

LONDON BOROUGH OF TOWER HAMLETS
MINUTES OF THE LICENSING SUB COMMITTEE
HELD AT 2.00 P.M. ON TUESDAY, 18 JUNE 2024
COUNCIL CHAMBER - TOWN HALL, WHITECHAPEL

Members Present in Person:

Councillor Peter Golds
Councillor Ana Miah
Councillor Suluk Ahmed

Apologies:

None

Others Present in Person:

Holly McColgan	Item 4.1
Jason Smith	Item 4.1
Sarah Clover	Item 4.3
Jack Henry	Item 4.3

Officers Present in Person:

Jonathan Melnick	(Principal Lawyer-Enforcement)
Corinne Holland	(Licensing Officer)
Kathy Driver	(Principal Licensing Officer)
Yale Sherlock	(Environmental Health Officer)
Simmi Yesmin	(Democratic Services Officer, Committees, Governance)

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 23rd April and 14th May were agreed and approved as a correct record.

4. ITEMS FOR CONSIDERATION

4.1 Application for a New Premise Licence for Unit 2a, Queens Yard, 43 White Post Lane, London, E9 5EN

At the request of the Chair, Ms Corinne Holland, Licensing Officer introduced the report which detailed the application by Hatton Garden Properties Ltd. for a new premises licence for The Yard Theatre, Unit 2a Queens Yard, 43 White Post Lane, London, E9 5EN (“the Premises”).

The Premises are already licensed and the application was made by the landlord of the Premises for a “shadow licence” which was identical in all respects to the existing licence.

The application attracted representations from three residents, all of which were based on the prevention of public nuisance.

At the request of the Chair, the Sub-Committee heard from Holly McColgan, Legal Representative on behalf of the applicant as to the rationale for the application, which was simply in order to protect their interests as the landlord. It was uncommon for such an application to come before a Sub-Committee and it was entirely normal for landlords to seek to protect their interests given the ways in which premises licences can end.

The Sub-Committee was told that the representations misunderstood the nature of the application. Nothing would change to the current operation, there were no responsible authority representations, and nothing in the representations made actually referred to issues caused by the operation of the Premises.

The Council’s licensing policy did not address shadow licences. However, the venue is a theatre and although the hours sought were outside of framework hours, the policy recognised that venues such as theatres tended not to give rise to problems and therefore took a more “low-key” approach.

During questions from members, it was accepted that more could have been done to engage with residents and explain the rationale behind the application. This was the first such application by the applicant and they intended to do this across their whole estate, and so they would learn from this experience for future applications. The Sub-Committee was also told that the tenant was an exemplary tenant and had just been granted a new thirty-year lease of the Premises, which indicated that the Premises would continue to operate without a problem.

The residents who had made representations had not attended. One person had nominated another person to speak for them. However, that nominee had failed to attend and purported to nominate a third party. The Sub-Committee

was given legal advice that it was not possible for a nominee to nominate somebody else to speak; any nomination had to have been made by the person making the representation. The Sub-Committee had read and noted the representations.

Decision

The Sub-Committee accepted that the representations were based on a fundamental misunderstanding of what was being sought. All three representations were identical, save for the third one which included an additional paragraph about noise nuisance from nearby building work at a different premises, which was not a relevant consideration for the Sub-Committee. It did state that noise could be heard from the venue although no more detail was given. All the representations seemed to think this would be a new venue operating in the area.

The Sub-Committee took account of the fact that only one licence would be in operation at any one time and that this was a shadow licence and not a new or different licence. The venue operated without causing any problems and, indeed, the Sub-Committee was informed that the Premises did not currently operate to its permitted terminal hours. There was nothing to suggest to the Sub-Committee that granting the application would adversely impact upon the licensing objectives.

The application is therefore granted as sought

Accordingly, the Sub-Committee unanimously;

RESOLVED

That the application for a new premises licence for **Unit 2a, Queens Yard, 43 White Post Lane, London, E9 5EN** be **GRANTED**.

4.2 Application for a New Premise for We Are Bard Books 341-343 Roman Road London E3 5QR

This item was resolved prior to the meeting.

4.3 Application for a Variation of Premises Licence for (Studio Spaces Ltd / E1), 110 Pennington Street, London E1W 2BB

At the request of the Chair, Ms Corinne Holland, Licensing Officer introduced the report which detailed the application by Studio Spaces Ltd. to vary the premises licence for Studio Spaces/E1, 110 Pennington Street, London, E1W 2BB ("the Premises"). The application sought to vary the plans to reflect an updated layout and to extend the permitted hours for licensable activity on Mondays. The variation sought was to allow the sale of alcohol from midnight to 07:00 hours on Monday, late-night refreshment from midnight until 05:00 hours, and regulated entertainment from midnight until 06:00 hours. This

effectively extended the operating hours over the entire weekend period. An amendment to the opening times on Monday was also sought, from midnight until 07:00 hours.

The application received representations against it from the Licensing Authority and the Environmental Health service on the basis that the application was outside of policy and would adversely impact upon the licensing objectives of the prevention of crime and disorder and the prevention of public nuisance.

At the request of the Chair, Ms. Clover addressed the Sub-Committee on behalf of the applicant. She told the Sub-Committee that the hours had been trialled through the existing non-standard timings on the Sunday preceding a bank holiday and by way of Temporary Event Notices (TENs). None of the TENs had been objected to by the responsible authorities. Acoustic reports had been given to the responsible authorities, who had not engaged in any way, and the police had been content for them to operate until this time. Ms. Clover asserted that the police had specifically suggested the proposed closing time as it would allow dispersing patrons to merge with people going to work around that time and that it would be less likely to cause problems than an earlier finishing time.

Ms. Clover stated that the application had been advertised twice due to an error. The DPS had a WhatsApp chat group on his phone with 138 residents. The blue notice had been posted on there and there had been no objections from residents.

Environmental Health's objection to the variation of the plan was unclear to Ms. Clover. Additional conditions had been proposed, which included notifying the police and Licensing in advance of events. Egress and dispersal were already well managed and the venue had comprehensive management plans and the venue was well served by public transport.

Ms. Clover noted that the venue was already an exception to our policy and therefore granting this application would not be going against the policy. Ms. Clover also suggested that that it was not possible for the responsible authorities to go outside of the licensing objectives within their remit. It was not for Ms. Driver to say what the police would want. Finally, Ms. Clover pointed to the lack of complaints from residents.

Ms. Driver addressed the Sub-Committee and confirmed that she had no objection to the varied plans. She accepted that notification of events to the authorities was useful but that there was no power to veto an event. Her concern was that this variation would allow the Premises to operate almost every hour over the weekend period. Whilst it was accepted that weekends would permit later operating hours, Sundays would generally not be as late.

She referred to the fact that there had been some complaints and there had been an incident at the venue in March, referred to in her representation, when CS gas was thrown in to the venue. It was accepted that additional measures had been implemented but her concerns surrounding anti-social

behaviour were not allayed; there would be impact before the terminal hour because not everyone would leave at closing time. That would lead to inevitable impact from patron noise, noise from taxis, and issues of a similar nature.

Mr. Sherlock addressed the Sub-Committee in respect of his representation. His concern was that it was a substantial extension upon framework hours and he was concerned at the potential impact of noise nuisance on a nearby residential development which had been granted planning permission. Once completed, those residential properties would be in close proximity to the venue and would be impacted by the Premises.

Mr Jonathan Melnick, The Legal Adviser addressed the Sub-Committee with respect to the agent of change principle in planning terms. He further advised that the prevention of public nuisance required the Sub-Committee to look at that likely impact now and not at some point in the future. Ms. Clover explained that her client had taken part in the planning application process, given that it was concerned as to the risk those developments posed to the Premises. Ms. Clover asserted that the grant of planning permission was not referred to in Mr. Sherlock's representation and that it was a breach of the s.182 Guidance and Regulation 18 of the Licensing Act 2003 (Hearings) Regulations 2005 to refer to that for the first time at the hearing.

During questions from members, Ms. Driver confirmed that she had not received any contact from residents about the application and that the application process had been followed. Mr. Henry provided more detail about the WhatsApp group he had mentioned and he confirmed that the residents on that group had seen the full blue notice.

During concluding remarks, Ms. Clover commented that the venue would be operating flexibly and it was not intended to operate to 07:00 hours every Sunday to Monday. At bank holidays, noise levels tended to be lower and the Premises had demonstrated the ability to operate extended hours without impact. She again asserted that the venue was already an exception to policy and therefore we could not apply the policy exception now. Ultimately, the issue was the likely impact upon the licensing objectives and, in her submission, there was no basis on which to refuse the application.

Decision

This application engages the licensing objectives of the prevention of crime and disorder and the prevention of public nuisance. Turning first to the issue of the plans, it was unclear why Mr. Sherlock maintained his objection to that variation. It was not referred to in his written representation, he maintained the objection when asked by the Legal Adviser at the start of the hearing, but then failed to address the point when he addressed the Sub-Committee. Given that this aspect of the variation is essentially administrative and there was nothing proposed in the varied plans that was likely to adversely impact upon the licensing objectives, the Sub-Committee can dispense with that aspect of the application swiftly and grant the variation with respect to the plans.

The extended hours, however, were far more of a concern to the Sub-Committee. Members disregarded the issue of future development. The Sub-Committee was focused on the likely impact of the grant of the variation on the area as it is, not as it might be at a later date. With respect to the Council's policy and framework hours, the Sub-Committee understood Ms. Clover's submission to be that if a venue is already an exception to policy, the policy cannot then be relied upon later. That was not a submission that the Sub-Committee could accept. The fact that a licence is granted outside of policy at that time cannot possibly be said to then mean that the policy can never be applied thereafter. An exception allowing a venue to operate, for example, to 01:00 hours on Monday is an entirely different proposition to allowing it to operate until 03:00 hours or 05:00 hours.

The Sub-Committee also understood Ms. Clover to assert that Ms. Driver could not comment on the crime and disorder licensing objective because that was within the purview of the police. That is not correct and misstates paragraph 9.12 of the statutory guidance. Any responsible authority (or other person) may make representations about any of the licensing objectives although they must of course be able to withstand scrutiny.

The Council's Policy, at paragraphs 16.6 and 16.7 make clear that *"the possibility of disturbance late at night and in the early hours of the morning, and the effect that any such disturbance may have, is a proper matter for it to consider when addressing the hours during which licensable activities may be undertaken."* Further, the Authority is obviously going to be concerned with the risk of alcohol-related disturbance late at night and in the early hours of the morning. Thus, *"applications to carry on licensable activities at any time outside the framework hours will be considered on their own merits with particular regard to the matters set out in the policy section below."* Those matters include (at paragraph 16.8, the location of the premises and character of the area, the hours sought, and the adequacy of proposals to address the licensing objectives of the prevention of crime and disorder and the prevention of public nuisance, the past operation.

The Sub-Committee accepted that there were no representations from the police or from local residents. Equally, however, there were no representations in support of the Premises and the lack of representations from the police or residents could not be taken as indicating tacit consent. Ms. Driver's representation noted that the variation, if granted, would effectively allow the Premises to operate continuously throughout the weekend, from Friday to Monday, with only a one hour break between 07:00 hours and 08:00 hours each day. Members noted Ms. Clover's submission that the Premises would not necessarily operate to these hours every Sunday. However, that would be the permitted effect of granting the variation.

Sundays are restricted in the Council's Licensing Policy because it is the night before the start of the working week and it is important to allow some respite from the later hours to which most premises will operate on Fridays and Saturdays. People will generally expect venues to close earlier on Sundays and will not expect them to operate as an extension of Fridays and Saturdays. It is also important in this context to recognise that the Premises are

predominantly a club venue. Whilst the venue is put to other use, it is the nightclub use to which this variation relates.

The Sub-Committee also accepted Ms. Driver's submission that not all patrons will leave at closing time. There will no doubt be a dispersal of patrons throughout the small hours who, whichever direction they go in, will pass a number of residential properties. Particularly when dispersing on foot, having been in a club all night and having been drinking and in high spirits, they will be louder than they would otherwise. By the same token, ambient noise levels will also be lower, which will have the effect of any such noise seeming louder. Traffic noise from taxis will similarly be likely to have an impact on.

The Sub-Committee noted also Ms. Driver's point in her representation about drug dealers being attracted by such venues. Whilst it is accepted that the police have not made a representation, the Sub-Committee did accept Ms. Driver's submission that this would be a likely consequence of granting the variation.

Whilst the Sub-Committee accepted that the Premises has operated to late hours on Mondays at bank holiday weekends and under TENs, those are occasional. There will be more tolerance of noise at bank holidays because the Monday is not a working day. However, allowing the possibility of late operating hours every Sunday into Monday does, in the Sub-Committee's view, require closer consideration, particularly given the strong steer in our policy as to the hours that are appropriate for licensable activity. The Sub-Committee has paid particular regard to paragraphs 9.42 to 9.44 of the statutory guidance as well as paragraphs 10.13 and 10.14. The Sub-Committee was satisfied that granting the variation would inevitably undermine the licensing objectives, predominantly that of the prevention of public nuisance but also, to a lesser extent, the prevention of crime and disorder. The Sub-Committee considered other options, such as a reduction in hours or additional conditions. The Sub-Committee was not satisfied that additional conditions, such as a power of veto, would be appropriate or proportionate nor did it consider that some increase in the hours could be granted without there being some impact.

The Sub-Committee's decision is to refuse the variation insofar as it relates to the increased hours on Mondays.

Accordingly, the Sub Committee unanimously;

RESOLVED

That the application for a variation of the premises licence for **Studio Spaces/E1, 110 Pennington Street, London, E1W 2BB** be **REFUSED**.

5. EXTENSION OF DECISION DEADLINE: LICENSING ACT 2003

There were no extensions for decision deadlines.

**6. TEMPORARY EVENT NOTICE FOR COLOUR FACTORY, UNIT 8A
QUEENS YARD 43 WHITE POST LANE LONDON E9 5EN**

This item was withdrawn by the Applicant.

The meeting ended at 4.10 p.m.

Chair, Councillor Peter Golds
Licensing Sub Committee