

London Borough of Islington
DRAFT
Licensing Sub-Committee A – 6 November 2012

Minutes of the meeting of Licensing Sub-Committee A held at the Town Hall, Upper Street, N1 2UD on 6 November 2012 at 6.40 pm.

Present: **Councillors:** Wally Burgess, Phil Kelly and Jean-Roger Kaseki.

COUNCILLOR WALLY BURGESS IN THE CHAIR

166 **INTRODUCTIONS (ITEM A1)**

Councillor Burgess welcomed everyone to the meeting and asked members and officers to introduce themselves.

The procedure for the meeting was outlined and those present were informed that it was also detailed on page 5 of the agenda.

167 **APOLOGIES FOR ABSENCE (ITEM A2)**

None.

168 **DECLARATION OF SUBSTITUTE MEMBERS (ITEM A3)**

None.

169 **DECLARATIONS OF INTEREST (ITEM A4)**

None.

170 **ORDER OF BUSINESS (ITEM A5)**

The Sub-Committee noted that the order of business would be as the agenda.

171 **MINUTES (ITEM A6)**

RESOLVED

That the minutes of the meetings held on the 12 September 2012 be confirmed as an accurate record of proceedings and the Chair be authorised to sign them.

172 **CANDID ARTS TRUST, 5 TORRENS STREET, EC1V 1NQ – APPLICATION FOR A NEW PREMISES LICENCE UNDER THE LICENSING ACT 2003 (Item B1)**

The licensing officer reported that an email recently received from the planning service indicated that, if events at the premises were held on more than 15 occasions a year this would constitute mixed use and planning consent would be required.

The noise officer reported that there had been one noise complaint, in December 2010, regarding noise issues.

The licensing service manager tabled the licensing representation that was omitted from the papers and reported that there were concerns regarding the cumulative impact in the area and proposed a reduction in hours was recommended. The representation would be interleaved with the agenda papers.

Local residents Clare Taylor, Jill Nicholls and Sue Mackenzie-Gray spoke against the application. They reported that they had made a number of noise complaints about the premises and were concerned generally about the anti-social behaviour associated with the night time economy. They

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considered that the premises were not suitable for regulated entertainment as it was in a considerable state of disrepair.

Duncan Barlow, the applicant, reported that the application was for No 5 Torrens Street which was not in disrepair. The operation was not for a nightclub but for a multifunctional space used for exhibitions. Twenty nine events had been held since January 2011 and he reported that there had not been any complaints regarding these events.

Members noted that the noise conditions proposed that would prevent noise escape from the premises.

In summing up the licensing service manager requested that should the application be granted the hours at the premises be reduced. Residents reported that noise was a concern even where events had been held at the Candid Arts Trust. They reported that the Angel had been identified in the draft licensing policy as an area of cumulative impact. The applicant reiterated that the application was not for a nightclub and that no complaints had been made regarding these events

Members of the Sub-Committee left the room to consider their decision, together with the legal officer and the clerk.

RESOLVED:

a) That, having considered all the evidence and having considered the Licensing Act 2003, as amended, its regulations, the national guidance and the Council's Licensing Policy, the premises licence in respect of Candid Arts Trust, 5 Torrens Street, EC1 be granted to allow:-

i) The sale by retail of alcohol, on the Ground Floor, Monday to Thursday 12:00 to 23:00, Friday and Saturday 12:00 to midnight and Sunday 12:00 to 18:00 and on the First Floor, Monday to Saturday 12:00 to 22:00 and Sunday 12:00 to 18:00.

ii) Recorded music, live music and provision of facilities for dancing on the Ground Floor, Monday to Thursday 12:00 to 23:00, Friday and Saturday 12:00 to midnight and Sunday 12:00 to 18:00.

b) That conditions as outlined in appendix 3 as detailed on pages 58 and 59 of the agenda.

REASONS FOR DECISION

The Sub-Committee considered the submissions put forward by the responsible authorities, the interested parties and the applicant and balanced the conflicting needs of residents and the business interests of the applicant.

The Sub-Committee noted that the applicant accepted the conditions put forward by the responsible authorities.

The Sub-Committee noted the views of residents particularly those relating to noise emanating from the premises. The Sub-Committee took the view that, with the addition of the proposed noise conditions and the hours restricted for licensable activities to take place, the licensing objective relating to the prevention of public nuisance would be promoted.

In relation to the application for licensable activities on New Years' Eve, the Sub-Committee took the view that it was open to the applicant to apply for a Temporary Event Notice should he wish to host an event on that public holiday.

In reaching their decision, the Sub-Committee took into particular consideration Licensing Policy 022 which states that the Licensing Authority may seek to restrict the operation hours of premises where necessary to promote the licensing objectives and Licensing Policy 009 which expects

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applicants to ensure they have planning consent for the intended use and hours of operation. The Sub-Committee also considered Licensing Policy 021 regarding flexibility in licensing hours, licensing policy 023 regarding the location of the premises the views of the interested parties and the hours of operation and licensing policy 010 regarding the protection of the amenity of residents where late hours have been sought.

The Sub-Committee considered that with the conditions detailed on appendix 3 on page 58 and 59 of the report the licensing objectives would be promoted.

Note of the Sub-Committee

The Sub-Committee requested the applicant to consult with the planning department in order to ensure that the required planning consent is in place.

173 GROUND FLOOR AND BASEMENT, 379 ST JOHN STREET, LONDON EC1 – APPLICATION FOR A NEW PREMISES LICENCE UNDER THE LICENSING ACT 2003 (Item B2)

The applicant was not in attendance. The licensing officer reported that the applicant had been notified of the hearing date.

The licensing services manager referred to the licensing authority representation. She reported that the premises was in a relatively quiet part of the borough and if a licence was granted at the late hours requested the premises would attract customers from neighbouring areas. Reduced hours were recommended.

Local resident, Charlotte Henney, reported that noise from the closing of the metal shutter and the scooter used for the delivery service already affected them significantly and would not wish to see the hours increased until 02:00 and 03:00 am. She also raised concerns about the litter that was dropped by customers and a large shop sign that she considered did not have planning permission.

Members noted that the applicant had not applied for alcohol sales.

Members of the Sub-Committee left the room to consider their decision, together with the legal officer and the clerk.

RESOLVED:

a) That having considered all of the oral and written evidence and having given consideration to the Licensing Act 2003, as amended, and its regulations, the national guidance and the Council's Licensing Policy, the premises licence in respect of ground floor and basement, 379 St John Street, EC1 be granted to allow late night refreshment between 23:00 and 23:30 Mondays to Sundays.

b) That conditions as outlined in appendix 3 as detailed on page 108 of the agenda shall be applied to the licence subject to the deletion of condition 14.

REASON FOR DECISION

The Sub-Committee considered the submissions put forward by the responsible authorities, the interested parties and the applicant.

The Sub-Committee were disappointed that the applicant did not attend the meeting to assist the Sub-Committee in their decision and to address the concerns of residents. The Sub-Committee heard the views of a resident who lived above the premises regarding the noise experienced currently from the business and took this into account when making their decision to restrict the hours of operation.

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In reaching their decision, the Sub-Committee took into particular consideration Licensing Policy 010 regarding the protection of the amenity of residents and business in the vicinity of licensed premises, particularly when late hours had been sought. The Sub-Committee also considered Licensing Policy 022 which considers restricting the operational hours of premises where necessary to seek the licensing objectives and took into particular consideration Licensing Policy 023 regarding the location of the premises, the character of the area, the views of the interested parties and the proposed hours of operation.

The Sub-Committee considered that with the conditions detailed on appendix 3 on page 108 of the report the licensing objectives would be promoted.

Note of the Sub-Committee

The Sub-Committee invited the resident to check the status of the planning consent regarding the shutters and to consult the noise team regarding any noise issues relating to the premises.

174 THE ROSEBERY, 20 ROSEBERY AVENUE, LONDON, EC1R 4SX - APPLICATION FOR A NEW PREMISES LICENCE UNDER THE LICENSING ACT 2003 (Item B3)

The licensing officer reported that a revised application had been submitted and hours requested were from 10:00 until 21:00 hours Monday to Saturday. There would be no trading on Sundays or Bank Holidays.

Local resident, Paul Denby, reported that there were some concerns and these were detailed in the representations attached to the report.

Daniele Bedini, the designated premises supervisor, supported by Roger Walters, reported that the consumption of alcohol would take place in the lounge area of the aparthotel. No outdoor space would be used and there were no plans to open until 02:00 hours.

Paul Denby considered that the applicant had addressed all the concerns raised.

RESOLVED:

a) That, having considered all of the oral and written evidence and having given consideration to the Licensing Act 2003 and its regulations, the national guidance and the Council's Licensing Policy, the new premises licence, as amended, in respect of The Rosebery, 20 Rosebery Avenue, EC1R 4SX be granted to allow the sale of alcohol between 10:00 and 21:00 hours on Mondays to Saturdays for consumption on and off the premises.

b) That the conditions as detailed on pages 131 and 132 of the agenda be applied to the licence.

REASONS FOR DECISION

The Sub-Committee considered the submissions put forward by the responsible authorities, the interested parties and the applicant and balanced the conflicting needs of residents and the business interests of the applicant.

The Sub-Committee noted that the details provided by the applicant regarding the operation of the premises had addressed the concerns raised by the local residents.

In reaching their decision, the Sub-Committee took into particular consideration Licensing Policy 023 regarding the location of the premises, the character of the area, the views of the interested parties and the proposed hours of operation and Licensing Policy 010 regarding the protection of the amenity of residents and business in the vicinity of licensed premises.

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The Sub-Committee considered that with the conditions detailed on appendix 3 on page 131 and 132 of the report the licensing objectives would be promoted.

175 **THE WIG AND GOWN PUBLIC HOUSE, 99 HOLLOWAY ROAD, N7 8LT – APPLICATION FOR A PREMISES LICENCE REVIEW UNDER THE LICENSING ACT 2003 (Item B4)**

The noise officer reported that the noise team were disappointed to submit the review but did not consider they had an alternative course of action open to them. A number of letters had been sent regarding contraventions but no response had been received and the authority was in the process of preparing prosecution papers. An incident report was tabled and would be interleaved with the agenda papers.

In response to questions it was noted that the limiter had been bypassed on a number of occasions and despite advice being given this was still occurring. The premises were visited at 02:45 on the 1 July. On this occasion the DJ's equipment had not been connected to the limiter. The visit was after licensing hours and no TEN had been applied for.

Mr Parker, representing Toni Elliott, spoke against the review. He reported that Toni Elliott did not take over the premises until the end of March 2011. The licensing officer reported to the Sub-Committee that the variation on the licence was dated 23 March 2011 and Ms Elliott would have been responsible for the premises from that date.

Mr Parker informed the Sub-Committee that there were six flats above the premises but only one complainant. He reported a conversation at perfectly normal levels triggered the cutout on the limiter. He tabled a list of visits by the noise team which would be interleaved with the agenda papers. He reported on each visit and considered that on most occasions the noise team had not reported that the music was in breach. Complaints were made on only four occasions after 11pm. He considered that the business needed some support and that the recommendations made by the noise team were disproportionate and would threaten the business.

In response to questions from the Sub-Committee Mr Parker reported that some DJs found that the sound limiter interfered with their equipment. The noise officer reported that she considered that the licensees' representative had downplayed the noise incidents. When the floor was vibrating due to the noise this would be considered a noise nuisance. Visits where no noise nuisance had been found had been entered in the papers for the sake of balance. The noise team had worked hard with the licensee to prevent a review but the limiter had still been bypassed a number of times. A calibration certificate had still not been received and this was a clear condition of the licence.

In summing up, the noise officer reported that if sound could be heard in the residents flat, it would mean that the sound was above the agreed levels. She considered that the only way to solve the noise issues at this stage would be to limit the licence. Ms Elliott reported that no music was played from the 1 July until 7 October. When music was played on the 7 October there was a noise complaint. She also reported that there was no reason why members of the anti-social behaviour team could not have entered the premises on this date as policemen had entered the premises earlier on in the day.

RESOLVED:

a) That, having considered all of the oral and written evidence and having given consideration to the Licensing Act 2003, as amended and its regulations, the national guidance and the Council's Licensing Policy, the premises licence in respect of The Wig and Gown Public House, 99 Holloway Road, EC1V be modified to exclude the provision of live music and recorded music from the premises licence and to include an additional condition relating to public safety as detailed on page 201 of the agenda.

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REASONS FOR DECISION:

The Sub-Committee considered the submissions put forward by the responsible authorities, the interested parties and the applicant and balanced the conflicting needs of residents and the business interests of the applicant.

The Sub-Committee was satisfied that the licensing objective of the prevention of public nuisance had been undermined noting that there had been several breaches of the licensing conditions relating to the use of the sound limiting device installed at the premises over a period of 18 months. The Sub-Committee also noted that a calibration certificate had yet to be received by the licensing authority since the licensee took over the premises in March 2011 despite requests from the Environmental Health team.

The Sub-Committee was satisfied that the breaches of conditions on the premises licence related to noise issues and were not minded to take any other steps recommended by the reviewing responsible authority in relation to the sale of alcohol.

The Sub-Committee considered that the health and public safety condition was necessary in light of the representation made by the Councils Health and Safety officer in order for the licensing objective of public safety to be promoted.

In reaching their decision, the Sub-Committee took into particular consideration Licensing Policy 010 regarding the protection of the amenity of residents and Licensing Policies 035 and 036 the full range of enforcement action available to ensure that the licensing objectives are promoted.

The meeting ended at 9.40 pm.

CHAIR