

LONDON BOROUGH OF TOWER HAMLETS**MINUTES OF THE LICENSING SUB COMMITTEE****HELD AT 6.30 P.M. ON THURSDAY, 22 SEPTEMBER 2022****THE COUNCIL CHAMBER, TOWN HALL, MULBERRY PLACE, 5 CLOVE
CRESCENT, LONDON, E14 2BG****Members Present in Person:**

Councillor Saied Ahmed
Councillor Kabir Hussain
Councillor Ahmodul Kabir

Apologies: None**Officers Present in Person:**

Kathy Driver (Principal Licensing Officer)
Jonathan Melnick (Principal Lawyer-Enforcement)
Simmi Yesmin (Democratic Services Officer, Committees,
Governance)

Representing applicants	Item Number	Role
Robert Botkai	4.1	(Legal Representative)
Andrew Kerr	4.1	(Applicant)
Craig Baylis	4.2	(Legal Representative)
Chloe Bailey	4.2	(Applicant)

Representing objectors	Item Number	Role
Nicola Cadzow	4.1	(Environmental Health)
Randall Thiel	4.1	(Resident)

1. DECLARATIONS OF INTEREST

There were no declarations of interest.

2. RULES OF PROCEDURE

The rules of procedure were noted.

3. MINUTES OF THE PREVIOUS MEETING(S)

The minutes of the meetings held on 19th and 26th July and 10th August 2022 were agreed and approved as a correct record.

4. ITEMS FOR CONSIDERATION

4.1 Application for Variation of a Premises Licence for Liberty Lounge, 1A Bell Lane, London, E1 7LA

At the request of the Chair, Ms Kathy Driver, Licensing Officer, introduced the report which detailed the application for a variation of the premises licence for Liberty Lounge, 1A Bell Lane, London E1 7LA. It was noted that objections had been received on behalf of residents and Environmental Health.

At the request of the Chair, Mr Robert Botkai, Legal Representative on behalf of the Applicant explained that there had been positive dialogue between the Applicant, the Environmental Health Officer and Mr Randall Thiel representing the SPIRE Residents Association and had agreed on conditions.

Mr Botkai briefly stated that the application was seeking an additional one hour on the Thursday Friday and Saturday for the sale of alcohol. The Premises would therefore close at 01:00 hours on Thursday and 02:00 hours on Fridays and Saturdays. The police were content with the application. In addition, they had engaged with Randall Thiel of SPIRE and Ms. Cadzow of the Environmental Health service. Both were content with a condition he had proposed to be added, the effect of which would be that on transfer of the premises licence from Mr. Kerr the hours would revert back to the pre-variation hours. He said that the additional 30 minutes drinking up time initially applied for had now been withdrawn so no further alteration to the terminal hour would be made. It was also noted that they had met with the Police who had also agreed with the hours and conditions being offered hence there was no representation made by the Police.

Mr Botkai also explained that having met with Nicola Cadzow, Environmental Health Officer and Randall Thiel, they had now changed their position for objection. He stated that he was very conscious that that the premises was in the cumulative impact area where they needed to rebut the presumption of additional impact. He explained that the premises was a very small specialist cocktail bar with a maximum capacity of 65 people and had almost exclusively pre booked attendance at the premises. It had enough seating capacity with limited spacing for vertical drinking. It was noted that due to the nature of the premises, it was almost invisible to the outside world; passers-by could walk past and simply not know that the premises was there. They were underneath a discount suit shop, which is why it was called Discount Suit Company.

In order to demonstrate exceptional circumstances, the applicant had instructed an independent private investigator whose report concluded that

there was nothing to be seen outside late at night when customers were leaving it was seen to be very quiet departures causing no nuisance.

Mr Botkai then explained that they had reached an agreement by way of condition that would apply if the licence is transferred out of Mr Kerr's name or his companies name then the terminal hour will revert to the original hours of the current premises licence. Therefore, if the licence is transferred to another owner they would be taking it subject to the hours currently on the licence and not the extra hour sought and this is being done not in order to extend the hours to increase the value of the premises but in order to survive the current financial climate.

Mr Botkai explained that the extra hours sought gave the Premises the likelihood of retaining customers who would otherwise leave prior to closing-time and instead go to other later opening venues. By extending the hours, they were more likely to stay and, after closing, leave the area. They had tested the hours by giving Temporary Event Notices (TENs) on 26th August, 2nd September and 10th September 2022. No complaints had arisen as a result. The applicant voluntarily employed SIA staff on Thursdays, Fridays and Saturdays, and this would be imposed as a condition if the variation were granted.

Members then heard from Mr Randall Thiel, representing SPIRE Resident Association, he briefly gave a background of the resident association, highlighting it was the largest Resident Association in the area representing 1500 residents with a history of long standing community work with the council, and local businesses. Mr Kerr was acknowledged for his efforts and good management of the premises. Mr Thiel confirmed that he agreed with Mr. Botkai. He was familiar with the Premises, which he described as a "quality organisation" but that it was within a hotspot in the CIZ. The basis of the objection was because of the work SPIRE were doing with the police and others to weed out poor operators. The proposed condition that the hours revert back to the pre-application hours in the event of a transfer was acceptable as Mr. Kerr was someone SPIRE could work with.

Ms. Cadzow confirmed that she had objected on policy grounds so that the Sub-Committee could make a decision. She too was content with the application in light of the proposed condition. She also confirmed that the TENs had been given and that there had been no complaints as a result of these events.

At this point Mr Jonathan Melnick, Legal Advisor to the Sub-Committee confirmed that a condition providing that the hours for the sale of alcohol would revert to the pre-application hours if the licence was to be transferred was lawful. He also confirmed that the condition would need to be amended from the draft form so that it would take effect if Mr. Kerr transferred the licence to any other person, including a company of which Mr. Kerr was the sole director, to which Mr Botkai agreed.

It was also confirmed that the late refreshments was for indoors only.

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 licencing objectives:

- The Prevention of Crime and Disorder;
- Public Safety;
- The Prevention of Public Nuisance; and
- The Protection of Children from Harm.

Consideration

The Sub-Committee considered an application by Andrew Kerr to vary the premises licence held in respect of Liberty Lounge, 1A Bell Lane, London, E1 ("the Premises"). The Premises are currently authorised for on-sales of alcohol and the provision of live music as follows:

Sunday to Tuesday	12:00 hours to 23:30 hours
Wednesday and Thursday	12:00 hours to 00:00 hours
Friday and Saturday	12:00 hours to 01:00 hours

The licence also authorises the provision of late-night refreshment, which has the same terminal hour on those days as the other licensable activities (but does not start until 23:30 hours Wednesday to Sunday). The opening times currently also mirror the times for licensable activity.

The variation sought:

- to increase the terminal hour for the sale of alcohol to 01:00 hours on Thursday and to 02:00 hours on Saturday;
- to permit late-night refreshment from 23:00 hours to 01:30 hours on Thursday and 23:00 hours to 02:30 hours on Friday and Saturday;
- to permit recorded music from 23:00 hours to 23:30 hours Sunday to Tuesday, 23:00 hours to 00:00 hours Wednesday, 23:00 hours to 01:00 hours on Thursdays, and 23:00 hours to 02:00 hours on Fridays and Saturdays.

The opening hours would be varied accordingly with the closing time being thirty minutes after the terminal hour for the sale of alcohol. There was also an application for non-standard timings on bank holidays and New Year. The applicant also sought to remove the conditions in Annexes 2 and 3, almost all of which would be replicated in the new operating schedule proposed.

The application attracted representations from the Environmental Health Service, SPIRE, and eight residents, based on concerns that the Premises are located in the CIZ and that the variation would add to the existing impact in the area.

The Sub-Committee heard from Mr. Botkai, who said that his client had sought thirty minutes' drinking-up time but that was no longer the case. The Premises would therefore close at 01:00 hours on Thursday and 02:00 hours on Fridays and Saturdays. The police were content with the application. In addition, they had engaged with Randall Thiel of SPIRE and Ms. Cadzow of the Environmental Health service. Both were content with a condition he had proposed to be added, the effect of which would be that on transfer of the premises licence from Mr. Kerr the hours would revert back to the pre-variation hours.

The extra hours sought gave the Premises the likelihood of retaining customers who would otherwise leave prior to closing-time and instead go to other later opening venues. By extending the hours, they were more likely to stay and, after closing, leave the area. They had tested the hours by giving Temporary Event Notices (TENs) on 26th August, 2nd September and 10th September 2022. No complaints had arisen as a result. The applicant voluntarily employed SIA staff on Thursdays, Fridays and Saturdays, and this would be imposed as a condition if the variation were granted.

Mr. Thiel confirmed that he agreed with Mr. Botkai. He was familiar with the Premises, which he described as a "quality organisation" but that it was within a hotspot in the CIZ. The basis of the objection was because of the work SPIRE were doing with the police and others to weed out poor operators. The proposed condition that the hours revert back to the pre-application hours in the event of a transfer was acceptable as Mr. Kerr was someone SPIRE could work with.

Ms. Cadzow confirmed that she had objected on policy grounds so that the Sub-Committee could make a decision. She too was content with the application in light of the proposed condition. She also confirmed that the TENs had been given and that there had been no complaints.

None of the other persons making representations attended. The Sub-Committee had read and taken account of their objections. The main basis of the objections appeared to be the fact that the Premises were within the CIZ and in relation to alcohol consumption. There did not appear to be any concerns as to the proposed variation to the conditions. The applicant had also agreed a condition for the use of SIA staff on Thursdays, Fridays and Saturdays. The Legal Adviser confirmed that a condition providing that the hours for the sale of alcohol would revert to the pre-application hours if the licence was to be transferred was lawful.

The majority of the representations were general in nature. None suggested that the operation of the Premises currently caused any problems. Although one or two made assertions of noise from patrons upon leaving, it was not possible for the Sub-Committee to be satisfied that this was the case as it was

not possible to question this further. Another suggested that the Premises seemed to be unoccupied, which also suggests that the Premises do not add to the impact of licensed premises in the area.

That TENs had been given for the same hours and without any cause for concern also helped to demonstrate that the variation would not impact negatively on the CIZ. There was also a new condition prohibiting entry after midnight, which mitigated any likelihood of people trying to attend the Premises after that time.

The Sub-Committee considered that the fact that both Mr. Thiel on behalf of SPIRE and Ms. Cadzow were content with the condition and, in particular, that neither had any particular concerns about the Premises' operation or about Mr. Kerr's ability to run it, the Sub-Committee was satisfied that the applicant had rebutted the presumption against the grant of the variation.

The application was therefore granted with amendments and conditions: Accordingly, the Sub Committee unanimously;

RESOLVED

That the application for a variation of the premises licence for Liberty Lounge, 1A Bell Lane, London E1 7LA be **GRANTED with amendments and conditions.**

Sale of alcohol

Thursday	12:00 hours to 01:00 hours
Friday and Saturday	12:00 hours to 02:00 hours

Provision of late-night refreshment

Thursday	23:00 hours to 01:00 hours
Friday and Saturday	23:00 hours to 02:00 hours

Provision of recorded music

Sunday to Tuesday	23:00 hours to 23:30 hours
Wednesday	23:00 hours to 00:00 hours
Thursday	23:00 hours to 01:00 hours
Friday and Saturday	23:00 hours to 02:00 hours

Provision of Live Music (indoors)

Thursday	23:00 – 01:00 hours
Friday – Saturday	23:00 - 02:00 hours

Conditions

1. A CCTV system shall be installed at the premises, be maintained in good working order and be continually recording at all times the premises are in use. The CCTV System must be capable of capturing a clear facial image of every person who enters the premises;

2. That all CCTV footage be kept for a period of at least 31 days and shall be made immediately available to Officers of the Police and/or Council on request;
3. That a member of staff shall be on duty at all times the premises is open who is trained in the use of the CCTV system and who is able to view, and download to a removable device, CCTV footage at the request of Police and / or Council Officers.
4. An incident log shall be kept at the premises and made available on request to an authorised officer of the City Council or the Police. It must be completed within 24 hours of the incident and will record the following:
 - (a) all crimes reported to the venue
 - (b) all ejections of patrons
 - (c) any complaints received concerning crime and disorder
 - (d) any incidents of disorder
 - (e) all seizures of drugs or offensive weapons
 - (f) any faults in the CCTV system, searching equipment or scanning equipment
 - (g) any refusal of the sale of alcohol
 - (h) any visit by a relevant authority or emergency service.
5. In the event that a serious assault is committed on the premises (or appears to have been committed) the management will immediately ensure that:
 - (a) the police (and, where appropriate, the London Ambulance Service) are called without delay;
 - (b) all measures that are reasonably practicable are taken to apprehend any suspects pending the arrival of the police;
 - (c) the crime scene is preserved so as to enable a full forensic investigation to be carried out by the police; and
 - (d) such other measures are taken (as appropriate) to fully protect the safety of all persons present on the premises.
6. The premise shall have a written security plan that shows how the venue will deal with issues of crime and disorder occurring at the venue, and how the venue will deal with intoxicated or vulnerable customers. This Policy is to be made available to Police upon request.
7. On Thursday, Friday and Saturday an SIA-licensed door supervisor shall be on duty at the premises from 2100 hrs to the close of business and they must correctly display their SIA licence(s) when on duty so as to be visible.
8. Notices shall be prominently displayed at all exits requesting patrons to respect the needs of local residents and businesses and leave the area quietly.
9. No noise generated on the premises, or by its associated plant or equipment, shall emanate from the premises nor vibration be transmitted through the structure of the premises which gives rise to a nuisance.

10. There shall be no admittance or re-admittance to the premises after 00.00 hours (midnight) except for patrons permitted to temporarily leave the premises.

11. During the hours of operation of the premises, the licence holder shall ensure sufficient measures are in place to remove and prevent litter or waste arising or accumulating from customers in the area immediately outside the premises, and that this area shall be swept and or washed, and litter and sweepings collected and stored in accordance with the approved refuse storage arrangements by close of business.

12. All waste is to be properly presented and placed out for collection no earlier than 30 minutes before the scheduled collection times.

13. Noxious smells are not to be permitted to cause a nuisance to nearby properties and the premises are to be properly ventilated.

14. No more than 5 customers shall be permitted to smoke outside the premises at one time.

15. 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, or other form of identification that complies with any mandatory condition that may apply to this licence.

16. 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(s) of staff who refused the sale. The record shall be available for inspection at the premises by the police or an authorised officer of the City Council at all times whilst the premises is open.

17. All staff concerned in the sale or supply of alcohol shall undergo a recognised training scheme for such duties. Records of such training should be kept for inspection, on request by the police or other authorised officer.

18. The premises manager and other persons in relevant management positions within the premises will be provided with welfare and vulnerability engagement training focused on identifying vulnerability and making appropriate interventions.

19. Persons under the age of 18 shall not be permitted in the bar area of the premises when it is open for the sale of alcohol.

20. If the premises licence is transferred out of the name of Andrew Kerr, the terminal hour for the sale of alcohol will be:

Sunday to Tuesday 23:30 hours

Wednesday and Thursday 00:00 hours

Friday and Saturday 01:00 (hours on the following day)

4.2 Application for Variation of a Premises Licence for The Breakhouse Café Unit 17 Bloc River Bank 455 Wick Lane London E3 2TB

At the request of the Chair, Ms Kathy Driver, Licensing Officer, introduced the report which detailed the application for a variation of the premises licence for The Breakhouse Café, Unit 17 Bloc River Bank, 455 Wick Lane, London E3 2TB. It was noted that objections had been received on behalf of two residents and a local ward Councillor with nine others supporting the premises. It was noted that no objectors were present at the meeting and therefore Members of the Licensing Sub Committee would note and consider the written representations contained in the agenda pack.

At the request of the Chair, Mr Craig Baylis, Legal Representative on behalf of the Applicant explained that it was a small café situated in an industrial estate, with no residential properties in close vicinity. It had a capacity of 25 and noted that the business had suffered financial hardship during the pandemic. He then went on to state the variations applied for;

1. To permit off sales for delivery or off-site catering
2. Amend condition 8 in Annex 3 to permit the external area to be used until 23:00 hours
3. To replace condition 3 in Annex 3 with the following condition "Substantial food shall be available throughout the premises at all times."
4. To permit supply of alcohol on the premises from 09:00 hours subject to the following condition "The supply of alcohol between 09:00 hours and midday shall only be ancillary to a meal.
5. " To add films as a licensable activity between 12:00 hours and 23:00 hours everyday.

Mr. Baylis also dealt briefly with the objections. He expressed disappointment that Cllr. Blake had not attended the premises despite being invited as, had she done so, she would have seen her fears were groundless. JB Riney expressed concerns but the Premises had operated without incident since April 2021 and If there had been road safety issues, the police would no doubt have objected to the application. Mr. Dover lived some distance from the Premises and much of what he said were fears and speculations and groundless with no evidence to suggest any public nuisance are associated with the premises.

In response to questions the following was noted;

- That the applicant had previous experience of managing late night venues.
- That the premises had been trading for the past two years.

- That it was a food-led premises and serving alcohol during the earlier hours applied for allowed more flexibility to cater for breakfasts and brunches.
- That there had been no complaints reported.
- The variation to remove the condition that alcohol be ancillary to food was to give more flexibility to patrons.
- Off-sales for delivery were sought because the Premises did deliver food to nearby businesses.
- That the premises was in an area where there were warehouses and music studios and other late night venues, with the area being in constant use.
- That there had been occasions where the Applicant had provided CCTV footage from her premises for the police to use for incidents that have happened in the area.
- It was confirmed that if the variation was granted, the applicant would be amenable to the Council's usual conditions being imposed with respect to off-sales for delivery, in particularly to ensure that under-age sales did not occur.

No concluding remarks were made.

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 licencing objectives:

- The Prevention of Crime and Disorder;
- Public Safety;
- The Prevention of Public Nuisance; and
- The Protection of Children from Harm.

Consideration

The Sub-Committee considered an application by The Breakhouse Ltd. to vary the premises licence held in respect of the Breakhouse Café, Unit 17, Bloc Riverbank, 455 Wick Lane, London, E3 ("the Premises"). The Premises are currently licensed for the sale by retail of alcohol from 12:00 hours to 23:00 hours Monday to Sunday. The variation sought was:

- to permit the sale of alcohol from 09:00 to 12:00 hours every day;
- to permit the external area to be used until 23:00 hours daily;
- to permit off-sales of alcohol (from 12:00 hours to 23:00 hours);
- to amend a condition that allows alcohol to only be served as ancillary to a meal; and,
- to allow the showing of films from 12:00 hours to 23:00 hours every day.

The application attracted three representations objecting to it, from Cllr. Rachel Blake and two residents. There were nine representations in support. The Sub-Committee heard from Mr. Baylis, the applicant's solicitor, and from Chloe Bailey-Williams, the director of the company. Mr. Baylis confirmed that the responsible authorities had agreed with his client for the use of the outside area to 22:00 hours. He briefly explained the nature of the variation and informed members that the nearest residential premises were about a mile away. The Premises were located in an industrial area. They seated about twenty-five patrons.

Off-sales for delivery was sought because the Premises did deliver food to nearby businesses and it would help the business survive. The variation to remove the condition that alcohol be ancillary to food was to give more flexibility to patrons. The purpose behind allowing earlier sales was to allow customers to have a Bloody Mary, for example. Finally, the Premises were located in an area with nearby film and music studios and it would allow them to show films made by local artists.

Mr. Baylis also dealt briefly with the objections. He expressed disappointment that Cllr. Blake had not attended as, had she done so, she would have seen her fears were groundless. JB Riney expressed concerns but the Premises had operated without incident since April 2021. If there had been road safety issues, the police would no doubt have objected to the application. Mr. Dover lived some distance from the Premises and much of what he said was supposition and without any evidential basis.

Members queried the possibility of the external area being used for vertical drinking. Mr. Baylis explained that the focus was on the food. Members also asked how they would deal with gatherings in the external area and whether there had been any police issues in the area. Ms. Bailey-Williams explained that there had been occasions where the police had made use of the Premises' CCTV system and that the presence of the Premises therefore helped with such matters. There had been no complaints about her.

Mr. Baylis confirmed that if the variation was granted, his client would be amenable to the Council's usual conditions being imposed with respect to off-sales for delivery, which were particularly concerned with ensuring that under-age sales did not occur.

None of those making representations attended, but the Sub-Committee had read and taken account of their representations. The Sub-Committee accepted that some of the representations assumed that issues had been caused by patrons but that this was unsupported by evidence. Similarly, the complaints from JB Riney Ltd., in part, were of a more general nature about the road rather than about any likely impact, especially given that the Premises had been operating for over a year now.

The main concern for the Sub-Committee, however, was the use of the external area to a later hour. Notwithstanding the agreement by the applicant to reduce the terminal hour for the use of this area to 22:00 hours, the Sub-

Committee considered that there would nonetheless be an impact upon the licensing objectives, particularly those of the prevention of public nuisance and the prevention of crime and disorder. The members of the Sub-Committee were familiar with the area in question, which was very different in nature to most other localities within the borough and which had a very different feel. Despite what had been said, the Sub-Committee considered that it was more likely than not that the use of the external area after 21:00 hours risked attracting more people to congregate outside, particularly given the nature of some of the other businesses in the immediate vicinity, such as the studios. Indeed, Liam Phillips' representation referred to other noisy businesses in the vicinity and which had people coming and going late. The Sub-Committee considered that this gave rise to a very real risk of passers-by and others in the vicinity being encouraged to loiter and congregate as a result of seeing others use that area.

The variation is therefore granted in part and as follows:

Accordingly, the Sub Committee unanimously;

RESOLVED

That the application for a variation of the premises licence for The Breakhouse Café, Unit 17 Bloc River Bank, 455 Wick Lane, London E3 2TB be **GRANTED in part with conditions**.

Sale of alcohol (on-sales only)

Monday to Sunday 09:00 hours to 23:00 hours

Sale of alcohol (off-sales only)

Monday to Sunday 12:00 hours to 23:00 hours.

Provision of films

Monday to Sunday 12:00 to 23:00 hours

Conditions

Condition 1, Annex 3 is to be substituted with "Off-sales of alcohol will be by delivery only."

Condition 3, Annex 3 is to be substituted with "Substantial food shall be available throughout the premises at all times."

The following conditions will be added to the premises licence:

1. The supply of alcohol between 09:00 hours and midday shall only be ancillary to a meal.
2. Every third party courier delivery box shall be labelled with the words "Age-Restricted Product".
3. There shall be mechanism either by an app or on the delivery package to show the delivery rider is aware it is an age-restricted product to ensure ID checks are made upon delivery of alcohol.

4. The premises licence holder will ensure that an age verification policy will apply whereby all delivery drivers/riders will be trained to ask any customer to whom alcohol is delivered, who appears to be under the age of 25 years to produce, before being sold alcohol, identification being a passport or photocard driving licence bearing a holographic mark or other form of identification that complies with any mandatory condition that may apply to this licence.
5. Alcohol shall only be delivered to a residential or business address and not to a public place or vehicle.
6. All off sales to be in sealed containers.
7. A warning shall be displayed on the digital platform 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. The customer will be required to declare that he or she aged 18 or over. If the rider is not satisfied that the customer is aged 18 or over any alcohol in the order will be withheld.
8. The Licence holder shall notify the Licensing Authority of the digital platform(s) used for the sales of alcohol and any changes to those platforms.

5. EXTENSION OF DECISION DEADLINE: LICENSING ACT 2003

Nil items.

The meeting ended at 8.15 p.m.

Chair, Councillor Saied Ahmed
Licensing Sub Committee