Deliveries related to the licensed activities shall not take place between the hours of 21:00 and 07:00.
17. The area immediately outside the premises will be regularly cleaned to ensure that any litter generated by the premises or its customers is removed.
18. Telephone contact details of the Designated Premises Supervisor and the Duty Manager shall be provided to the residents upon request.

19. 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.
20. 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.
21. Toilets shall be checked frequently by staff members who will be trained in licensee's drugs awareness policies
22. The premises shall actively participate in the local pub watch
23. All exterior furniture shall be brought inside the premises or locked outside at 23:30 hrs daily.
24. Patrons of the premises shall be encouraged, by signs within the premises visible at all exits points, to disperse from the area of the premises quietly and quickly.
25. Staff shall also supervise persons leaving the premises after closing time and where necessary, request that persons leaving the premises do so in an orderly manner as quickly as possible.
26. No disposal of refuse including glass bottles between 23:00 hrs and 09:00 hrs.
27. Prominent signage shall be displayed on the premises requesting patrons to leave in a quiet and orderly fashion and prohibiting the removal of bottles and glasses from the premises
28. Children under the age of 16 shall be accompanied by an adult
29. Soft and non-alcoholic drinks shall be available
30. 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.

31. 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 available for inspection at the premises by the police or an authorised officer at all times whilst the premises is open.
32. 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.

#### **4.3 Licensing Act 2003 Application for New Premises Licence for Delicious Pho, 3-6 Steward Street, London, E1 6FQ**

At the request of the Chair, Mr Mohshin Ali, Licensing Officer, introduced the report which detailed the application for a new premises licence for Delicious Pho, 3-6 Steward Street, London, E1 6FQ. It was noted that objections had been received on behalf of the Licensing Authority and Environmental Health.

At the request of the Chair, the Applicant's Counsel, Mr Tom Day presented his submission. He referred members to page 29 of the supplementary agenda and said a written representation on behalf of the Applicant had been sent to the Clerk, to be included in the pack, but this was missing. The Chair asked Mr Day to read out that representation.

Mr Day said the Applicant was seeking to amend the hours applied for, in line with the framework hours, and no longer needed a licence for regulated entertainment, as only background music would be played at the restaurant. Mr Day said his client agreed to the conditions put forward by Ms Cadzow on page 473 of the agenda and wished to clarify that the off-sale of alcohol would only be for pre-ordered, click and collect food orders or deliveries via food partners such as Deliveroo, UberEats, and Just Eat.

Mr Day said the Applicant, Mr Kevin Huynh, was an experienced Designated Premises Supervisor (DPS) and had been in the restaurant business since 2005. Mr Day said Delicious Pho was a Canadian Brand, with branches worldwide and was a quality, reputable outlet. Mr Day said the premises was run previously by 'Byron Burgers' and the timings shown in the original application echoed those hours, although timings now sought had now been reduced in the amended application.

Mr Day argued that it was in everyone's interest for the premises to be occupied, as an unoccupied unit means the Council had lost business rate revenue. He said no objections had been made by local residents, which was a significant factor. He said a previous application relating to the same premises had generated residents' objections because of the nature of that business. Mr Day said that the Applicant's restaurant was in stark contrast to that in the previous licensing application relating to the same premises. He said the Applicant's restaurant would have 138 covers, with everyone seated at tables and alcohol served at tables. Mr Day argued that the potential net impact of the restaurant on the CIZ was zero, compared with the previous application. He said the restaurant would occupy the same footprint as in the previous licensing application relating to the same premises, but with limited hours and greater conditions to restrict any potential impact on the area. Mr Day said this was a food-led business. Vietnamese food is often sold with tea or a soft drink.

Mr Day acknowledged that it was for the Applicant to rebut the presumption against grant of licensing applications relating to premises in a CIZ, but this application gave rise to exceptional circumstances. He referred members to the examples of exceptional circumstances on pages 492- 493 of the agenda pack, and said that the second and third examples applied to the premises. He reiterated that the business was not alcohol led, and said that the previous premises licence had been surrendered; the restaurant would be occupying the same square meters as the previous business. Furthermore, the restaurant had taken the extra step of introducing its own impact policy and a dispersal policy to mitigate against additional impact in the CIZ.

The Sub-Committee then heard from Ms Cadzow, who said her objection was primarily due to insufficient information being provided in the original application. She said she noted the proposed conditions put forward by her, in her representation at page 473, had been accepted by the Applicant. She said it was essential to reduce noise nuisance to local residents, who would be disturbed at time sensitive hours. Ms Cadzow said she welcomed the condition put forward in relation to the off-sale of alcohol being limited to the click and collect service.

Ms Corinne Holland, representing the Licensing Authority stated her representation was on pages 467 to 471 of the agenda. She said the concern remained that the premises was in the CIZ and said the exceptional circumstances referred to by Mr Day did not apply in this instance. Ms Holland said the premises would have more than 50 covers, and therefore could not be considered as small premises for the purposes of applying possible exceptional circumstances in relation to the presumption against grant of licensing applications relating to premises in a CIZ. She informed the Sub-Committee that the previous premises licence referred to had lapsed three-years earlier, and therefore the application before the Sub-Committee was an application for a new licence altogether, as opposed to a premises licence in place of a recently surrendered licence.



Ms Holland said the condition offered regarding off-sales were acceptable to her, but questioned the Applicant's ability to control the proposed smoking area, which was not adjacent to the premises. She referred members to the supplemental agenda, page 38, and said sending smokers across to a public square could potentially create another noise issue. Ms Holland said if the Sub-Committee were minded to grant the application, then there should be a half hour drinking up time.

In response to questions from members the following was noted:

- Smokers would need to check 'in and out' with reception staff before proceeding to the public park to smoke. The park is within sight of the restaurant and is situated in a non-residential area. A maximum of 5 smokers will be allowed at any one time, with staff trained on monitoring numbers. Smokers will not be allowed out, the last half an hour before closing.
- The Chair expressed a view that this was a completely new application in relation to the premises, not a swap for the previous premises licence relating to the same premises, as the previous premises licence had expired three years ago. Mr Day concurred it was a new application, but continued to make the point the premises fell within the category of being an exceptional circumstance, saying the rejected application referred to earlier, was a very different type of application to the one presented.
- Mr Day cited from Lord Justice Scott Baker's ruling in relation to a Westminster City Council case, "It should be highlighted that the kind of circumstances that might be regarded as exceptional would be where the underlying policy of restricting any further growth would not be impaired. An example might be where premises in one place would replace those in another." Mr Day said the proposed restaurant would be replacing a restaurant that had existed previously.
- There will be a separate point for click and collect customers/ delivery drivers. The door will not be kept open and staff will ensure vehicles are not idling.
- The restaurant will ensure the dispersal policy was applied thirty minutes before closing time, with music and lights being softened and patrons being asked to leave quietly.

Concluding remarks were made by all the parties.

### **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 the evidence before them and heard oral representations at the meeting made by the Applicant's Counsel, who was in physical attendance at the meeting with the Applicant. The Sub-Committee heard from the Responsible Authorities who were objecting to the application and were in virtual attendance.

The Sub-Committee noted the Applicant was seeking a new premises license for a Vietnamese restaurant with the supply of alcohol for on and off sales, regulated entertainment, and late-night refreshments. The Sub-Committee also noted the premises is in the Brick Lane Cumulative Impact Zone (CIZ). The cumulative impact policy creates 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 it can demonstrate exceptional circumstances and that the granting of the application would not add to the cumulative issues already experienced within the CIZ.

The Sub-Committee noted the representations made by the Responsible Authorities, in particular Environmental Health relating to the licensing objective of public nuisance, namely with regard to the prevention of noise nuisance in relation to local residents. The Sub-Committee noted the representation of the Licensing Authority that there was no exceptional circumstance regarding the capacity of the premises, so as to rebut the presumption against granting the application, as the premises' capacity exceeded fifty persons, with reference to the examples of what might constitute exceptional circumstances in the Council's Statement of Licensing Policy.

However, the Sub-Committee also noted the Applicant's Counsel's representation that the impact of the premises licence if granted would not add to the cumulative impact and would be mitigated through the proposed conditions on the licence as well as the restaurant's own cumulative impact and dispersal policies. The Sub-Committee accepted the Applicant's Counsel saying that the business was not alcohol led and would be operating within the framework hours.

The Sub-Committee was therefore satisfied that this business being food led, with an operating schedule including all of the conditions set out below would not add to the cumulative impact in the area. and the Sub-Committee took into account the Applicant's amendments to the application set out in the Sub-Committee meeting, including scaling back the hours for the off sale of alcohol within the framework hours.

The Sub-Committee was satisfied that the licensing objectives would be upheld, and that the conditions imposed would effectively mitigate the risk of public nuisance and address any concerns raised by the Responsible Authorities.

Therefore, Members made a unanimous decision to grant the application with conditions.

Accordingly, the Sub Committee unanimously

### **RESOLVED**

That the application for a new Premises Licence for Chau-Uk, Delicious Pho, 3 -6 Steward Street, London E1 6FQ be **GRANTED** with conditions.

#### Opening Hours of the premises

Monday to Thursday, until 23:30 hours;

Friday and Saturday, until 00:00 hours (midnight)

Sunday, until 22:30 hours

#### The sale by retail of alcohol – On and off sales

Monday to Thursday 10:00 hours to 23:00 hours

Friday and Saturday 10:00 hours to 23:30 hours

Sunday, until 22:00 hours

#### Late Night Refreshment Hours (Indoors)

Monday to Thursday (no late-night refreshments)

Friday and Saturday until 23:00 hours to 00:00 midnight

Sunday (no late-night refreshments)

#### Provision of Regulated Entertainment – Recorded music (Indoors only)

Monday to Thursday 10:00 hours to 23:00 hours

Friday and Saturday 10:00 hours to 00:00 (midnight)

Sunday, until 22:00 hours

#### Conditions

1. 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 an authorised officer throughout the entire 31day period.
2. 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 an authorised council officer with copies of recent CCTV images or data with the absolute minimum of delay when requested.

3. 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) any faults in the CCTV system, searching equipment or scanning equipment;
  - f) any refusal of the sale of alcohol;
  - g) any visit by a relevant authority or emergency service.
4. 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.
5. Staff will be trained to operate an age verification policy on the premises and apply the Challenge 25 scheme.
6. All sales of alcohol for consumption off the premises shall be in sealed containers only.
7. 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 available for inspection at the premises by the police or an authorised officer at all times whilst the premises is open.
8. There will be a minimum of 12 staff including kitchen staff on duty at all times increasing in busy periods. Staff will be trained to deal with and recognise aggressive or suspicious behaviours, And there will be an incident log in operation to record crime and disorder incidents.
9. Staff will escort customers to their tables.
10. 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.
11. There shall be no touting for business nor engaging individuals to tout for business for the restaurant.
12. We will only buy from UK wholesalers that have been approved by HMRC under the Alcohol Wholesaler Registration Scheme.

13. No outside area will be provided for the consumption of off sales meals or alcohol.
14. Noise levels will be limited to recorded background music only.
15. Staff will supervise patrons leaving after 11:00 p.m. each day to avoid possible disturbance to local residents.
16. The restaurant will only operate in standard hours and will display notices at the exit requesting patrons to leave premises and area quietly.
17. We will ensure that no nuisance will be caused by smells emanating from the premises.
18. Waste will be placed in a dedicated bin store which is kept locked, and collection will be between the hours of midnight and 5:00 AM.
19. Loudspeakers shall not be located in the entrance lobby or outside the premise building.
20. All windows and external doors shall be kept closed when regulated entertainment takes place, except for the immediate access & egress of persons.
21. Patrons permitted to temporarily leave and then re-enter the premises, e.g. to smoke, shall be limited to 5 persons at any one time.
22. A noise limiter must be fitted to the musical amplification system set at a level determined by and to the satisfaction of an authorised officer of the Environmental Health Service, so as to ensure that no noise nuisance is caused to local residents or businesses. The operational panel of the noise limiter shall then be secured by key or password to the satisfaction of officers from the Environmental Health Service and access shall only be by persons authorised by the Premises Licence holder. The limiter shall not be altered without prior agreement with the Environmental Health Service. No alteration or modification to any existing sound system(s) should be effected without prior knowledge of an authorised Officer of the Environmental Health Service. No additional sound generating equipment shall be used on the premises without being routed through the sound limiter device.
23. There shall be no vertical drinking.
24. Off sales of alcohol will only be made in conjunction with a pre-ordered food order.

**5. EXTENSION OF DECISION DEADLINE: LICENSING ACT 2003**

Members agreed to extend the decision deadlines for the applications below to the dates stated; Licensing applications were extended due to the impact of the pandemic, and were adjourned under regulation 11 of the Licensing Act 2003 (Hearings) Regulations 2005, it was in the public interest to do so, and did not require representation from parties to the applications.

<b>Premises</b>	<b>Extended to:</b>
Dickens Inn, St Katherine Dock, East Smithfield, London E1W 1UH	<b>31/10</b>
Pure La cucina, 96 Brick Lane, London E1 6RL	<b>31/10</b>

The meeting ended at 9.46 p.m.

Chair, Councillor Peter Golds  
Licensing Sub Committee