

BEFORE THE LONDON BOROUGH OF HACKNEY'S  
LICENSING SUB-COMMITTEE

An application for a Premises Licence under the Licensing Act 2003 for:

**LIGHT BAR & RESTAURANT**

233 Shoreditch High Street, E1 6PJ



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SUBMISSIONS ON BEHALF OF THE APPLICANT:  
LIGHT BAR & MARKET LTD

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*For Remote Hearing : 8 September 2022*

## **Introduction – a historical building and the applicants**

1. The Light Bar & Restaurant operates from the landmark Victorian building at 233 Shoreditch High Street. This building has served the public and local area, in different ways, since 1893 when it first opened as a power station. The building played a pioneering role in the development of electric power and, from 1900, the former borough of Shoreditch used it as inspiration for its motto ‘*More Light, More Power*’.
2. The Light Bar, under different owners, then operated as a 500-capacity drink-led bar and nightclub from 2000-2014. Its generous premises licence permitted it to operate until 3am Monday – Saturday and midnight on Sundays. In 2010-2012, a local campaign group involving, among others, Suggs and Tracey Emin, successfully prevented the building being demolished by developers. The Victorian Society described The Light Bar as “*a landmark for the area both historically and now for the vibrant diversity that characterises the East End.*”<sup>1</sup> Following advice from English Heritage, the building became part of the Shoreditch Conservation Area.
3. The regeneration and development project went back to the drawing board and the 51-storey Fosters & Partners designed tower-block planned for the site was re-positioned with the specific objective of enabling the Light Bar to continue trading as the iconic Shoreditch venue it had by now become. At the time, Cllr Guy Nicholson, Hackney Council cabinet member for regeneration, was reported as saying:

*“The new offices, hotel, affordable and private homes, shops and open spaces will bring opportunities for residents and make a great contribution to Hackney’s economy. The Council welcomes the developer’s response to local requests in embracing 233 Shoreditch High Street into this approved version of the scheme.”*

4. However, that premises licence came to an end when the previous operator sadly died. Due to an administrative oversight the licence was not transferred to the estate of the former operator and this valuable licence was surrendered. The building then remained vacant and boarded up for some 5 years.

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<sup>1</sup> Heloise Brown cited in Hackney Citizen 13.11.2019 in Applicant’s Bundle p.47

5. Fortunately, in November 2019, the Council made an exception to its special policy when granting a new premises licence to the current operators to run a new food-led premises and bar. Some £2 million was invested into restoring the site and opening it up again to the public. And then the Covid pandemic struck in March 2020. The devastation this has caused to licensed operators, particularly independent operators as is the case here, will be well-known to this sub-committee.
6. The original investment was mostly made up of the entire personal savings of Mr Morten Jensen and his business partner Darren Collins who are behind this independent project. Mr Jensen lives in Hackney with his wife and children who attend local schools. He has been an active member of local Hackney community groups over some 15 years. His co-owner, Darren Collins, is also a long-standing Hackney resident. Between them they have some 50 years' experience operating venues in Hackney. Their personal investment and commitment in ensuring the Light Bar & Restaurant continues to be a success and an asset to the locality is very high indeed. They operate in the community in which they and their children live.
7. Since re-opening in early 2021 the venue has operated to critical and public acclaim. It operates over two floors plus a mezzanine bar. The Light Bar's food offering centres on simplicity, quality and flavour. The focus is on sustainability - working with small, local farms to provide farm to table, seasonal dishes across all three floors. The aim is to make as much as possible in-house using the best ingredients. In 2021 Conde Nast Traveller magazine listed the Light Bar as one of the "*best restaurants in London*" and commented: "*A legendary East London building is brought back to life...it shines bright in an area already beaming with top foodie hotspots*". The Guardian's restaurant critic stated in 2021: "*Here is a chef who refuses to be bland, and who bombards his diners with flavour; sometimes delicious, sometimes off-putting, but never forgettable*". In 2022 the restaurant became one of only five London restaurants newly listed in the Michelin Guide and is shortlisted in the G&Q Restaurant and Bar Awards.

### **The new premises licence application**

8. This application, by the current operators of the Light Bar & Restaurant, is designed to ensure the premises can continue to operate in light of the extreme financial challenges they now face because of debts incurred during the Covid-lockdowns and the ongoing cost of living/energy crisis.
9. If this application is granted then the jobs of the 65, mainly locally employed and properly paid, staff at the premises will be secured and its award-winning food and drink offering will remain available to those who live and work in Shoreditch and value what the venue has to offer.
10. The operators take their responsibility towards their staff seriously. Considerable sums are invested in training programmes for staff and promoting them internally as their skills and experience develop. Because the business was a new one, it did not qualify for Government furlough payments and so key staff members were financially supported from the personal pockets of the operators during the lockdowns. The operators are in significant debt as a result. Their energy bills are expected to at least triple in the coming months. This financial position is unsustainable under the restrictions on their current premises licence. This is an exceptional venue that is worthy of the Council's support and confidence.
11. This application is, in substance, a variation of the existing licence by way of a new licence application. In summary, the application seeks to:
  - a. Extend the terminal licensable hours from midnight to 01:30 (with closure 30 minutes later, and a slight increase in starting time);
  - b. Increase the maximum capacity from 250 to 325 customers; and
  - c. Extend from 10pm to 11pm the latest hour at which drinks may be taken outside (in line with the permitted hours for outside drinking within the Business and Planning Act 2020).
12. Other than these changes, the robust set of conditions already on the existing premises licence are duplicated on this new application.

13. Put starkly, without greater flexibility on the existing premises licence the business is unlikely to be able to survive.

#### **Further additional measures proposed**

14. Given the Light Bar & Restaurant is located at the very edge of the Shoreditch Special Policy Area (“SPA”), and within a stone’s throw of the boundary with the City, the applicant does not simply rely on an economic appeal to Members of the sub-committee. (Though the Court of Appeal has stated that economic factors *can* properly be considered in licensing decisions)<sup>2</sup>.
15. Instead, should this application be granted, the operators are also proposing significant *further* restrictions on the existing authorisation to ensure the venue continues to have a positive impact on the area and does not add to existing cumulative impact issues.
16. The applicant now proposes these additional measures to help to counter-balance the flexibility now sought on hours and capacity:
- a. Whilst the whole premises is already food-led, albeit with bar elements (particularly the small mezzanine floor), the first floor “Timber Loft” is, for the first time, to be formally conditioned as a restaurant. The newly proposed condition is: “*On the first-floor alcohol shall only be sold to persons who are taking substantial table meals (except when there is a pre-booked or corporate event)*”.<sup>3</sup>

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1. In *R (o/a/o Hope and Glory Public House Ltd) v City of Westminster Magistrates’ Court and Others* [2011] EWCA Civ 31, the Court of Appeal (per Toulson LJ) observed that [at §42]:

*‘Licensing decisions often involve weighing a variety of competing considerations: the demand for licensed establishments, the economic benefit to the proprietor and to the locality by drawing in visitors and stimulating the demand, the effect on law and order, the impact on the lives of those who live and work in the vicinity, and so on.’*

<sup>3</sup> The exception for pre-booked or corporate events is important as on occasions the 1<sup>st</sup> floor is hired out for corporate and similar events where food is invariably served together with a glass of champagne or wine but not every attendee wishes to eat.

- b. A minimum level of seating requirement is now proposed as a condition to prevent this venue mutating into a large vertical drinking bar and ensure its current, non-problematic, style of operation continues and is future-proofed. The condition proposed is: “*There shall be a minimum of 200 seats available for customers at all times the premises is open to the public*”.
- c. The aim of this application is to allow customers to enjoy a meal at a later dining session, and to permit them to finish it, or perhaps a cocktail, unrushed and comfortably rather than to attract new customers into the premises in the early hours of the morning. To this end the following last entry condition is proposed: “*There shall be no admittance or re-admittance to the premises after midnight save for customers permitted to temporarily leave the premises, for example, to smoke*”. This means customers will not be entering the premises any later than the current premises licence already permits the venue to operate until.

### **Representations to the application**

- 17. Importantly, no resident, resident groups or ward Councillors have objected to this application. This is unsurprising, because most of the venue’s customers are themselves local residents, including those living in one of the 298 apartments in Principal Tower which is immediately behind the Light Bar. Many residents have expressed their support for the operator (see letters within Applicant’s Supporting Bundle relating to the original application in 2019).
- 18. It is surely better for local residents to be able to finish their night in their preferred local venue (the objective of this application) as opposed to the current situation where many customers of the Light Bar have to leave at an artificially early hour set on the existing licence and then simply migrate to other venues further inside the Shoreditch SPA (not least because many other nearby venues have last entry times conditioned on their licence resulting in some customers leaving the Light Bar even earlier than its current closing time so they can get into other venues with later closing times). This migration issue risks adding to the cumulative impact in the SPA. In contrast, if this new application is granted, these customers can finish their night in the Light Bar and go home. This preferred scenario

positively promotes the licensing objectives rather than negatively impacting on cumulative impact.

19. Only the police and licensing authority have made a representation. Both are purely policy based and neither makes any specific criticism of the Light Bar or its current impact on the area.
20. The police have recently confirmed that there has not been a single incident of violence or disorder at the premises.<sup>4</sup>
21. The licensing authority do not point to any noise complaints either.
22. The Council's Environmental Health team, who are the principal guardians of the public nuisance objective, have *not* objected to this application.
23. This is a remarkable record for a venue already operating in Shoreditch's night-time economy. It adds support to the applicant's suggestion that they run an exceptional venue whose operation does not add to existing cumulative impact issues. Indeed, the venue offers a more civilised food-led alternative to other venues in the Shoreditch SPA that contributed to the issues that gave rise to Hackney's special policy. Supporting venues in the SPA such as the Light Bar helps to promote the licensing objectives because it means the better run venues are helped to survive. The unattractive alternative is that a bad status quo is preserved where poorly run venues are protected from competition from more professionally run venues.

### **Landlord's positive influence**

24. The Light Bar shares a landlord with the residents in Principal Tower. The closest residents are therefore under the protection of the same landlord as the venue.

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<sup>4</sup> Only 5 reported thefts over the past 18 months. Disclosed in email from Pc [REDACTED] to Keystone Law on 1.9.22

25. This imposes a heavy obligation on the Light Bar to continue to operate their venue, even at a later hour, in a manner that does not cause a public nuisance or lead to crime and disorder (because they risk forfeiting their lease as well as their licence if they fail to do so).
26. The landlord has invested some £500 million into this development yet they have, unhesitatingly, offered their support to the Light Bar in this application – because they trust the operators to act responsibly under any extended licence and in a manner that does not disturb their residents.
27. In this sense, the Light Bar will be self-policing. The landlord will simply not permit the Light Bar & Restaurant to become a “problem venue” that negatively impacts on the area because that would amount to serious commercial self-harm. Terms in the lease agreement provide the landlord with powerful legal options to control activities at the Light Bar and ensure the peace is kept. The applicant recognises this and is committed to continue to work closely with the responsible authorities and resident representatives should this application be granted.

### **Track record of TENS**

28. The later hours now applied for have already been trialled in January and then August 2022 under the authority of temporary event notices (“TENS”). There were no issues on these late nights and customers were able to end their evening in the Light Bar as anticipated. This provides a real-world demonstration of the impact of later hours – they are likely to be insignificant to cumulative impact.

### **Increased capacity**

29. In relation to the capacity increase now sought, the fire safety capacity of the venue is 550 persons. The previous licence held until 2014 permitted some 500 people in the building.
30. Given the existing capacity limit on the premises licence is set at just 250 persons, the premises feels half-empty even when operating at capacity.



31. Additionally, customers wishing to dine or have a drink at the venue must be turned away from the door once the capacity has hit 250. This damages both the business' crucial bottom-line and means that customers barred from entry will migrate to other venues in the Shoreditch SPA. Permitting them to enter the Light Bar, which is on the very edge of the SPA, would help to prevent this migration and so promote the licensing objectives.

### **Applicant's supporting bundle**

32. In support of this application, a bundle of Supporting Material has been submitted on behalf of the applicant. This bundle contains, in summary:

- a. An updated presentation on the venue (including photographs);
- b. Sample menus
- c. Documents submitted in relation to the 2019 licence application, including:
  - i. The surrendered 3am nightclub licence;
  - ii. An expert report by Mr Guy Hicks (a former police licensing officer in Hackney). Mr Hicks dealt with the Light Bar when it operated under its 3am licence. He confirms that:
    - Because of its specific location, the Light Bar did not adversely impact on the Shoreditch SPA because customers did not tend to disperse into the more sensitive areas covered by the SPA but, instead, exited the *other* way towards Liverpool Street Station and so away from the SPA;
    - The venue was *not* previously a crime-generator or associated with anti-social behaviour or disturbance when it operated until 3am;
    - Mr Hicks reviewed the operating policies the current operators brought in to minimise its impact on the area and comments favourably on them;

- Mr Hicks also makes the common-sensical point that it must be better for residents living nearby to be able to enjoy food and a drink on their door-step rather than having to traipse into the heart of the Shoreditch SPA to do so. The former helps to mitigate the impact on the SPA, the latter risks aggravating it. Mr Hicks concludes: “*Less migration of customers to venues further afield means less adverse impact*”.

iii. Dispersal Policy;

iv. Smoking Policy;

v. Outside Management Plan;

vi. Hackney Citizen and BBC news articles on the earlier campaign to “Save the light Bar”;

vii. Letter of support from the Landlord;

viii. Some 20 letters and emails of support for the venue from local Shoreditch residents.

## Conclusion

33. The two objections to this application are Policy based. But, as this sub-committee is well aware, Hackney’s Special Policy is not designed to be absolute. In appropriate cases it can be departed from and exceptions made. In this regard, the words of District Judge Anderson in a different case are apposite:<sup>5</sup>

*“It cannot be the policy of the cumulative impact policy to bring the iron curtain clanging down... I accept that the committee and the police did their best but their*

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<sup>5</sup> *Brewdog v Leeds City Council*, DJ Anderson, Leeds Magistrates’ Court (6.9.2012)

*application of the Policy was too rigid. They seemed to take the view that man was made for the policy, when the Policy should be made for the man”*

34. It is submitted that the present application would make a worthy and justified exception to Policy. Given the unique background to this application, the importance of this building to the heritage of Shoreditch, its previous long-term use as a licensed premises to later hours than now requested, the excellent track-record of this premises under its existing operators, and the further additional measures being offered, a grant of this application would create no precedent. Instead, a grant would enable this iconic building to continue to serve the good of the community.

35. For these reasons the licensing sub-committee is respectfully invited to grant this premises licence application.

36. These submissions will be amplified at the remote hearing on 8 September 2022 and the operators will be available to answer any questions the sub-committee Members may have of them.

[REDACTED]

Counsel for Light Bar & Restaurant

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5 September 2022