

LONDON BOROUGH OF TOWER HAMLETS
MINUTES OF THE LICENSING SUB COMMITTEE
HELD AT 6.30 P.M. ON TUESDAY, 21 JUNE 2022

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

Members Present:

Councillor Peter Golds (Chair)

Councillor Kabir Hussain
Councillor Ahmodul Kabir

Other Councillors Present:

Councillor Abdal Ullah

Officers Present:

Corinne Holland	– (Licensing Officer)	
David Wong	– (Legal Services)	
Simmi Yesmin	– (Democratic Services Committees, Governance)	Officer,

Representing applicants	Item Number	Role
Julian Overton	3.2	(Legal Representative)
Will Cutteridge	3.2	(Applicant)

Representing objectors	Item Number	Role
Mohshin Ali	3.2	(Licensing Officer)
Kathy Driver	3.2	(Licensing Officer)

Apologies**1. DECLARATIONS OF INTEREST**

Councillor Peter Golds declared a personal interest in item 3.2, Application for a new premises licence for Brussels Wharf Market, Wapping Wall, London E1W 3SG on the basis that he has visited the market in the past but confirmed he had not discussed this application prior to the meeting.

2. RULES OF PROCEDURE

The rules of procedure were noted.

3. ITEMS FOR CONSIDERATION

3.1 Application for variation of a Premises Licence for The Space Spitalfields, 44 Commercial Street, London, E1 6LT

At the onset of the meeting, Ms Simmi Yesmin, Democratic Services Officer informed the Sub Committee that no interested parties had registered to speak at the meeting and that all parties had been written to with the notification of the meeting and agenda within the agreed timescales. The applicant had confirmed that she would not be attending the meeting and did not wish to take part in the meeting virtually due to work commitments. However, she had sent in a statement for the Sub Committee to note – this was circulated to the Sub Committee.

At the request of the Chair, Ms Corinne Holland, Licensing Officer, introduced the report which detailed the application for a variation of the premises licence for The Space Spitalfields, 44 Commercial Street, London E1 6LT. It was noted that objections had been received from a local resident and on behalf of a resident association in relation to the prevention of public nuisance and the prevention of crime and disorder.

The Chair stated that as sufficient notification of the meeting was given and since the Applicant had confirmed that they would not be attending, the meeting would go ahead in the absence of the Applicant and objectors, the merits of the case to be considered on the basis of the Applicant's and objectors' respective written submissions within the agenda pack when the Sub-Committee retired to deliberate upon the applications on the agenda for tonight's Sub-Committee meeting..

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 as no interested party to the application was present at the meeting the Sub-Committee had carefully considered all of the written evidence before them, including the application, the representations made and the general advice and guidance contained in the agenda pack with particular regard to the prevention of public nuisance and the prevention of public 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 fact that the applicant did not attend the meeting despite receiving sufficient notification of the meeting and despite the applicant having been given the choice to join the meeting remotely in light of their belated email to the Committee Services Clerk expressing difficulties with attending in person. The applicant had not requested an adjournment of the meeting. The Sub-Committee went on to consider the application on the basis of what was in the papers, also noting that in the absence of the applicant, it was not possible to ask the applicant any questions, and so had to take all representations by all parties to this application as set out on the papers. The Sub-Committee considered that the application as it stood on the papers, did not show how the application, if granted, would not add to the above cumulative impact, particularly with regard to the licensing objective of preventing public nuisance.

Accordingly, the Sub Committee unanimously;

RESOLVED

That the application for a Variation of the Premises Licence for The Space Spitalfields, 44 Commercial Street, London E1 6LT be **REFUSED**.

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

At the request of the Chair, Ms Corinne Holland, Licensing Officer, introduced the report which detailed the application for a new premises licence for

Brussels Wharf Market, Wapping Wall, London E1W 3SG. It was noted that objections had initially been received on behalf of officers from Environmental Health and the Licensing Authority in relation to the prevention of public nuisance and the prevention of crime and disorder. However, the Sub Committee were informed that prior to the meeting, the Environmental Health Officer had withdrawn their objection and had agreed to a condition. Ms Holland also referred the Sub Committee to the supplemental agenda circulated, which included supporting documents from the Applicant and from the Licensing Authority objecting to the licence.

At this point of the hearing, because the Applicant was facing an ongoing investigation into alleged offences in relation to the Licensing Act 2003, and bearing in mind the Applicant's legal rights in that regard, Ms Holland read out to the Applicant from page 3 of the Supplemental agenda, the caution that he did not have to say anything, but it may harm his defence if he did not mention, when questioned, something which he may later rely on in court and that anything he did say may be given in evidence.

At the request of the Chair, Mr Julian Overton, Legal Representative on behalf of the Applicant explained that the market was a weekly run market operating on Saturdays, it was a popular market and had support from local businesses and residents. The market was not alcohol led, any non-regulated music and regulated entertainment was ancillary to the market trade, and that there had been no reported public nuisance or issues since they had been trading. He then referred Members to the supplemental agenda at pages 9-17 which included character references for the Applicant.

Mr Overton pointed out that there had been no representations against the granting of the application from the Police or local residents during the consultation period. It was noted that representations received from Environmental Health relating to noise nuisance were no longer being pursued, as the Applicant had agreed to the condition proposed by Environmental Protection.

Mr Overton suggested that the Licensing Authority's objection related to crime, rather than crime and disorder, and that it related to the conduct of the Applicant in the way that they applied themselves to the market and the temporary events notices (TEN) process. Mr Overton presented the Applicant as having found the temporary event notice application process extremely difficult to understand, so that he had not got things right, and found the process and rules confusing, with applications being rejected. Mr Overton further presented that the Applicant was therefore now seeking a premises licence because he had found that the temporary events notice process clearly had not worked well with the way in which he was conducting business, as was evident from the emails from the Licensing Authority and the inadvertent commission of an offence of trading without a TEN in December of last year.

Mr Overton then turned to the four Facebook posts in respect of which it was suggested by the Licensing Authority that the market had conducted licensable activities without a temporary events notice being in place. Mr

Overton stated that this was not the case as they were advertisements for the market etc. and there was no evidence that the market operated on any of the days the Facebook posts were made. He pointed out that there were occasions where TEN applications were rejected, then granted so giving rise to confusion.

Turning to events on 3rd December 2021, Mr Overton explained that the market had operated on that occasion without a TEN in place, but there had been a flaw in the application, so that a TEN was rejected very late in the day, whereupon the Applicant was fearful that he would let down suppliers, traders and customers, and therefore very foolishly allowed the market to trade. Mr Overton presented that the caution given to the Applicant at the start of this hearing made it difficult for the Applicant to show his remorse, and therefore Mr Overton apologised for this breach on behalf of the Applicant.

At this point, Councillor Abdal Ullah, local Ward Councillor spoke in support of the application as a user and visitor of the market. He briefly expressed his support for the market, and gave examples of how the market was a safe and family friendly market bringing the Wapping community together. He explained how the market had made a positive impact on the area with a physical presence deterring any crime and disorder that had occurred in past years. The Applicant's willingness to engage and help in community events was also mentioned by Councillor Abdal Ullah.

Members then heard from Mr Mohshin Ali, Licensing Officer. He explained that the Licensing Authority was not against the market, but the objection was in relation to the complaints received. He referred to his representations on page 160 of the agenda and highlighted in respect of that, the non-compliances with the Licensing Act 2003. He said that on 3rd December 2021, there was the sale of alcohol without a TEN in place, undermining the licensing objective of the prevention of crime and disorder. He explained that on 2nd December, Ms Kathy Driver emailed Mr Cutteridge in relation to the fact that the maximum number of TENs available for the year had been reached, and therefore no further TEN's could be granted for the remainder of that year. Mr Ali pointed out that without a TEN, it remained open to an operator to supply alcohol for free or to inform patrons that they could bring their own alcohol, since neither of those possibilities required a licence. Mr Ali mentioned that this had been pointed out to the Applicant by email.

Mr Ali also mentioned the noise complaint of 30th October 2021, and another complaint which was not on the Council system, but was sent direct to the organisers on 26th June 2021. The latter was not mentioned in Mr Ali's representations, as it had been raised direct between a resident and the Applicant.

Mr Ali appreciated that the Applicant had obviously struggled in getting to grips with the licensing process. However, Mr Ali felt that the Licensing Act 2003 was clear, as were the reasons for compliance, and therefore he believed that if the application were granted, it would send out the wrong message.

Ms Kathy Driver, Licensing Officer and witness called by the Licensing Authority started by clarifying the point that there was no TEN in place for 30th October 2021, but the noise complaint was in relation to a band playing outside, and there was no mention of alcohol being sold on that day.

The Members were informed that Licensing Services received approximately 22 TEN applications from the 1st December 2021 to 6th December 2021, but the premises already had had 17 TENs, and the legal maximum was 20 TENs per year, hence the Applicant had reached their maximum. Members were informed that officers tried to work with the Applicant in relation to compliance with the legislation. Due to the likely demand for licensable activities from patrons over the Christmas period, officers had worked with the Applicant in seeking to identify another plot of land, which could then be treated as separate premises from Brussels Wharf, for the purposes of the maximum number of TENs permitted per premises.

Despite officers' attempts to help the Applicant in this regard, the TEN application for 3rd-5th December 2021 was invalid, as it was not submitted within the required time limit, and therefore had been rejected. The Applicant had been advised of this, and had been advised not to carry out licensable activities, but when enforcement officers visited the market on 3rd December 2021, they witnessed licensable activities being conducted there, despite that advice.

In response to questions from Members the following was stated;

- It was confirmed that there was no evidence that Easter Sunday trading had occurred.
- That the applicant now having sought legal advice was clear on the policy and procedure for applying for TENs etc.
- That there had been no objections from the police or residents.

Concluding remarks were made by both 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 made at the meeting by the Applicant's Legal Representative, a Local Ward Councillor and Officers representing the Licensing Authority.

The Sub-Committee noted the objections from the Licensing Authority, regarding the instances where the Applicant had traded without a Temporary Event Notice (TEN), and an instance of noise nuisance complaint.

The Sub-Committee noted the explanation given by the Applicant's Legal Representative in relation to these objections from the Licensing Authority. The Sub-Committee noted the representation by the Applicant's Legal Representative that he had fallen foul of what the Applicant's Legal Representative described as bureaucratic complexities of licensing application process. The Sub-Committee also noted the Applicant's Legal Representative pointing to the Applicant previously lacking legal advice and guidance.

The Sub-Committee were concerned about the management of the market, but were satisfied that with the benefit of the legal advice which he was now getting since the previous matters complained of by officers, the Applicant now had a better understanding of what was needed to comply with licensing requirements and what was required to uphold the licensing objectives.

The Sub-Committee noted that there had been no complaints since 30th October 2021, and representations by the Ward Councillor regarding the Applicant's good character and community spirit.

The Sub-Committee considered that on the balance of probabilities, there was no evidence of crime and disorder or public nuisance since the dates of the matters complained of by objectors. The Sub-Committee were satisfied that the Applicant following his solicitor's advice would uphold the licensing objectives, following the conditions proposed in the papers.

Therefore, Members made a decision and the decision was unanimous. Members granted the application with conditions.

Accordingly, the Sub Committee unanimously

RESOLVED

That the application for a New Premises Licence for Brussels Wharf Market, Wapping Wall, London E1W 3SG be **GRANTED** with conditions.

Sale of Alcohol (on and off sales)

Saturday from 10:00 hours – 17:00 hours

Regulated Entertainment in the form of live and recorded music (outdoors)

Saturday from 10:00 hours – 17:00 hours

Opening times

Saturday from 10:00 hours – 17:00 hours

Conditions

1. No more than 20% of the market stalls shall supply alcohol for on or off sales .
2. No open containers of alcohol shall be removed from the market perimeter.
3. Clear signage at point of sale and exit points informing customers that no open containers of alcohol shall be removed from the market perimeter.
4. That staff shall patrol the perimeter of the market to ensure that patrons with open containers do not leave the market perimeter.
5. A personal Licence holder is to be present on the premises at all times when alcohol is being supplied.
6. An incident log shall be kept at the premises and made available on request to an authorised officer of the local authority or the police. It must be completed within 24 hours of the incident and will record the following:
 - Crimes reported to the venue
 - Complaints received regarding crime and disorder.
 - Any incidents of disorder
 - Any refusal of the sale of alcohol.
 - Complaints received relating to noise
 - Any visit by a relevant authority or emergency service.
7. Premises management shall publicise and operate an attended telephone number by which any public noise enquiries and complaints can be made during the operating hours of the market. A written record of enquiries and complaints alongside details of the management actions taken in response shall be kept and made available to Officers of the Police or Council on request.
8. The sound level from any amplified live and recorded music shall remain within the control of the premises management at all times.
9. 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.
10. All staff involved in the sale of alcohol shall be trained in the age check 'Challenge 25' policy. A record of their training, including the dates that each member of staff is trained, shall be available for inspection at the premises on request by the Council's authorised officers or the Police.

11. Age check or 'Challenge 25' signage shall be displayed at entrances to the premises, areas where alcohol is displayed for sale and at points of sale to inform customers that an age check 'Challenge 25' policy applies and proof of age may be required.

12. A register of refused sales of alcohol shall be maintained in order to demonstrate effective operation of the policy. The register shall be available for inspection at the premises on request by Council authorised officers or the Police.

13. While live or recorded music takes place, the licensee or management shall undertake regular monitoring of noise levels at the nearest noise-sensitive locations. A record shall be kept of monitoring, including the date, time and location of monitoring; the name of the monitor; and any action taken. Music noise levels shall not be at a level to cause a nuisance to noise sensitive residential and commercial premises. Records shall be kept for no less than six months and shall be made available upon request by a police officer or an authorised officer of Tower Hamlets Council.

4. EXTENSION OF DECISION DEADLINE: LICENSING ACT 2003

Nil items.

The meeting ended at 7.45 p.m.

Chair, Councillor Peter Golds
Licensing Sub Committee