

LONDON BOROUGH OF TOWER HAMLETS
MINUTES OF THE LICENSING SUB COMMITTEE
HELD AT 2.00 P.M. ON TUESDAY, 5 APRIL 2022

**THE COUNCIL CHAMBER, TOWN HALL, MULBERRY PLACE, 5 CLOVE
CRESCENT, LONDON, E14 2BG**

Members Present:

Councillor Shah Ameen (Chair)

Councillor Mohammed Ahabab Hossain
Councillor Zenith Rahman

Officers Present:

David Wong	– (Legal Services)	
Kathy Driver	– (Principal Licensing Officer)	
Simmi Yesmin	– (Democratic Services Officer, Committees, Governance)	

Representing applicants	Item Number	Role
Azize Avmedoska	4.2	(Applicant)
Saurav Kumar	4.2	(attending to support the Applicant)
Keith Lumley	4.2	(Licensing Agent)

Representing objectors	Item Number	Role
Mohshin Ali	4.2	(Licensing Officer)
Nicola Cadzow	4.2	(Environmental Health Officer)

Apologies

None

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 of the Licensing Sub Committee held on 8th March 2022 was agreed a correct record of proceedings.

4. ITEMS FOR CONSIDERATION

4.1 Application for variation of a Premises Licence for Yango Deli, Arch 25a Cudworth Street, London E1 5QU

This application was resolved prior to the meeting.

4.2 Application for variation of a Premises Licence for Brick Lane Coffee Shop, 47 Brick Lane, London E1 6PU

At the request of the Chair, Ms Kathy Driver, Principal Licensing Officer, introduced the report which detailed the application for a variation of the premises licence for Brick Lane Coffee Shop, 47 Brick Lane, London E1 6PU. Ms Driver explained that the application sought late night refreshments for additional hours for delivery only. It was noted that objections had been received by Officers on behalf of Licensing Authority and Environmental Health

At the request of the Chair, Mr Keith Lumley, Agent on behalf of the Applicant, Ms Azize Avmedoska explained that there may have been a confusion when making the application as to what the Applicant's understanding of late night refreshments meant and there was no dispute that the sale of alcohol ceased at 11.00pm. He said that due to a demand from customers to stay open until late, an application for late night refreshments to be provided until 00:30 hours. It was noted that the hours for sale of alcohol would remain the same, and the Applicant only wanted the hours for late night refreshments and the opening hours to be extended Monday to Sunday till 00:30 hours to sell hot drinks and hot desserts etc.

Mr Lumley stated that the hours applied for were similar to the Council's framework hours and explained that there were other premises in close proximity with longer hours than applied for. He said that Brick Lane was changing and becoming far less restaurant and bar orientated with Indian restaurants closing down and more fashion outlets and bookshops opening, that the café would be simply providing a service due to demand from customers, and that the hours would be for delivery only.

Members then heard from Ms Nicola Cadzow, Environmental Health Officer, she explained that the premises were in the Cumulative Impact Zone (CIZ) and granting of a variation for later hours would be likely to cause noise disturbance as the area was a mix of residential and business properties. The hours applied for were over the Council Framework hours and there was nothing in the application to show how the application if granted would not add to the cumulative impact in the CIZ. She stated that Environmental Health did not support the application for the increase in hours, particularly as the

premises is in the Brick Lane CIZ, and if the Sub Committee were minded to grant the application, she questioned how the Applicant would demonstrate how the premises would not add to the cumulative impact on the CIZ by operating at a later hour.

Members then heard from Mr Mohshin Ali, Licensing Officer, who explained that the onus was on the Applicant to demonstrate how they would not negatively add to the cumulative impact in the CIZ. He said that need and demand for a business was not a licensing objective, and so not a relevant consideration. Mr Ali referred to his representation on page 132 of the agenda papers and said that on 28th January 2022 an anonymous complaint was received that the premises had been trading past licensable hours. Upon speaking to the Premises Licence Holder, it became apparent that the Premise Licence Holder had admitted to be trading past their licensable hour for the past year. On 31st January 2022, Licensing Services advised the Premises Licence Holder of the correct licensing hours of the premises. However, despite this advice on 8th March 2022, the Premises Licence Holder again admitted to trading past their licensed hours. It was noted from an email from the Applicant to which Mr Ali referred on page 133 of the agenda papers that the premises had been operating with hours serving late night refreshments until 00:30 hours each day when the licence was till 23:30 hours and sale of alcohol till 23:30 hours when their sale of alcohol hours were 23:00 hours since December 2020.

Mr Ali raised serious concerns about the lack of understanding and disregard of the licensing objectives, undermining confidence in the Applicant's ability to adhere to the terms of the premises licence. Therefore, he had no confidence in the Applicant being trusted to uphold the terms of their existing licence, let alone the terms of the licence if the variation sought were granted.

He also stated that the applicant Ms Azize Avmedoska contacted him on 29th March 2022 to ask him to withdraw his objection based on her presenting as mitigation, that there was a need and demand for what was sought in the application to vary the terms of the premises licence. She was advised to adhere to the current hours of the licence as they had already been trading beyond hours and breaching their terms of their licence, and therefore on the balance of probability, he believed that the Applicant would be unlikely to comply with the premises licence.

In response to questions the following was noted;

- That there have been no noise complaints received.
- Clear breaches of the licence were established, the premises licence holder was given warnings, and the next steps would be enforcement action.
- The Applicant stated that they willingly informed Licensing Services that they had traded beyond the hours permitted in the premises licence, and therefore wanted to rectify this by applying for a variation.
- That the Applicant was now aware of the hours and closing by 23:30 hours.

- Mr Kumar accepted that the business had breached the terms of their licence in the past.
- That the capacity of the premises was 18
- The extra hours applied for would be for delivery only, serving hot drinks and light refreshments.
- That the increase in delivery drivers would be addressed by putting a notice up asking delivery drivers to be permitted into the premises one at a time, and that orders would be made once one order was complete and therefore there would be no two delivery drivers inside the premises at any one time.
- That the Applicant would not allow drivers or customers to congregate outside the premises.
- That residents were consulted, and no objections were made.
- It was clarified that the late hours that were being sought were for delivery only and no customers would be allowed inside the premises during those hours.
- That they would only get approximately 10 orders during the additional hour that was sought, it was brought to the Sub-Committee's attention that that the application stated that most deliveries would be during the additional hour that had been applied for.
- When questioned about his knowledge and understanding of the Licensing Objectives, the Applicant failed to explain how she would promote the licensing objectives and prevent adding to the cumulative impact in the area.

Concluding remarks were made by all 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 of the evidence before them and heard oral representations at the meeting made by the Applicant, the Applicant's Licensing Representative and from the officers representing the Licensing Authority and Environmental Health objecting to the application.

The Sub-Committee noted that the premises are in a cumulative impact zone (the 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 Environmental Health regarding the risk of noise nuisance and effects on the CIZ. It also noted concerns about the existing levels of noise nuisance and anti-social behaviour in the area, and what Environmental Health said about the quality of life of other local residents in the area and the risk of increased noise nuisance and disturbance, if the variation licence was to be granted.

Members also noted the serious concerns raised by the Licensing Authority in relation to the business' track record of carrying out licensable activities, namely providing late night refreshment and selling alcohol, beyond the hours permitted in the premises licence. It was noted that of the Applicant's own admission reflected on pages 132 and 133 of the agenda papers, the business had been providing late night refreshments beyond the hours permitted in the premises licence since December 2020, and that Licensing Services had given warnings in January 2022 and again in March 2022 about the carrying out licensable activities beyond the hours permitted in the premises licence. The Sub-Committee heard from the Licensing Authority that they believed this continued despite those warnings.

The Sub-Committee appreciated that the Applicant was offering to put up a notice to delivery drivers to enter the shop one at a time, but the Sub-Committee noted that this did not address the issues raised above, particularly that over a long period, late night refreshment had been provided beyond the hours permitted for that in the premises licence. This allied to the apparent casual tone of the Applicant's admission on page 133 of the agenda papers, regarding that having been carrying on since December 2020, demonstrated to the Sub-Committee, a lack of understanding and blatant disregard as to what it meant to the Applicant to uphold the licensing objectives. Members were concerned that the Applicant did not seem to appreciate the gravity of keeping to the basic licensing hours of the premises licence.

Carrying out licensable activities other than within the terms of a premises licence permitting the carrying out of those activities is a criminal offence within the Licensing Act 2003. Therefore, in addition to the Environmental Health concerns over preventing public nuisance, one of the other licensing objectives was engaged in this instance, namely preventing crime and disorder.

The Sub-Committee was concerned that the Applicant had a lack of knowledge and understanding of the Licensing Objectives and had inadequate and poor understanding of his responsibility as a premises licence

holder. When questioned about his knowledge and understanding of the Licensing Objectives, the Applicant failed to explain how he would promote the licensing objectives and prevent adding to the cumulative impact in the area.

Aside from the Applicant being required to satisfy the Sub-Committee as to why the presumption against grant of an application relating to premises in a CIZ should be rebutted, the Sub-Committee were not satisfied that the Applicant could be trusted to uphold the licensing objectives, if the application were granted.

Any premises licence or variation of one, if granted, is something which is given on the basis that the Applicant has satisfied a Licensing Sub-Committee of the local authority that he (the Applicant) can be trusted to uphold the licensing objectives, part of which is keeping to the terms of the premises licence. If having already had a premises licence for some time, an Applicant has not kept to the terms of that licence, particularly as in this case, over a period of time, and of his own admission since December 2020, the Applicant cannot then be trusted with more being added onto the premises licence by way of extra hours to extend the times for any licensable activity.

Whilst it is appreciated that it could be said that a grant of the application would regularise previous practice of providing late night refreshments beyond the hours permitted for that in the premises licence as it stands, that is not good reason for granting the application for a variation, because it would then in effect legitimise a blatant and longstanding breach of licensing law.

Therefore, the Sub-Committee were not satisfied that the Applicant, who had shown himself untrustworthy with keeping to the hours of the existing premises licence from their own admission, could be trusted with the grant of additional hours, especially bearing in mind the premises are in the CIZ, an area with high levels of public nuisance and anti-social behaviour.

Therefore, Members made a unanimous decision to refuse the application.

Accordingly, the Sub Committee unanimously

RESOLVED

That the application for a Variation of the Premises Licence for Brick Lane Coffee Shop, 47 Brick Lane, London E1 6PU be **REFUSED**.

4.3 Application for a New Premise Licence for Brussels Wharf Market, Wapping Wall, London, E1W 3SG

The hearing for the application was adjourned at the request of the Applicant.

5. EXTENSION OF DECISION DEADLINE: LICENSING ACT 2003

Nil items.

The meeting ended at 3.00 p.m.

Chair, Councillor Shah Ameen
Licensing Sub Committee