



Sanaria Hussain <sanaria.hussain@hackney.gov.uk>

Supplementary Information - RE: Licensing Sub-Committee hearing 16/02/2023, Arch 322, Andrews Road

12 February 2023 at 19:38

To: Sanaria Hussain <sanaria.hussain@hackney.gov.uk>

Cc: [REDACTED]

Dear Sanaria,

Please find below a response to both the dispersal policy document and their response to the submission. I have attached these as a document as well.

Regards

Dispersal Policy

A dispersal policy is to be welcomed but this proposal is largely a rehashing of what any licensed premises would be expected to do as terms of a licence. It also includes elements that are unlikely to happen, or could be problematic legally and is unlikely to reduce ASB.

The dispersal cannot be carried out realistically; either because of limited staffing but also challenging people, once on a public highway, having left the immediate area of a venue, would not be legal. Indeed a challenge may lead to conflict. So the dispersal is not a wider area but simply moving people from the venue entrance (Andrews Road) to a different area (likely Mare Street in front of residential buildings). This will be particularly noticed when groups of people are awaiting transport.

Offering taxi numbers, asking people to wait inside the venue, suggesting they use the bathroom, respect neighbours are wallpapering over reality. People will use Uber and other apps, and gather noisily on Mare Street whilst waiting. A late licence would extend, aggravate and exacerbate an existing problem.

The venue can not 'flypost' notices in the area to remind people to be respectful - a policy that would, in any case, have zero impact on behaviour.

The banning of customers is of little comfort if residents have been subjected to adverse impacts arising from the granting of the licence.

The numbers (between average 50-60 /90 for events) will clearly see a negative impact on residents when customers leave, in addition to the negative impact of having them use the space so close to where residents live.

Going by what already happens in the area, where a night time economy has crept up upon locals, without any major consultation by Hackney Council, Andrews Road by the railway arch, the foundry, the cul-de-sac and doorways will inevitably be used by those leaving the premises as a toilet. This will be in addition to pre-existing ASB - which has not been seen as a priority for the police residents rarely call them to deal with ongoing issues of public urination, drunken shouting, altercations and other behaviour. The police are wrong to accept this dispersal policy as negating impact. The Hackney Noise Service is so understaffed and over used, that it is pointless even contacting them for such matters.

On paper the dispersal policy appears to offer a workable policy but is largely superficial, unworkable and unenforceable with many of the proposals likely to have no impact on the key element of noise / public nuisance and related issues arising from any venue operating evening hours in this space.

Response to applicants Hearing Submission

It is perhaps worth noting that there was no problem with this space when originally conceived as a deli/bakery. The objection is against a) the use of this as an evening restaurant which is not just within the arch but relies on a tiny outside space that will be far too close to the nearby buildings to not cause a persistent noise issue. This is further compounded by the applicant pushing for late licence without being able to mitigate the noise issue that is inherent in a proposed evening venture. The response by the applicant persists in ignoring the fact that *any* use of that outside space will cause an ongoing, consistent noise issue for residents.

The area is and has been residential for some 25 years when there were no licensed bars (the pub has been closed for nearly 26 years) or restaurants and further residential buildings subsequently added and whilst, acknowledging this is a busy street within a city, does not mean that they should find themselves subservient to the desires of a business whose original conceit was different to that which they now wish to pursue.

Much of what is included in the response is either irrelevant, platitudinous or obfuscatory. Even with the minor changes to proposed hours, the applicant fails to address key concerns about impact to residents (notably that any use, particularly in the proposed numbers and hours of the space to the rear of 5-11 Mare Street) will have a **continuous, pernicious, negative impact on their lives through noise (public nuisance)**.

This document repeatedly uses the terms "education" or "cultural" (e.g. points 7, 22, 24) - which are impossible to define and can be seen as designed to mislead or misdirect. Neither education or culture (or variations of such words) are in the application, press or funding proposal. They are inserted repeatedly to create a sense of quality or benign, good intention. Is a wine tasting followed by a long drinking party an education? A menu addition, followed by a party a cultural event? A tour of the railway arch for donors followed by a drinks party an architectural talk? These are irrelevant, impossible to define and designed to mislead and to allow circumvention and should be disregarded.

The document now states events will be "ad hoc" and "infrequent" (point 7). This is contrary to promotional material and press where they applicant outlines the: "hiring out space for a myriad of evening events" and "large private dinners", hosting "special events" and "collaborations". The insertion of "ad hoc" & "infrequent" appears to be disingenuous against what has previously been promoted.

The applicant or their agents emphasise their largesse in **reducing the trading hours** (although these amount to a minor reduction without addressing the overall key concern about proximity to flats and residents and key issues of noise).

The applicant in point 3 states “the premises is mainly food led” **alcohol sales are “ancillary”**. If alcohol is “ancillary” there is clearly room to recognise the negative impact on residents and reduce that harm by accepting significant restrictions and not pushing for extended hours.

The document, more than once, **misrepresents objections** overstating accepted positions such as “will not and cannot operate as a club” - an assertion nobody has made.

There is in both the dispersal document and the response document **unnecessary outline of events** (notably here in Point 11 and a reiteration in 12) a list of things that would be expected of any licensee. They appear to be included to obfuscate the issue of public nuisance.

More than once **hyperbole about the largesse of the applicant in respect of hours** - “agreed to *significantly* modify the hours” later “*dramatically* reduced” - without acknowledging a key concern about the proximity to buildings (notably 5-11, 13-15 Mare Street) even with the newly proposed hours. The proposed use of and hours of use of the external space are key to noise concerns (although not exclusively). The document ignores the issue, deflecting to the entrance exterior space since they are aware that the proposed use and hours will cause persistent, problematic noise to those flats just a few meters away, seven days a week, detrimentally impacting on family life in that building. A space previously empty, bordered by brick walls and design will massively amplify any and all noise in this tiny space. A tiny space into which the applicant proposes some 20 tables presumably occupied by at least two or more customers.

In point 22 g) the applicant states that the numbers will be between 50-60 and 90. Those numbers are presented by the applicant as not causing a problem. This is simply not true. From noise on entry, to noise on departure to the front of Mare Street, to the use of external space, to the proposed persistent or infrequent cultural/educational or third party events there will be a noise impact.

The issue of **additional noise from music is not properly addressed** instead we are asked to believe it will be used simply as “*ancillary to the event being held, as a way of enhancing the presentation that is taking place (sic) on a particular evening*”. The objection related to noise from recorded music or live performances through open doorways (in the summer highly likely, or a persistent open and closing at all times) to the external spaces and further negative impact to residents.

It is also worth noting at this point that **the applicant’s other venue** across the road (just inside Tower Hamlets and subject to their licensing terms) has in the past organised DJ’s and live groups performing amplified sets outside their venue till late. Perhaps this is an accepted part of their licence? Or maybe it was billed as an “educational/cultural” event? There was also menu changes, and to celebrate people were invited via Instagram and other social media platforms to come and celebrate at a party. Events audible and impacting on 5-11 and 13-15 and 17-19 and other buildings in Mare Street. These are enough to raise concern that these issues require considerably more than platitudes or ill-defined words for the new business. If a licence is granted and the owner pursues a similar policy or loose interpretation of licensing terms, then it will be harder and more difficult to remedy than imposing restrictions at an earlier stage to avoid potential issues in the future.

The suggestion that the dispersal document shows there is no concern about **ASB** is frankly insulting when residents live with such matters daily.

There are attempts to suggest that the offering is somehow different. That the alcohol served is different to other venues, (again that assertion: “alcohol is ancillary”), whilst continuing to promote events where alcohol will be a key component and not forgetting the profit margin inherent in alcohol sales. People get drunk at events, drink to excess when eating whether it is a natural, organic, expensive wine or mass produced and cheap.

The document has numerous misdirections and **invalid points** notably Point 22 f) - a reference to the Mayor of Hackney attending an event.

The inclusion of a selected part of the judgement from the **Court of Appeal Hope & Glory (2011)** case is curious. The case was more complicated and nuanced than can be summarised in a selective aspect of the judgment and has no relevance in this specific matter not least that it dealt with changes to an existing licence not a new application but also that it’s primary dealing was with a matter of judgement and process.

Meanwhile if the applicant wishes to cite difficult trading then perhaps this quote from their venue’s own pre-publicity may be more relevant:

Ibrahim has been candid about how the pandemic was “the best thing that ever happened to Ombra” — in terms of revenue, awareness, and customer growth. (Eater magazine July 31, 2021)

Contrary to Point 24 - summary - **the four licensing objectives have not been met**. The matter of public nuisance and noise, primarily (but not exclusively) through the proposed use of an outside space; the pursuit of late hours of operating; inadequate or vague answers, statements of intent or attempts to present this venue as neither a restaurant, bakery or deli but as some landmark community centre engaged in cultural and educational talks and presentations, show that the criteria have not been met robustly or otherwise.

As noted in the opening remarks, the push for late hours, refusal to acknowledge any negative impact arising from their proposal, and change from deli /bakery to restaurant and event space compound concerns about impact on residents. Residents were here before this proposed business yet are being asked to accept ongoing, negative impact for what would be minor economic gains for the area. Benefits that would be eroded if problems arise through the need for enforcement from council services or from other authorities.

A deli/bakery, as originally conceived would have allowed growth to the existing business (Ombra), additional benefit through regeneration of the arch without any negative impact associated with serving alcohol.

On that basis and taking the applicants own words of being “food led” and alcohol sales as “ancillary” then they should be willing to accept a severely restricted licence. Off-sales, would support the deli. Serving of wine only with food during daytime hours only without evening meals, would meet a food led business without negative impacts to local residents.

If, a full licence were to be granted it must be highly restricted. The outside space (rear of 5-11 Mare Street) should not be used. Or that it can only be used by a very small number of people and not used beyond 18:00 hrs. Nor should the applicant be allowed to add any structure such as roof covering (these would create further amplification of sound in an already acoustically problematic space) or heaters. The front outdoor space should not be used beyond 21:00 hrs. Closing time should be within the designated framework hours.

The argument for an exception has not been met - and given that again, within the fundraising and publicity the applicant stated many times that evenings were not a priority. “*Initially opening as an all day - but not nighttime - operation*” (*Evening Standard, 14th November 2022*); “*the new site will not serve pasta in the evenings...it will have a terrace at the front and, in time out the back*” (*Eater Jul13 2021*). If, in due course the applicant wished to seek an amendment to restricted hours of operation then this would be up to them.

It is frustrating to repeatedly see in press and fundraising material, from 2021 to 2022, alcohol being promoted and promised as a core part of a business. Yet an application was not made until December 2022. Applications for alcohol, whether ‘food led’ or ‘bar led’ should not be seen as a “right” or as automatically given nor should residents be taken for granted, nor their concerns avoided, dismissed or invalidated particularly so given that the residential aspect precedes a business proposal.

The council should look carefully, not just at the individual application, but also the area's suitability and **cumulative impacts of other venues and applications**. This will be the fourth licensed venue within a small and dense residential area. Nearby another bar is pushing for a late licence of 02:00hrs (Bleat in Sheep Lane). It is imperative that the bigger picture be considered and that late licences resisted and that residents take precedence when other venues, more suited to certain trading positions, in established clustered areas more suited for the nighttime economy already exist. Pushing to transform a residential area into should be resisted.

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 **rebuttal of dispersal and resonse.pages**
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