LONDON BOROUGH OF TOWER HAMLETS

MINUTES OF THE LICENSING SUB COMMITTEE

HELD AT 6.30 P.M. ON TUESDAY, 27 SEPTEMBER 2022

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

Members Present:

Councillor Rebaka Sultana (Chair)

Councillor Leelu Ahmed Councillor Shubo Hussain

Officers Present:

Jonathan Melnick – (Principal Lawyer-Enforcement)
Kathy Driver – (Principal Licensing Officer)

Corinne Holland – (Licensing Officer)

Farhana Zia – (Democratic Services Officer, Committees, Governance)

Representing applicants PC Mark Perry PC Michael Rice	Item Number 3.1 3.1	Role Metropolitan Police Metropolitan Police
Corinne Holland David Dadds Shams Uddin	3.1 3.2 3.2	Licensing Authority Legal Representative Applicant

Representing objectors	Item Number	Role
Paddy Whur	3.1	Legal Representative
Dean James	3.1	Objector - Director of The Oval
		Space
Archie McIntosh	3.1	Events Manager
Mark Halton	3.1	Independent Consultant
Kathy Driver	3.2	Licencing Authority
PC Mark Perry	3.2	Metropolitan Police
Onuola Olere	3.2	Environmental Health

1. DECLARATIONS OF INTEREST

There were no declarations of interest.

2. RULES OF PROCEDURE

The rules of procedure were noted.

3. ITEMS FOR CONSIDERATION

3.1 Application for Review under Section 53 A of the Licensing Act 2003 for Oval Space, 29-32 The Oval, London E2 9DA

At the request of the Chair, Ms Kathy Driver, Senior Licensing Officer, introduced the report which detailed the application for a Section 53A review hearing for Oval Space, 29-32 The Oval, London E2 9DA. It was noted that a review under Section 53A could only be triggered by a senior officer of the Metropolitan Police where there had been a serious incident of crime or disorder. Ms Driver explained that today's meeting was the full review hearing, with interim steps taken at the expedited review meeting on 8th September 2022.

At the request of the Chair, PC Mark Perry provided a detailed explanation of the incident which took place on the night of 29/30th August 2022 and referred to the evidence in the supplemental agenda pack 1. He took Members of the sub-committee through the written witness statements and photographic evidence from CCTV footage explaining the timeline of events (page 70-71), which resulted in the shooting of a patron at the premises. PC Perry stated it was clear from the evidence that the management and security team had not acted responsibly. He stated they had allowed gang-members to enter the premises, who they were acquainted with, and failed to search or challenge the gang-members when entering the premises. PC Perry stated that due to this failure a firearm had been allowed to enter the premises and had been discharged.

From the CCTV stills, page 132, PC Perry showed how two members of the gang ordered drinks whilst wearing balaclavas, minutes before the shooting. He said it was baffling that bar staff, security staff and management staff had not challenged the gang-members or raised an eyebrow.

Referring to the CCTV still at page 133 of the agenda, PC Perry stated it was clear patrons were panicked after hearing the gunshots and were trying their best to get away from the scene of the shooting. He said the panic and terror was evident from the still on page 135 of the agenda, that it was not a balloon that had burst. He referred Members to the statement on page 88, where the witness describes the shooting stating "I heard five loud bangs that sounded like gunshots. It was a cracking noise similar to the sound of a handgun. I have experience shooting pistols and rifles...I saw a group of 4-5 females...

running away from the direction of Hackney Road. They were shouting "gunshots", "gunshots".

PC Perry continued stating the evidence from security staff corroborated that the assailant was known to the venue. He referred Members of the Sub-Committee to page 80 and cited the following. "I do not know the male by name, but I have seen him attend the venue previously with other members of the events team. I have exchanged conversations with him previously and know he is from the local area (Hackney). I do not know any further details about him." PC Perry concluded that the gang-member was not only acquainted with the security staff but members of the events and management team, who gave the assailant and other gang-members free reign to enter the premises without question or challenge. He said gangmembers had taken control of the doors and had gotten in without being searched. He referred to the investigating officer's evidence on page 68 of the supplement pack, which further supported this conclusion. "The security staff explained that they have local boys who would attend the venue. They believe these boys are from local gangs and had the capabilities to make things difficult for the security at the door. This leads to the security having a mutual agreement with them to keep the relative peace."

PC Perry questioned other aspects of the security arrangement at the premises and referred members to the CCTV still on page 131 of the supplemental agenda. He said patrons in full visibility were inhaling nitrous oxide, with balloons and canisters on the night of the incident. However, the security staff did nothing to challenge individuals because of their fear of gang-members, who had a hold over the premises. He said this was not acceptable as hallucinogenic drugs set the tone of the venue and implied that drug-taking is permissible when clearly it is not. He said they did not seek assistance from the Police but decided to stay silent and do nothing.

PC Perry said this was not the first incident of violence at the premises. The log on page 91 shows there had been serious incidents previously, which had gone unreported. PC Perry cited the log entry "At approximately 5:00 a.m. a fight broke out as security were clearing the road. The fight stopped soon and one of the males involved got into his car and pulled out a samurai sword." PC Perry stated he was shocked to read this and questioned why it had not been reported.

Referring to page 87, he said in this incident whilst the security team had ensured the female victims of threatening sexual harassment safely left the premises, the incident was not reported to the police, nor were the details of the victims recorded so that the police could follow up the incident. He said there was either a lack of effort to report and take appropriate action by the security and management team, or sheer incompetence on their part. PC Perry also referred to incidences highlighted on pages 84 and 85 of the supplement pack. He said fights breaking out, swords and firearms being used showed serious failure by security and management at the venue.

PC Perry then referred to the conditions imposed following the review hearing from last year, in July 2021. PC Perry highlighted that the premises were

required to install ID scanners, to help identify patrons entering the premises. However, this had not been implemented. He said had it been installed it would have prevented gang-members entering the venue as they do not like being pictured.

PC Perry said he had real concerns about how events were being promoted and the likelihood of alcohol being sold to intoxicated patrons. He gave an example of an event held on 16th July 2022 entitled 'Party Hard' and said the event attracted 800 patrons and yet the refusal log showed only 3 people were refused alcohol due to intoxication. Another event, 4th June 2022 'Fever', attracted 1300 partygoers and not a single refusal was logged. He said it was clear the premises was not concerned with upholding the licensing objectives and would sell alcohol to anyone willing to pay, even if they were drunk. PC Perry stated this was supported by the witness statements from residents such as on page 31 referring to 'drunk and drugged people during and after their parties are the norm when they operate. I have personally been confronted by people leaving the site and have not felt safe at all..." and page 37 where it describes the rowdy and drunk behaviour of patrons. "Around 2am, the noise drops before a second wave descends at 3-4am, waking up the household with their even worse behaviour, standing outside the residents flats, yelling, screaming, taking more balloons, more drinking, the security team watching on, doing nothing to protect residents rights for peace and quality living." He said the residents had had enough of the anti-social behaviour displayed by the patrons of the nightclub. He gave another example of how this was affecting local residents. "We have the unbounded joy of the aftermath of each event, with no choice but to endure the continued 'after party' as 1000+ revellers spill onto the street and cause havoc. ...have you ever had a barrage of drunken people outside your residence, screaming, playing loud music, breaking bottles, dealing drugs, sucking on balloons, and of course fighting with each other as the very little 'security' team try and keep it in control."

PC Perry concluded that following the review of the licence last year, where the premises licence holder assured the Sub-Committee, it would learn lessons and improve the way it operated, nothing had been done. He said they had failed to improve security, failed to improve management, and had failed to comply with the additional conditions that were added to the licence.

PC Perry stated the Metropolitan Police were seeking the revocation of the licence as it was clear the premises could not operate safely and was now associated with gangs. PC Perry asked Members of the Sub-Committee to imagine what could potentially happen if gang-members turned up at a screening of the World Cup football matches at The Oval. He said the risk was too great especially as firearms, knives and weapons could be used. He said he had no confidence in the management and security teams. Finally, PC Perry drew attention to the witness statement on page 81 of the supplement agenda and quoted the following: "I heard the DJ saying 'What ends is the baddest in London.' The DJ enticed the crowd by promoting 'What ends is the baddest in London" when a firearm had been discharged and people are

fleeing the scene. He said the premises could not simply be allowed to operate and the licence ought to be revoked.

The Sub-Committee then heard from Ms Corrine Holland, Licensing Officer for the Licensing Authority. She supported the review application made by the Police and said it was clear the imposed conditions on the licence had not been adhere to. She said there had been gross failure by the security team and management to conduct proper security searches, which had allowed the firearm to enter the premises. She said it was clear from the photographic evidence that nitrous oxide was being openly consumed in the queue, yet no security challenge was forthcoming. The dress code for the event stated smart/causal - no hoodies, yet patrons were allowed in with hoodies. Referring to condition 22, she said the premises was required to have a written search policy, however it appeared the security team either turned a blind eye to what was happening or were neglectful in their duty, in applying the policy. Notwithstanding this, the level of security for the event was wholly inappropriate. Security staff were over familiar and friendly towards some of the patrons, which would suggest there was a 'mutual agreement' between the security team and the gang-members.

Condition 34 was added to the licence as part of the consent order decided in May 2022, where the premises licence holder agreed to inform the Council of any non-standard timing events. Ms Holland informed the Sub-Committee the premises was allowed to hold 44 non-standard timing events where a months' notice had to be given in advance. She said that no notices had been received by the Licensing Authority about the events held at the premises.

Ms Holland provided clarity about the non-standard timings mentioned on pages 9 and 24 of the supplemental agenda and said following discussions, the consent order in May 2022 allowed for events until 5:00 a.m. and not 4:00 a.m. as the non-standard timings. Therefore, the breaches of the licensing hours could be disregarded. However, it was clear the management had breached condition 34 on numerous occasions, by failing to notify the Authority appropriately. Ms Holland continued saying many of the events advertised stated timings beyond their standard hours which meant they were utilising the 44 non-standard timed events that were permissible. However, without notification the Authority did not know how many of the 44 had been used.

Ms Holland referred members to the table on page 27 of the supplemental agenda and said this showed the unauthorised road closures imposed by the premises without consent of the local authority. Ms Holland said the general manager Ms Salma Belgada had been spoken to 27th July who apologised for the road closures. Referring to the second supplement, page 15 onwards photographic evidence showed a large number of patrons blocking the road. Ms Holland said there was clearly no crowd management controls in place, on the night of 29/30th August by the security and management team at the venue.

Ms Holland stated this was the second police review following the first review hearing in July 2021, where one person was stabbed in the leg and another in the stomach. She said this latest incident of a firearm being discharged in the premises highlighted the poor management and inadequate security staff at the venue. Ms Holland said after the recent incident it was evident nothing had changed despite the promises made at the last review hearing by the management team to improve security and management controls. Ms Holland said it was fortunate the shooting in the venue had not resulted in a fatality, but Tower Hamlets could not allow a premises to operate in its jurisdiction, where there had been serious breaches in upholding the licensing conditions and licensing objectives of crime and disorder as well as public nuisance. Ms Holland stated the Licensing Authority fully supported the police request for the revocation of the licence.

Mr Paddy Whur, solicitor for the holding company of the premises licence (Oval Space Holdings Limited) addressed the Sub-Committee. He was accompanied by Mr Dean James, the Director of The Oval Space as well as Mr Archie McIntosh, an events manager and Mr Mark Halton, independent consultant.

Mr Whur began by asking Members to read and consider the witness statement of Mr Dean James, the Director of The Oval on pages 149-152 of the supplemental pack. He said he was not an apologist for the security company, who were responsible for providing security at the premises. He was certain that following the incident and the police investigation the Security Industry Authority (SIA) would impose their own sanctions, on the Door Supervisor Company, who had made huge mistakes.

Mr Whur said that, whilst he concurred with the timeline presented by PC Perry, there were two issues that he did not agree with. First, the gentlemen were alleged to have worn balaclavas whilst at the bar. He said he had viewed the CCTV and did not see anyone dressed in balaclavas at the bar. Second, he questioned the witness statement referred to at pages 88-89 and said the witness who had experience of firearms was not referring to the gunshots from the venue, but an incident in Hackney Road away from the venue. Mr Whur said he did not take issue with the rest of the chronology. It was evident someone had managed to bypass security and get a bag containing a gun, into the premises, which had been discharged on the dancefloor. He reiterated the witness statement on page 88-89 referred to multiple shots away from the venue and not what happened at the venue.

Mr Whur said the owner of the business Mr James was not aware of what had happened on the night of 29/30th August until the interim review hearing was being launched and heard on 8th September. He said a member of the senior management team at The Oval had not kept Mr James informed. From the point of discovery, Mr James had co-operated with the police investigation, making available the CCTV footage, and assisting the police in investigating what are serious criminal offences.

Mr Whur did not accept the ownership of the business had allowed the premises to become a gang premises and said the responsibility for what happened, which was serious criminal neglect, was the responsibility of the door supervising company and whom the SIA would be investigating.

Mr Whur then provided a brief history of Mr James experience in the leisure industry and said he had experience of running big events and festivals. He said Mr James had 55 premises licences under his name and had taken over the licence for The Oval Space in 2015. He said there had been no issues relating to premises from 2015 until July 2021, when the first review was heard by the Licensing Sub-Committee. Mr Whur said Mr McIntosh had been heavily involved in the business and had acted as the DPS for the premises, on and off, from 2015. Mr Whur said Mr McIntosh had built up a good relationship with the Licensing Authority as well as the police, however in recent time had moved away from the business with less involvement. He said a new person had been introduced to oversee the management of the business, which led PC Perry to bring a review in July 2021.

Mr Whur said of the conditions imposed by the Licensing Sub-Committee in July 2021 all were accepted save for the reduction of hours to the legal framework hours. Mr Whur said the decision was appealed, which meant the business could continue to trade as per its existing hours, until such time the appeal was heard. Mr Whur said at the hearing in July 2021, PC Perry had said "there was no issue from the police's perspective in the premises continuing to trade with those additional conditions but with the hours being reduced to the framework hours." This is what the Sub-Committee imposed but upon appeal was subsequently settled by consent order in May 2022.

Mr Ross Mellin was the new manager that had been appointed and from the log at pages 26-27, its clear he set about working closely with the police. Mr Whur referred Members to the entry for 25th November 2021 and cited "From a policing perspective, these venues appear to be running very well. Informed that Ross had recently become the manager and DPS of the venue. No issues at all." And the entry for 4th February 2022 which stated "There was extensive searches being conducted by door staff. Howell (Christopher Howell - venue manager for Pickle Factory and Oval Space that evening) had stated council staff had attended already this evening as they had a car blocking the road to keep the area safe for their guests." Further on, for the same entry on 4th February he read "no issues or concerns surrounding searches, ASB, door staff not wearing badges, NOX or drug use and public urination." Mr Whur said it was clear that the new manager and the door staff were performing properly, and the Police felt the licensing objectives were being promoted. Everything was happening has it should. Mr Whur said it was important to note this progress.

Mr Whur then referred to the reports from the independent consultant, Mr Halton who had been instructed to carry out unannounced site visits to the premises – pages 153-218. He said these were conducted on the 4th/5th March 2022. On the back of these reports the consent order was agreed on 9th May 2022. A further visit was conducted by PC Perry on 17th May, when

Mr Mellin was still in employment, which was followed up with an email stating that "there is marked improvement in how security is working, which we are really pleased to see." Mr Whur concluded that as recently as May 2022, the Police were happy with the security arrangements and the management of the premises.

Mr Whur referred back to the table on page 27 and the entry made on 2nd July which stated "No Nox sellers outside the venue and around 250 customers waiting to get inside the venue. The front of house was in order..... Visit concluded at 01:00 hours. All door supervisors at both venues with SIA ID cards on display. No sign of Nox Sellers or Drug Dealing or taking outside both venues." He said up until the incident on the night of 29/30th August, the police had no serious concerns relating to the premises. He said his client did not accept the police's position that the premises had become gang led. Had Mr James been informed earlier, steps would have been taken to change things. Mr Whur said that with the departure of Mr Mellin from employment in June, management supervision was not being carried out in the way it should have been and as a result there were issues with the door supervising company. He said as soon as Mr James found out about the incident, he immediately sacked the security company employed.

Mr Whur said he had viewed the CCTV and whilst he was not taking issue with PC Perry's chronology, it was clear that the person who got the bag into the venue used his relationship with the senior door staff to get into the venue and as such the door supervising company must be held responsible for this.

Lastly, Mr Whur referred to his letter dated 22nd September, on page 219 of the supplemental bundle. He asked members of the Sub-Committee to seriously consider the proposed conditions, as the revocation of the licence would kill the business and result in 70 people being made redundant.

The Sub-Committee then heard from Mr James.

Mr James started by apologising to the Sub-Committee, the Police and Licensing Authority for being in front of them in relation to the review. He said the incident was a catastrophic failure of the security company however he wanted to address some mitigating circumstances:

- The business was operating in the most difficult environment, Mr James had known in the 22 years he'd been in the business.
- Cost pressures were immense, with landlord rents back up to prepandemic levels.
- Energy costs had risen five-fold.
- It was difficult to recruit good staff and as such they had struggled to reopen the venue after the pandemic.

Mr James said they took the last review very seriously and recruited Mr Mellin as the general manager for the premises, putting in place better management controls. In the 9-month period that Mr Mellin was in employment, good

progress had been made, to comply with the conditions on the licence. He said they employed a security firm that had been recommended to them and overall, he was receiving positive feedback about the relationship between the police and the premises, as highlighted by Mr Whur.

Mr James said as a Director of Oval Space, he was a co-owner with other investors. He refuted the premises was gang led and said the company had been badly let down by the security team and a couple of members of staff, who had since been sacked. July and August were peak pressure months, with staff leaving for various reasons after the pandemic. Mr James said that with hindsight after Mr Mellin's departure they should have cut-back on the events held.

Mr James said he found out about the incident of 29/30th August two-hours before completing the recruitment process for a new manager. They had interviewed and recruited a manager, with more experience as the Head of Operations, who was appointed on 7th September 2022. He was hopeful the business was heading in the right direction and was dismayed to learn about the events of the August bank holiday weekend. He said he took immediate steps by sacking the security firm and calling back Mr McIntosh, who had previously been the DPS for the premises.

He said they had undertaken mystery shopper exercises and had engaged the services of Mr Kill, the CEO of the Night-time Industry Association. He said there had been over 1,700 emails in support of the venue. Mr James asked the Sub-Committee to consider the proposal put forward by Mr Whur on page 219 and allow the premises to continue to trade albeit just daytime hours. He said the type of incident that took place occurred post-midnight and the premises did not wish to be associated with such types of clubs. He said they provided a vital community space for young people and therefore it was crucial to keep this much-loved cultural venue open and provide young people with employment.

Mr Whur added the company was also the owner of 'The Pickle Factory', on the other side of The Oval. He said Mr Halton had conducted an unannounced visit on the 23rd/24th September 2022 and found the premises functioning as it should. He said a new door team had been employed at the venue, following the sacking of the old security team which covered both premises.

Mr Whur then explained the proposed conditions put forward and how these would uphold the licensing objectives. He asked the Sub-Committee not to revoke the licence.

In response to questions, the following was noted;

 In answer to why Mr James felt the responsibility lie with the security company and not management, Mr James responded saying that after the last review they had taken steps to solve the problem. They had hired Mr Mellin at the end of September 2021 and from the feedback he was getting, he was satisfied the premises was moving in the right direction. Mr James said up to 17th May the feedback had been positive.

- Mr James said with hindsight, after the departure of Mr Mellin at the end of June, they should have scaled back the events held and possibly shut the venue in August 2022, whilst they recruited and hired a new manager. He said the process had taken longer than expected and he found the right person on 7th September, the day he found out what had happened on the August bank holiday. Mr James said it was a difficult balancing act as closure of the venue, would still mean paying staff and rent whilst the venue is closed.
- In reference to the log on page 26-27, and the unauthorised road closures, Mr James was asked why management hadn't followed procedure and applied to the Council for temporary road closures on event nights? Mr James responded stating that he was a local resident and found the road closures to be helpful to residents. He said residents were required to drive up to a security guard and tell them their flat or house location before being let through. He said he found this system to be much better than allowing non-residents to park or cause traffic chaos. He said they had made payments of more than £175,000 a year to the operational team so they did not employ inexperienced people. Mr James said they had spent a lot of money, and this had been a significant investment post-pandemic.
- PC Perry said the Police licensing team viewed the road closures as a
 positive thing, but had time and time again told the premises to apply
 for a temporary road closure licence, which they would have supported.
 However, this was never done. PC Perry said this was another
 systematic failing of management.
- In response to what changes should have been made after the first review in July 2021, PC Perry said a major failing was management's failure to introduce ID scanners. He said ID scanners were an effective tool to help identify crime and was a useful deterrent. This was not something the security team controlled and should have been installed by the management team.
- Referring to the incidents log held at the premises, PC Perry questioned why the management did not take responsibility for the serious crimes of violence and sexual harassment reported therein. He said this was the type of information that should have been on the radar of management and the owners.
- Mr Whur said the owners did not know about the incidents reported in the log as it was the duty of the manager to bring this to their attention.
 He said senior managers had been sacked because of the serious incident of 29/30th August 2022 and their failure to take responsibility.
- In reference to the ID Scanners, Mr Whur said these would be installed prior to the premises re-opening, which was currently closed due to the interim steps hearing of 8th September 2022. Mr Whur said fully

- operational ID scanners were part of the proposed conditions that were put forward on page 219 of the supplemental bundle.
- Following the incident in February 2020, which lead to the first review,
 Mr James confirmed the venue was closed from March 2020 up until the Covid-19 restrictions were lifted.
- The hiring of door security staff is in accordance with the guidelines and procedures of the SIA. They were vetted by the SIA before they are hired.
- Mr James said if the proposed conditions were allowed, the business would remain viable with daytime events such as conferences, film nights, health and wellness programmes. He said they would replicate a programme trialled at their Manchester venue, encouraging 18–24year-olds to engage in learning via their love of music, with an academy plus give back to the community.

Concluding remarks were made by all parties.

At 21:26 hours the Sub-Committee **AGREED** to extend the meeting until 23:00 hours, should this be necessary before retiring to make their deliberations.

At 22:06 the Sub-Committee returned to deliver their decision.

Decision - Oval Space

- 1. The Sub-Committee considered an application for review of the premises licence held by Oval Venues Ltd. in respect of Oval Space, 29-32 The Oval, London, E2 9DT ("the Premises"). The review was a review under s.53C of the Licensing Act 2003. At the conclusion of the hearing, the Sub-Committee's determination was to revoke the premises licence. In addition, the Sub-Committee determined that the interim step of suspension of the premises licence, which had been imposed by the Sub-Committee on 8th September 2022, was to continue. The Sub-Committee confirmed that its written reasons would follow. References in this decision to page numbers are to documents within the first supplemental agenda pack unless otherwise stated.
- 2. PC Perry took the Sub-Committee through the timeline of the events of 30th August 2022 (Pages 70-71). The suspected offenders are seen in the queue inhaling what appears to be nitrous oxide, without challenge by the security staff. There are interactions between some of the security staff and some of the suspects, suggesting that they know each other. The bag which is believed to contain the firearm is allowed into the venue without being searched. Search wands and ID scanners are not being utilised.
- 3. Once inside the venue and on the main dancefloor, two suspects are seen to put on balaclavas at about 03:57 hours. They are seen to

purchase drinks. They are not challenged by bar staff or security staff despite being masked for around ten minutes. Around 04:10 hours, police believe a shot to have been fired, which hit the victim. Unsurprisingly, this leads to pandemonium as patrons panic and try to leave.

- 4. PC Perry noted that one member of the security staff thought that one of the suspects was known to or part of the events team at the venue (Page 80). He also referred to information from an Operation Trident officer, who deals with gang-related crime. That officer (Page 68) stated that they were told by security staff that there were local youths who attended the venue. "They believe these boys were from local gangs and had the capabilities to make things difficult for the security at the door. This leads to the security having a mutual agreement with them to keep the relative peace." The Trident officer confirms that the suspects are gang members and also refers to the security lapses which contribute to the events of this evening.
- 5. PC Perry expressed considerable concern that control of the venue had effectively been taken over by gangs. This had not been communicated to or shared with the police. The venue, in his submission, did nothing to address this very serious issue.
- 6. He submitted that this was not the first time that the venue had done nothing. He referred to several other incidents detailed within the papers:
 - Page 91 contained an extract from the venue's incident log. A fight broke out at about 05:00 hours on 29th July 2022. One of the males involved went to his car and pulled out a Samurai sword. The police are not called nor is the incident reported later.
 - Page 87 the log refers to a male sexually harassing women at about 03:30 hours on 29th July 2022. Security did something in the sense of trying to find the man and ensuring that the victims got home safely. However, they failed to get the victims' details or report the incident to the police.
 - On 19th February 2022 a fight breaks out at the venue, the perpetrators are ejected but the incident is not reported (Page 84).
- 7. PC Perry also referred to the representations from local residents in support of the review. He drew the Sub-Committee's attention in particular to the second and third paragraphs on Page 37 and to the final paragraph of the letter at Page 39.
- 8. PC Perry noted that the violence appears to have escalated and that the Premises are being poorly-run. He noted that the number of refusals of sales of alcohol given the number of people in the Premises at any time strongly suggested that staff were selling alcohol to

intoxicated patrons. He reminded the Sub-Committee of the failure to install and use Club Scan. The Premises had been reviewed last year over concerns of poor management and despite promises that the situation would improve, that has not happened. The recent incident combined with the failure to comply with their licence conditions now gave the police no confidence that the Premises could operate safely, especially as it now appeared to be controlled by gangs. He drew the Sub-Committee's attention to Page 81, which suggested that immediately after the shooting the DJ stated, "What ends is the baddest in London?"

- 9. Corinne Holland addressed the Sub-Committee on behalf of the Licensing Authority. She referred to the event of 29th to 30th August, which was said to have a dress code which included "no hoodies." Nonetheless, the suspects were allowed entry in breach of that. She too was concerned as to the possible involvement of the security staff, which was negligent at best. When the appeal against the previous review decision had been compromised, a condition had been added requiring one month's advance notice to have been given to the Licensing Authority if an event utilising the non-standard timings was to take place. No notices of any events had been received by the authority to date, nor had one been given for the night in question.
- 10. Ms. Holland also referred to the road closures, which were unauthorised (Pages 26-27). Finally, she referred to some of the photos produced in the second supplemental agenda pack, which showed large numbers of people in the area with no crowd management. She too reminded the Sub-Committee that this was the second review, the first having followed stabbings just over a year ago. That had highlighted poor management at the Premises and with the security staff. In her opinion, this latest review demonstrated that nothing had changed.
- 11. Paddy Whur, solicitor for the licence holder, and Dean James, one of the directors of the business, then addressed the Sub-Committee. Mr. Whur told the Sub-Committee that the failings were largely down to the security company, whose services would no longer be used, and that they would no doubt face sanctions from the Security Industry Authority.
- 12. Save for two matters, he did not take issue with the police timeline. Those issues were that he had reviewed the CCTV and could not see that the suspects had purchased drinks whilst wearing balaclavas and that the witness who had identified the gunshot (Pages 88-90) had been speaking in respect of the shooting on Hackney Road and not within the club. He accepted, however, that the likelihood was that the gun had got into the venue and had been discharged inside.

- 13. He told the Sub-Committee that the owners had not been made aware by the managers until the expedited review was brought. The police had since been given assistance and the CCTV. They did not accept that the owners had allowed the Premises to be taken over by gangs; there was criminal neglect by the security company.
- 14. Mr. Whur outlined the history of the Premises, which had been taken over by Mr. James in 2015. Mr. James has extensive experience of running licensed premises. Prior to July 2021, there had been no problems. However, one of his senior staff, Archie McIntosh, ceased to be as extensively involved. That led to problems within the operation and, ultimately, to the review. The Sub-Committee had imposed a number of conditions, which were all accepted on appeal, and the appeal was really focused on the non-standard timings. At that time, the police were seeking a reduction to framework hours and were thus content that the Premises could operate safely to those.
- 15. A new manager and security company were appointed and things were running well. Mr. Whur referred to the representation on Pages 26-27 which stated that the Premises were being operated well from a policing perspective. In May 2022 the Council agreed the consent order that compromised the appeal arising from the first review. On 17th May 2022 PC Perry had emailed to say that there had been a "marked improvement in how the security is working."
- 16.Mr. Whur noted that there were no signs of nitrous oxide use or drug dealing at the visits detailed on Pages 26-27. There was nothing untoward until the incident of 30th August. When their new manager, Mr. Mellin, left at the end of June 2022, management and security thereafter was not as it ought to have been. It was not accepted that the Premises had become gang-led. The failings, however, were those of the security staff.
- 17. At Pages 219-220 there was an offer letter that had been made to the police, which effectively would stop the late-night events and allow the Premises to continue with corporate events to framework hours. Revocation would kill the business.
- 18.Mr. James apologised to the Sub-Committee. He reiterated some of the points made by Mr. Whur and stated that after the last review, when he had employed Mr. Mellin to manage the Premises, he'd been getting good feedback from the police and Licensing. He accepted that the business had been under considerable financial pressure in August as the business sought to recover from the pandemic and that, with hindsight, he should have stopped the business in August. The proposal now being put forward would allow the venue to continue to trade and provide local jobs and other community benefits and the issues with which the reviews had been concerned did not arise at those earlier hours.

- 19. Finally, Mr. Whur drew the Sub-Committee's attention to the report of Mark Halton (Pages 153-183) of an unannounced visit to The Pickle Factory, 14 The Oval, London, E2. This is located over the road and is also operated by Mr. James' business. It was not possible to visit the Premises due to the suspension but he suggested to the Sub-Committee that this demonstrated that the Premises could be operated safely. He also asked the Sub-Committee to note that two of the residents who had made representations did not necessarily seek the closure of the Premises and that a change in the nature of the operation would reduce or negate any impact. Finally, he drew attention to the representation from the Night-time Industry Association, which he said would not support irresponsible operators, and to the considerable degree of support for the venue included within the supporting information.
- 20. During questions from Members, Mr. James said he believed that any problems had been resolved following the review last year. Everything had seemed to be fine until June 2022. It had taken him a while to find a decent manager and that appointment happened to have been made on the day that he found out about this review.
- 21. Regarding the road closures, Mr. James said he lived in the area and found them helpful. He explained that it was an access restriction rather than a road closure and that residents were always permitted access. PC Perry told the Sub-Committee he did not object to the restrictions in principle, but noted it needed to be done properly.
- 22.PC Perry did not consider that there had been any real change. Club Scan was not in use, and it was for the venue to buy it, not the security staff. He accepted that there had been improvements but that they had not been maintained. The incident logs highlighted a number of failings and should have been brought to the attention of management. Mr. Whur's explanation was that the managers had failed in their responsibility to bring issues to Mr. James' attention.
- 23.Mr. James was also asked whether he thought he had done enough following the stabbing in February 2020 referred to at Page 65. He considered that they had done and reminded the Sub-Committee that shortly after that the first Covid-19 restrictions were imposed, which meant that the venue, along with others, was closed to the public for some time.
- 24. This application engages the licensing objectives of the prevention of crime and disorder, public safety, and the prevention of public nuisance. The Sub-Committee had read and taken account of all the information in the agenda packs as well as the helpful oral submissions.

- 25. The incident giving rise to this review is of the utmost seriousness. The victim of the shooting could have been killed. Equally, there was a real risk to innocent members of the public who were endangered by the discharge of a firearm in public places. Whilst Mr. Whur took issue with two discrete factual aspects of the police evidence, the critical facts were not in dispute.
- 26. This incident alone could have warranted a revocation even if the security staff had taken all reasonable measures to ensure that a weapon was not brought into the Premises. It was not in dispute, however, that that was not the case; the weapon had got in due to the failings of security staff. At best, they were utterly negligent; at worst, they were knowingly culpable. Combined with the breach of the Club Scan condition, this was an incredibly serious failing.
- 27. Whilst Mr. James points to the failings of the security staff, the Sub-Committee nonetheless takes account of the fact that he is a director of the business and ought to have had appropriate oversight, particularly in light of the history of the Premises.
- 28. The Sub-Committee was concerned by the history. The Premises may well have been run well at some point in the past but there are a number of serious incidents referred to in the report pack. These included a large fight on 16th November 2019 (Pages 65-66) and a stabbing on 16th February 2020 (Page 65), not to mention the subsequent review. The Sub-Committee considers it was likely that the reason no action was taken in respect of the February 2020 incident was the impact of Covid restrictions shortly after. There are the various other incidents referred to in the papers and by PC Perry, including failings in relation to the drugs logs and the storage of drugs. It all paints a picture of poor management over a long period of time, even if some of those issues are historic.
- 29. The main issue for the Sub-Committee, however, is the incidents of violence, particularly those giving rise to the reviews and the stabbing in February 2020. These demonstrate serious underlying problems with this Premises which have occurred with different management at different times. It is not enough that when the right person is managing there is an improvement; that the Premises fall below acceptable standards demonstrates that the licensing objectives are not being promoted. It was also not acceptable to suggest that the security and management were wholly to blame when they are, ultimately, under the control of the owners of the business.
- 30. This has to be combined with the fact that the conditions imposed following the last review, in particular the use of Club Scan and the requirement to give notice of use of the non-standard timings, were being breached. It was the operator's responsibility to purchase or hire

Club Scan and Mr. James must have known that it had not been. If he did not know, he ought to have known.

- 31.Mr. James now proposes the licence be cut back to framework hours, which was the police position on the last review. However, the last review ought to have been warning enough and Mr. James, as an experienced operator, knew or ought to have known the consequences of coming before this Sub-Committee again. The Sub-Committee accepted PC Perry's submission that the venue being known to and frequented by gangs means it is hard to break that association. The Sub-Committee considered that violence is not confined to late hours but can flare up at any time. Given this association with gangs, that risk is not one that can be safely discounted.
- 32. The representations in support did not provide sufficient information to outweigh the evidence presented by the police and those in support of the review. Mr. Halton's report on the Pickle Factory was not considered to be relevant. It is a different premises, apparently of a different nature, with a much smaller capacity. It may be that the operator can run that venue without issue (although the Sub-Committee can make no finding either way); it does not follow that they can run this venue without issue. Indeed, the history strongly suggests that they cannot do so in the long-term.
- 33. The other issues raised in the representations by the residents would, at the very least, justify a reduction in hours. It paints a picture of public nuisance arising from noise and crowds; crime and disorder in respect of alleged drug-dealing and taking, highway obstruction, etc. and which attracts other problems such as unlicensed food sellers late at night. Combined with the serious crime and disorder at or associated with the Premises, it demonstrates the necessity for robust action.
- 34. The Sub-Committee has considered all possible options. Clearly taking no action would send entirely the wrong message. Conditions were imposed after the last review and were not complied with, which suggests that there is little point in imposing further conditions. There could be no confidence that these would be complied with. The Sub-Committee did not, in any case, consider that any conditions would assuage Members' concerns. Removing the DPS would achieve nothing given the previous changes in management which have not resulted in any sustained improvement.
- 35. If the Sub-Committee had been minded to accept the proposal put forward by Mr. Whur to reduce the hours and the operation, a suspension would certainly have been appropriate to allow those changes to be made. As a final warning, the Sub-Committee did not think this would have any long-term impact, given the prior warnings.

36. Ultimately, the history of the Premises over the last two or three years gives the Sub-Committee no confidence that they will, in future, be operated in a way that promotes the licensing objectives. The Sub-Committee bears in mind the section 182 Guidance and, in particular, paragraphs 11.20 to 11.23. Our function is not to determine guilt or innocence; rather, it is to ensure the promotion of the licensing objectives. At 11.26 the Guidance states:

"It is important to recognise that certain criminal activity or associated problems may be taking place or have taken place despite the best efforts of the licence holder and the staff working at the premises and despite full compliance with the conditions attached to the licence. In such circumstances, the licensing authority is still empowered to take any appropriate steps to remedy the problems. The licensing authority's duty is to take steps with a view to the promotion of the licensing objectives and the prevention of illegal working in the interests of the wider community and not those of the individual licence holder."

37. These problems are not, in the Sub-Committee's view, taking place despite the best efforts of the licence holder and staff. They have arisen because of failings on their part. The Sub-Committee is ultimately concerned with the safety of the wider public and we are satisfied that the only appropriate and proportionate action is to revoke the premises licence.

Review of interim steps

38. In light of our decision to revoke the premises licence, the Sub-Committee was satisfied that the interim step of suspension needed to continue. It would be inconsistent with, and would undermine, the necessity of revocation to then remove the suspension of the licence.

Accordingly, the Sub Committee unanimously;

RESOLVED

That the application for a review under Section 53A of the Licensing Act 2003 for Oval Space, 29-32 The Oval, London E2 9DA be **GRANTED to REVOKE the premises licence.**

3.2 Application for a New Premise Licence for Taste of Jaipur, 74 Brick Lane, London, E1 6RL

At the request of the Chair, Ms Corinne Holland, Licensing Officer, introduced the report which detailed the application for a new premises licence for Jaipur, 74 Brick Lane London E1 6RL. It was noted that objections had been received from the Licensing Authority, Environmental Health, Health & Safety, the Police and residents.

The Sub-Committee noted the sale of alcohol was for 'on sales' only and not has stated in the report on page 60 of the agenda.

The Sub-Committee heard from Mr David Dadds, legal representative for the applicant Mr Shams Uddin. Mr Dadds explained his client wanted to amend his application and reduce the hours for sale of alcohol on Thursday, Friday, Saturday to 1:00 hours. He said members were aware of the historical and cultural importance of Brick Lane and said it was important to keep its identity. He said over the last fifteen years there had been a decline in the number of curry restaurants, with only 23 restaurants in operation.

He said whilst the new premises was in the Cumulative Impact Zone (CIZ) and the onus was on the applicant to rebut the presumption that the restaurant would not add to the saturation of the area and would uphold the licensing objectives, it was equally essential for the objectors to produce evidence of how the new premises would contribute to the saturation. Mr Dadds said his client operated another restaurant two-doors down, Monsoon 78 Brick Lane and this had operated since 2004. He said there were no complaints about drunkenness or disturbance and as such it was clear that restaurants, being a food-led business did not give rise to anti-social behaviour or crime and disorder.

Mr Dadds said the proposed conditions that had been tabled along with the dispersal policy would ensure the premises did not add to the CIZ. He said although the business did not meet the criteria of being an exceptional circumstance usually there would be fewer than fifty patrons after midnight and they'd be dispersed gradually so not to case a nuisance.

The Sub-Committee then heard from the objectors. Ms Kathy Driver, Senior Licensing Officer stated the Licensing Authority had objected to the application on the basis the premises was in the CIZ and the hours of operation were beyond the legal framework hours. She said the initial concern was the use of the rooftop terrace but noted this had not been removed from the plan. She referred members to her representation on page 121 of the agenda and said there were concerns about touting. There had been a complaint as recent as March 2022. She said the applicant had previously been prosecuted for touting in 2013. Ms Driver added that the dispersal policy had not been shared with the Licensing Authority.

PC Mark Perry from Metropolitan Police, Licensing Unit said the proposed conditions did address some of the concerns however anti-social behaviour was a problem in the area. He said it would be beneficial for the new premises to operate to the framework hours and prove it could safely operate before applying for extended hours.

Mr Onuoha Olere, for the Environmental Health Team added Environmental Protection were concerned about noise breakout and possible disturbance to neighbours in the vicinity. He said they had concerns about patrons entering and leaving the premises especially if they were in high spirits. He asked the Sub-Committee not to grant the licence.

The Sub-Committee also read and took into consideration the written representation from Mr Williams, local resident and Mr Theil of SIPRE.

In response to questions, the following was noted;

- Public notices would be displayed asking patrons to leaving the premises quietly. Usually there would be no more than 15 patrons at the premises after midnight.
- Mr Dadds objected to the assertion that applicant had to prove they could operate safely to framework hours. He cited the business at 78 Brick Lane and said this was proof enough that the applicant is compliant, as there had been no complaints about this business.
- The Police confirmed that the area had suffered from the Covid pandemic with a lower footfall and consequently less crime and disorder, in the CIZ.
- The touting prosecution was historical and referred to an incident from 9 years ago. No evidence of touting had been provided in relation to the current business. Assurances were given touting would not be practiced. The proposed conditions made this a priority.

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:

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 for a new premises licence to be held by Shams Uddin in respect of Taste of Jaipur, 74 Brick Lane, London, E1 ("the Premises"). The application sought the sale by retail of alcohol (onsales only) from 12:00 hours to 00:00 Monday to Wednesday, from 11:00 hours to 02:00 hours Thursday to Saturday, and from 12:00 hours to 23:00 hours on Sunday. Authorisation for the provision of late-night refreshment was also sought from Monday to Saturday, with the terminal hour being the same as that proposed for the sale of alcohol. Non-standard timings were sought in respect of New Year's Eve.

The application attracted representations from the Licensing Authority, the police, Environmental Health, Health and Safety, SPIRE, and one resident. The representations were concerned with the licensing objectives of the prevention of crime and disorder, the prevention of public nuisance, and public safety. The objections were primarily concerned with the Premises

being located in the Brick Lane CIZ, that the application proposed the use of a roof terrace which could pose a safety risk to patrons, and that the Premises would add to the cumulative impact of licensed premises upon the local area.

Mr. Dadds, on behalf of the licence holder, informed the Sub-Committee that his client was content to reduce the terminal hour sought from Thursday to Saturday to 01:00 hours, closing thirty minutes later to allow for dispersal. He had also proposed additional conditions to address the concerns of those making representations, which included conditions prohibiting touting and prohibiting the use of or access to the roof space by patrons.

Mr. Dadds told the Sub-Committee that Mr. Uddin operated Monsoon, 78 Brick Lane, to the same hours. There had been no problems that he was aware of in the preceding five years, such as reports of noise and drunkenness. As regards to dispersal, there were never problems and after midnight there would usually be fewer than fifty patrons. He also addressed the Sub-Committee on the statutory guidance and the approach to be taken, and that the onus remained on the objectors to provide evidence that the operation of the Premises would add to the impact of licensed premises in the area.

Ms. Driver, on behalf of the Licensing Authority, confirmed that the proposed conditions and amendment went some way to assuaging the Authority's concerns although the hours were still of some concern. She also referred to a previous prosecution for touting.

PC Perry also confirmed that the amendment and proposed conditions addressed some of the police concerns. The terminal hour remained the main concern, given the Premises' location within the CIZ. The area still suffered a high level of ASB and the framework hours were there for applicants to demonstrate that they had earned the right to operate to later hours.

Mr. Olere addressed the representation made on behalf of the Environmental Health Service. He too confirmed that the amendments and proposed conditions were welcomed but remained of the view that there was still insufficient information to set out how the licensing objective of the prevention of public nuisance would be promoted. He did not, however, suggest what, if anything, might do so.

The Sub-Committee discussed dispersal issues with the applicant. Mr. Dadds explained that his client anticipated there would only be around fifteen patrons present after midnight and that they tended to leave gradually. He asserted that his client had already proved that he could operate in the area without adding to the cumulative impact.

PC Perry confirmed that there were no reports of restaurants on Brick Lane adding to the impact. He noted, however, that the impact of Covid meant that venues on Brick Lane had suffered and so there were not the levels of crime and ASB that there were pre-pandemic. However, the concern remained regarding the issue of patrons leaving in the early hours.

The Legal Adviser to the Sub-Committee suggested some amendments to the proposed conditions put forward by Mr. Dadds and sought the views of the parties, in the event that the Sub-Committee was minded to grant the application. He suggested that condition 1 simply read "within 500 metres of the premises" rather than within a 500 metre radius, so that it applied from any point on the boundary rather than from the centre point of the Premises.

Condition 6 would be clearer if the words "at all times that the premises are open to the public" were added. In relation to the dispersal policy, it was suggested that it include "This shall be submitted to the Licensing Authority and the Police within seven days of the grant of this licence and, in the event of any updates, within seven days thereof." These were generally acceptable to the parties although Mr. Dadds suggested a time period of twenty-one days in respect of condition 7 and Ms. Driver suggested that it require agreement from the police and Licensing Authority and that the licence should not be permitted to take effect until that time. Mr. Dadds objected to that latter point.

The Legal Adviser also suggested a condition that alcohol sales be ancillary to a table meal, which ensured that the Premises could not become a bar or a venue where alcohol could be purchased without anything else. This was welcomed by the responsible authorities. Mr. Dadds did express some reservation as to the precise wording but did not object in principle.

This application engaged the licensing objectives of the prevention of public nuisance and the prevention of crime and disorder. The concerns of public safety had fallen away as a result of the condition prohibiting the use of the roof terrace. The Sub-Committee had read and taken account of the representations made by those who were not present. It noted that these were generally about the CIZ policy and expressed concern at the risk of revellers migrating to the Premises as a late-night venue.

The Sub-Committee had carefully considered the application. It did not accept that Mr. Uddin's operation of a premises two doors away rebutted the presumption of cumulative impact; the CIZ policy specifically states that the fact that a premises will be well-run or managed or that the operator operates similar premises elsewhere is not exceptional. Moreover, the point remains that the policy is concerned with the additional impact of another licensed premises on an already stressed area.

However, the policy does allow for exceptions. These include small capacity premises and premises that are not alcohol-led. Although this application does not strictly fall within the first suggested exception to the policy, those exceptions are not exhaustive. The Premises did nonetheless meet some of those criteria, such as on-sales of alcohol only. As the Premises are a restaurant, they are not alcohol-led. Similarly, there was nothing before the Sub-Committee to suggest that people would be likely to gravitate to the Premises for drinking. The conditions proposed, with the Legal Adviser's suggested amendments, would help to ensure that this would not happen and that the Premises could not change from a restaurant to a bar or other drinking-led venue.

The Sub-Committee also accepted that restaurants did not generally cause the same problems that other venues such as bars and clubs did. The Sub-Committee was therefore satisfied that granting this application with the amendments, conditions suggested in the operating schedule, and the conditions as below will not add to the cumulative impact in the area.

Accordingly, the Sub Committee unanimously;

RESOLVED

That the application for a New Premises Licence for Taste of Jaipur, 74 Brick Lane, London E1 6RL be **GRANTED with conditions.**

Sale of alcohol

Monday to Wednesday
Thursday to Saturday
Sunday
12:00 hours to 00:00 hours
11:00 hours to 01:00 hours
12:00 hours to 23:00 hours

Provision of late-night refreshment

Monday to Wednesday 23:00 hours to 00:00 hours Thursday to Saturday 23:00 hours to 01:00 hours

Non-standard timings

On New Year's Eve from the end of permitted hours to the start of permitted hours on the following day (or, if there are no permitted hours on the following day, midnight on 31st December)

Conditions

- 1. No person shall be employed to solicit for custom or be permitted to solicit for custom for business for the premises in any public space within 500 metres of the premises as shown edged in red on the attached plan.
- 2. Clear signage is to be placed in the restaurant windows stating that the premises support the Council's "No Touting" policy.
- 3. The roof area will not be accessible to members of the public nor will it be used for licensable activities or other outside use.
- 4. Vertical drinking shall not be permitted on the premises.
- 5. The maximum capacity shall be 80 patrons.
- 6. After 23:00 hours there shall be a personal licence holder present at all times that the premises are open to the public.

- 7. The premises shall have a dispersal policy. This shall be submitted to the Licensing Authority and the Police within 14 days of the grant of this licence and, in the event of updates, within 14 days thereof.
- 8. The premises shall operate as a restaurant where the sale of alcohol is by waiter or waitress to customers seated at a table and ancillary to a table meal.

4. 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.

Premises	Extended to:
Wicked Fish Queens Yard Whitepost Lane	31/12/22
Kilikya's Café Bar Restaurant, Unit C4, Ivory	31/12/22
House, East Smithfield, London, E1W 1AT	

The meeting ended at 10.23 p.m.

Chair, Councillor Kamrul Hussain Licensing Sub Committee