

LONDON BOROUGH OF TOWER HAMLETS

MINUTES OF THE LICENSING SUB COMMITTEE

HELD AT 6.30 P.M. ON TUESDAY, 22 NOVEMBER 2022

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

Members Present in Person:

Councillor Kamrul Hussain
Councillor Suluk Ahmed
Councillor Rebaka Sultana

Members In Attendance Virtually:

Mr Arif Jivraj – Director Applicant
Mr Syed Husain – Area Manager
Mr Filip Puckza – Designated Premises Supervisor
Ms Bianca Whisky - Applicant
PC Michael Rice – Metropolitan Police

Other Officers Present in Person:

Ms Kathy Driver – Licensing Authority
Mohshin Ali – Licensing Officer
Farzana Chowdhury – Democratic Services Officer
David Wong – Senior Enforcement Lawyer

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 meeting were agreed and approved as a correct record held on the 11th and 27th October 2022.

4. ITEMS FOR CONSIDERATION

**5. APPLICATION FOR A NEW PREMISES LICENCE FOR PIZZA HUT, 195-
195A EAST INDIA DOCK ROAD, LONDON, E14 0EA**

The Council's Licensing Act 2003 Sub-Committee ("the Sub-Committee") considered an application by Mr Arif Jivraj and JJ & Team Limited (the Applicant) for a new premises licence under section 18(3) of the Licensing Act 2003 in respect of Pizza Hut, 195-194a East India Dock Road, London E14 0EA.

Applicant

Mr Jivraj addressed the concerns expressed in the representations made against the application:

- There were several premises in the vicinity which were operating similar licences.
- The business would only be operating as a delivery service, so noise and disturbance would be minimal, with delivery drivers rather than patrons attending the premises.
- Noise disturbance to residents would be mitigated by using only the front entrance for delivery drivers. The rear entrance would not be in use.

The Sub-Committee's questions were answered and responded to by the Applicant as follows:

The Sub-Committee was concerned with regards to mopeds 'coming and going' and causing noise nuisance to residents from persons attending the premises beyond the licensed hours for late night refreshments. The Sub-Committee agreed that if it were to operate twenty four hours, this would set a precedent to other businesses in the vicinity, and there could be potential risk of public nuisance.

The Applicant explained that there were other premises operating until 02:00 hours, and if the Sub-Committee felt that this was a concern, the Applicant would be willing to amend the application to reflect these hours.

The Sub-Committee noted the Applicant's agreement to reduced hours, if the Sub-Committee agreed this was reasonable in upholding the licensing objectives.

There was designated parking, which was away from the premises. Delivery drivers would not be permitted to drive right up to the premises. Mopeds would not be parked close to the bus stop nor on the red route.

The Applicant had a good relationship with the neighbours and residents and explained that there had been no history of noise nuisance. Measures had been put in place which included the communication of behaviour expectations to staff and delivery partners, working with the delivery partners, and reporting everything in writing, as well as notices being displayed inside and outside the premises.

Licensing Authority

Ms. Driver expressed concerns that the premises sits directly beneath a large complex of residential units and the premises are directly next to a busy main road. There were concerns that any collection by customers or delivery drivers was more likely to be accessed at the rear of the property, as the front entrance sits on a busy main road, which is a red route and a busy bus route. The rear of the property faced a highly residential area including residential properties all along Suzannah Street, a narrow adjacent street. .

Ms Driver was concerned that noise disturbance from mopeds coming “in and out” was not addressed by other premises in the area having similar operating hours. There was a fear that if the Sub-Committee granted the application, it would set a precedent for other nearby businesses to operate twenty-four hours.

Consideration

Each application must be considered on its own merits. The Chair confirmed that the Sub-Committee had carefully considered all the evidence before them and heard the oral representations at the meeting virtually and in person from the Applicants and the Licensing Authority. The Applicant were seeking the following:

Late night refreshments

Monday to Sunday 23:00 hours to 05:00 hours (the following day)

Opening times

Monday to Sunday 23:00 hours to 05:00 hours (the following day)

The Sub-Committee considered what was reasonable and proportionate for the promotion of the licensing objectives, in particular, the prevention of public nuisance.

Paragraph 10.13 of the Secretary of State’s Guidance under S182 of the Licensing Act 2003 says that that Act “gives the licensing authority power to make decisions about the hours during which premises can conduct licensable activities as part of the implementation of its licensing policy statement. Licensing authorities are best placed to make decisions about appropriate opening hours in their areas based on their local knowledge and in consultation with responsible authorities.”

Paragraph 14.51 of the same Guidance says, “With regard to licensing hours, the Government acknowledges that different licensing approaches may be appropriate for the promotion of the licensing objectives in different areas. The 2003 Act gives the licensing authority power to make decisions regarding licensed opening hours as part of the implementation of its licensing policy statement and licensing authorities are best placed to make such decisions

based on their local knowledge and in consultation with other responsible authorities.”

The Sub-Committee noted the evidence of Ms. Driver from the Licensing Authority, that the premises sits directly beneath a large complex of residential units and the outside area was fenced off directly facing the roadside. The Sub-Committee noted the concerns that any collection by customers or delivery drivers was more likely to be accessed to the rear of the property. The Sub-Committee noted that the rear of the property was a highly residential area overlooking a residential block including residential properties all along Suzannah Street, a narrow nearby street.

The Sub-Committee noted concerns about mopeds causing noise nuisance to residents from persons. The Sub-Committee were concerned about the

The Sub-Committee noted the Applicant’s agreement to a reduction in the hours, if the Sub-Committee considered this to be reasonable.

The Sub-Committee noted from pages 76 and 77 of the Agenda papers, that a number of other premises in the locality had late night refreshment hours no later than 02:00 hours

The Sub-Committee therefore considered that a reduction in the hours sought to 02:00 hours would be reasonable and proportionate in the circumstances, to prevent public nuisance.

The Sub-Committee noted that the front entrance sits on a busy main road, which is a red route and a busy bus route. The Sub-Committee were concerned about delivery drivers parking in that road directly in front of the premises.

The Sub-Committee therefore felt it reasonable and proportionate to impose a condition that there should be signs in the front windows of the premises directing delivery drivers not to park directly in front of the premises, but in the area designated by the premises licence holder.

Accordingly, the Sub Committee unanimously;

Decision

That the application for a new premises licence for Pizza Hut East India Dock Road London E14 0EA be **GRANTED with CONDITIONS**

Provision of Late – Night Refreshments (indoors and Outdoors)

Monday to Sunday – 23:00 - 02:00hrs (the following day)

Opening times

Monday to Sunday – 11:00 hours – 05:00 hours

Conditions

1. The premises shall install and maintain a comprehensive CCTV system. All entry and exit points will be covered enabling frontal identification of every person entering in any light condition. The CCTV system shall continually record whilst the premises is open for licensable activities and during all times when customers remain on the premises. All recordings shall be stored for a minimum period of 31 days with date and time stamping. Viewing of recordings shall be made available upon the request of Police or authorised officer throughout the entire 31 day period.
2. Suitable and sufficient artificial lighting is provided and maintained in any area accessible to the public.
3. Delivery drivers will only arrive at the shop when the order is ready for collection.
4. All fixed equipment at the premises, such as ventilations systems that produce significant levels of noise are fitted with appropriate means of noise submission and are restricted in their use so as to minimise disturbance to any neighbouring noise sensitive premises.
5. The ventilations and extract systems are designed and maintained so as to prevent noxious smells causing nuisance to nearby properties.
6. No customers can eat in the premises.
7. No noise generated on the premises, or 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.
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. There should be signs in the front windows of the premises directing delivery drivers not to park directly in front of the premises, but in the area designated by the premises licence holder.

6. APPLICATION FOR A NEW PREMISES LICENCE FOR HAVENS YARD LTD ARCH 410 HAVEN MEWS ST PAULS WAY, LONDON E3 4AG

The Council's Licensing Act 2003 Sub-Committee ("the Sub-Committee") considered an application by Mr Filip Puckza and Ms Bianca Whiskey (the Applicant) for a new premises licence under section 18(3) of the Licensing Act 2003 in respect of Havens Yard Ltd Arch 410 Haven Mews St Pauls Way, London E3 4AG.

Applicant

Mr Phillip Puckza, the Designated Premises Supervisor, presented the business as a new venture, and the application as one made together with his business partner Bianca Whiskey. He confirmed that they will operate as a restaurant. Mr Puckza presented that the Responsible Authority's issues were unfounded.

Mr Puckza explained to the Sub-Committee that the number of covers were a little overstated with regard to the outdoor plan, and that the number of patrons would be far less than stated.

Traffic marshals would be available from Friday to Sundays and any crime and disorder would be reported. No previous reports of incidents had been lodged .

Ms Whiskey assured the Sub-Committee that there would be a hotline for residents if there were any issues. She pointed out that the residents lived behind the arch. Ms Whiskey represented that there would be CCTV and street marshals to address possible noise nuisance. The previous owner had not reported any crime reported as ascertained following a Freedom of Information request that had been made.

During the hearing the Sub-Committee's questions were answered and responded to by the Applicant as follows:

- The Applicant was willing to reduce the hours to 23.00hrs, if the Sub-Committee thought this be appropriate, and that they would be serving gourmet food. Mr Puckza had been a successful DPS in Westminster and was very experienced.
- Noise limiters would be installed and the Applicant was willing to amend the number of people permitted inside and outside the premises
- They would stop serving alcohol at 22.00hrs with 1 hour to disperse.

The Sub-Committee had concerns that the Applicant was involved in the nearby premises at Arch 411, in respect of which Ms Bianca Whiskey was the business rate payer of which the following was brought to attention at the review.

Ms Whiskey confirmed that she was connected to the previous applicant and that she had worked for them. Mr Puckza and herself were former employees at Arch 411, who had decided to venture on their own.

The Sub-Committee noted Ms Whiskey's involvement with the business at Arch 411, as the director of the company operating those premises, as well as having been bar manager over there.

The Sub-Committee were concerned that the Applicant was not properly addressing the concerns raised. Mr Puckza explained that Ms Whiskey was a

different person, that they both wanted to ensure that the premises was run properly and wanted to accommodate the residents.

Licensing Authority

Ms Driver presented that the premises were off St Pauls Way within a railway arch in Haven Mews, a residential area, accessed through a yard gate. There were licensed premises situated in Unit/Arch 411 next door, which had operated as licensed premises with on and off sales. However, noise disturbance to local residents and operating in breach of the licence and authorised hours, had led to an earlier review of the premises licence for the business at Arch 411. That review led to the on sales part of the licence being removed.

Ms Driver felt that another application next door to Arch 411 was likely to reignite the issues which had led to the review of the premises licence regarding Arch 411. Ms Driver felt that the hours sought were far too late, and she observed that there were no other premises operating so late in this area. She was concerned that, as had happened with Arch 411 next door, additional traffic arising from patrons coming and going would be attracted to the area, with the same attendant problems which had manifested as stated earlier regarding Arch 411.

Ms Driver was concerned that the Applicant was linked to the previous applicant, that the hours applied for were similar, and that private events might be held contrary to licensing requirements. Ms Driver referred the Sub-Committee to the plan, indicating that the kitchen was too small. There was concern with the outdoor plan on page 130 in the agenda pack. A visit had taken place previously, when Mr Puckza was a Bar Manager, there was concern that he was linked to the previous applicant. Ms Driver was not confident that this premises would not be mismanaged in the circumstances set out, and invited the Sub-Committee to refuse this application.

Metropolitan Police

Michael Rice had concerns about how the Applicant would operate the premises. From eight years experience, he had seen the damage caused by anti-social behaviour. The nearest transportation would be fifteen minutes' walk through Mile End Park which was dangerous. He was concerned that noise would disturb local residents. He was concerned that having ninety people outside would be result in disturbance to local residents, and that not enough precautions had been taken to protect the local community from this.

He was also concerned that it would be difficult to report crime and disorder, given the links between the Applicant and Arch 411, where police had been refused entry on previous occasions. There had been urination on the streets. He referred to the issues which led to the review of the premises licence for Arch 411, and asked the Sub-Committee to refuse the application.

Decision

Consideration

Each application must be considered on its own merits. The Chair confirmed that the Sub-Committee had carefully considered all the evidence before them and heard the oral representations at the meeting virtually and in person from the Applicants the Licensing Authority and the Metropolitan Police. The Applicant were seeking the following:

Opening Times

Monday to Thursday from 11:00 hours to 00:00 hours (Midnight)

Friday to Saturday from 11:00 hours to 00:30 hours

Sunday from 11:00 hours to 23:00hrs.

The Sub-Committee considered what was reasonable and proportionate for the promotion of the licensing objectives the prevention of public nuisance and the prevention of crime and disorder.

Paragraph 9.42 of the Secretary of State's Guidance under S182 of the Licensing Act 2003 says, "Licensing authorities are best placed to determine what actions are appropriate for the promotion of the licensing objectives in their areas. All licensing determinations should be considered on a case-by-case basis. They should consider any representations or objections that have been received from responsible authorities or other persons, and representations made by the applicant or premises user.

The Sub-Committee considered evidence of issues relating to public nuisance and crime and disorder arising from the neighbouring premises at Arch 411. Whilst those issues in themselves, were not a reason for the decision reached regarding the application now before the Sub-Committee, the Sub-Committee had to be satisfied that they could trust the Applicant to uphold the licensing objectives, and that necessitated the Sub-Committee being satisfied on the balance of probability that there was no connection between the Applicant's management and the management of the premises at Arch 411.

The Sub-Committee noted the Applicant's agreement to reduce the hours to 11:00hrs. The Sub-Committee noted representation from Mr Puckza on behalf of the Applicant, that he was an experienced DPS previously in Westminster, and that they would be selling gourmet food, sound limiters would be installed, they were willing to amend the number of people allowed inside and immediately outside the premises, and they would stop serving food at 10:00hrs with 1 hour from then for patrons to disperse.

The Sub-Committee considered Ms Whiskey's responses to questions as the Applicant, that she was connected to the business which had operated next door at Arch 411, and that she did work for the previous owner.

The Sub-Committee considered Ms Whiskey's representation that both she and Mr Puckza were venturing embarking on their own venture separate from the business which had operated next door at Arch 411. Although the Sub-Committee also considered representation by Ms Whiskey that the present business would be operated in a way consistent with the licensing objectives, and that they wanted to work with the residents and the Responsible Authorities, the Sub-Committee were not convinced that Ms Whiskey could be said to be without connection to the management of the business which had operated next door at Arch 411.

Whilst each decision by a Licensing Sub-Committee on each set of premises has to be considered on its own merits, the Sub-Committee were mindful that the neighbouring premises had had a history of issues relating to public nuisance and crime and disorder, and the Sub-Committee were not satisfied that Ms Bianca Whiskey, the Applicant, was without any link to the issues, which had arisen at the neighbouring premises, being the director of the company operating those other premises, as well as having been bar manager at those neighbouring premises.

In the circumstances of this case, the Sub-Committee could not ignore the track record of Ms Whiskey as part of the management of the business which had operated at Arch 411, in terms of demonstration of trustworthiness in promoting the licensing objectives.

The Sub-Committee were therefore not satisfied with the assurances of compliance with the licensing objectives offered by Ms Whiskey or her colleague, Mr Puckza, nor were the Sub-Committee assured by the reduction in hours offered, since the Sub-Committee still had to be satisfied that the Applicant could be trusted to promote the licensing objectives.

In the circumstances, the Sub-Committee could not trust the Applicant to promote the licensing objectives.

Therefore, Members made a unanimous to refuse the application.

Accordingly, the Sub-Committee unanimously.

That the application for a New Premises Licence for Arch 410 Haven Mews, St Pauls Way, London E3 4AG be **REFUSED**

7. 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:
Soda and Friends Unit 2a, 20 Hopwell Street, London E14 0SY	31/01/23
Chaiwala 55 Brick Lane E1 6PU	31/01/23
Oval Venues Ltd – Oval Café, 11-12 The Oval.	31/01/23

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The meeting ended at 8.15 p.m.

Chair, Councillor Kamrul Hussain
Licensing Sub Committee