

London Borough of Islington
DRAFT
Licensing Sub-Committee A – 9 May 2013

Minutes of the meeting of Licensing Sub-Committee A held at the Town Hall, Upper Street, N1 2UD on 9 May 2013 at 6.40 pm.

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

COUNCILLOR WALLY BURGESS IN THE CHAIR

193 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 pages 4/5 of the agenda.

194 APOLOGIES FOR ABSENCE (ITEM A2)

None.

195 DECLARATION OF SUBSTITUTE MEMBERS (ITEM A3)

None.

196 DECLARATIONS OF INTEREST (ITEM A4)

None.

197 ORDER OF BUSINESS (ITEM A5)

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

198 MINUTES (ITEM A6)

RESOLVED

That the minutes of the meeting held on the 12 March 2013 be confirmed as an accurate record of proceedings and the Chair be authorised to sign them.

199 DESMONDS LOCAL, 239 LIVERPOOL ROAD, N1 1LX – APPLICATION FOR A NEW PREMISES LICENCE UNDER THE LICENSING ACT 2003 (Item B1)

The licensing officer reported that the proposed conditions recommended by the Noise and Trading Standards officers had been agreed.

The police officer reported that the premises was in the Angel and Upper Street saturation zone. He reported that there were already 11 off-licences in a 650 metre area of the premises. There was already an anti-social behaviour problem caused by youths in the area and in his opinion, an additional premises would escalate the problem.

The local resident, Mr Harrison, agreed with the police submission.

Charlene Sumnall, counsel, on behalf of the licensee, Mr Ahmed, spoke in support of the application. Ms Sumnall reported that Mr Ahmed was a responsible licensee and had another premises in the borough. The concerns of the police were understood but it was considered that, as a smaller store, the checks to prevent underage sales were greater than larger stores as sales were made face to face. Conditions were offered in order that the type of alcohol sold be restricted. This was a grocery store and alcohol would not be the main product line. There was no evidence to

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suggest that a new business would bring more people to the area.

In response to questions regarding the cumulative impact Ms Sumnall reported that Mr Ahmed was a responsible licensee who would abide by the conditions on his licence. He had been a dps for four years in the borough and held a personal licence. He already knew the area and was already complying with the licensing law. He was aware of all the conditions eg Challenge 25, refusals book, training records, notices in the store and CCTV was already in place.

In summing up, Mr Harrison reported that a convenience store was useful but the sale of alcohol in stores was troublesome. He considered that in the light of the submissions the granting of the licence was not a good idea. The police reported that the premises was in the middle of a number of anti-social behaviour hotspots and the addition of premises for youths to purchase alcohol would increase street drinking problems in the area.

Ms Sumnall reported that the licensee already ran a local premises responsibly and there was nothing to show that an additional premises would add to existing problems. The owner took his responsibility seriously and would not sell to those underage. He had the advantage of face to face sales and knew his clientele.

RESOLVED:

That, the application for a new premises licence in respect of Desmond's Local, 239 Liverpool Road, N1 1LX, be refused.

REASONS FOR DECISION

The Sub-Committee listened to all the evidence and submissions and read all the material. The Sub-Committee reached the decision having given consideration to the Licensing Act 2003, as amended, and its regulations, the national guidance and the Council's Licensing Policy.

The Sub-Committee took into consideration Licensing Policy 002. The premises fall under the Angel and Upper Street cumulative impact area. Licensing policy 002 creates a rebuttable presumption that applications for new premises licences are likely to add to the existing cumulative impact and will accordingly normally be refused unless an applicant can demonstrate why the operation of the premises involved will not impact adversely on the cumulative impact or otherwise impact adversely on the promotion of the licensing objectives.

The applicant did not rebut the presumption and did not show any exceptional circumstances as to why the Sub-Committee should grant the application.

The Sub-Committee heard from the police officer that the area contained 11 off-licences within a 650 metre radius of the premises. The Sub-Committee heard that there was a propensity for youths to gather in the area and congregate in the open spaces having bought alcohol from these off-licences and that problems would be escalated if an additional facility to purchase alcohol was made available to them.

The Sub-Committee also considered Licensing Policy 4 and the adverse impact on the Licensing objectives arising from the increasing numbers of shops selling alcohol for consumption off the premises.

200 HONEST BURGERS, 251 PENTONVILLE ROAD, LONDON, N1 9NL – APPLICATION FOR A NEW PREMISES LICENCE UNDER THE LICENSING ACT 2003 (Item B2)

The licensing officer reported that the proposed condition 14 had been withdrawn as it had been agreed with the health and safety officer.

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Saba Naqshbandi, counsel, Liza Inzani, solicitor, represented Dorian Waite, the Director of the company. It was reported that there were other sites in the London area and there were no issues with these other premises. The concept was a good quality burger restaurant and an application had been made within framework hours. Concerns from Network Rail regarding music and the extraction unit had been addressed, as detailed in the letter tabled at the meeting. This would be interleaved with the agenda papers.

In response to questions, it was noted that off sales would be deleted from the application. Music would be background only.

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

RESOLVED:

a) That the premises licence in respect of Honest Burgers, 251 Pentonville Road, N1 9NL be granted to permit the premises to

i) sell alcohol, on supplies only, Sundays to Thursdays 10:00 am until 23:00 hours and Fridays and Saturdays from 10:00 until midnight.

ii) to supply late night refreshment on Fridays and Saturdays only, until midnight.

b) That the conditions as detailed in appendix 3 as detailed on page 101 of the agenda, subject to the deletion of condition 14, be applied to the licence.

REASON FOR DECISION

The Sub-Committee listened to all the evidence and submissions and read all the material. The Sub-Committee reached the decision having given consideration to the Licensing Act 2003, as amended, and its regulations, the national guidance and the Council's Licensing Policy.

The Sub-Committee took into consideration Licensing Policies 001 and 002. The premises fall under the Bunhill and Clerkenwell cumulative impact area. The applicant had demonstrated to the satisfaction of the Sub-Committee that the operation of the premises would not add to the cumulative impact or otherwise impact adversely on the promotion of the licensing objectives.

The Sub-Committee also considered licensing policy 008 regarding the hours of operation, licensing policy 009 regarding high standards of management and licensing policy 019 regarding noise and considered that the conditions imposed on the licence were proportionate and would promote the licensing objectives.

201 THE FISH AND CHIP SHOP, 189 UPPER STREET, LONDON, N1 1RQ – APPLICATION FOR A PREMISES LICENCE VARIATION UNDER THE LICENSING ACT 2003 (Item B3)

The licensing officer reported that the proposed condition 10 had been revised with the agreement of the health and safety officer.

Ms Eames, solicitor, supported by Mr McDonald, the director of the company, spoke in support of the application. This was an application to vary the licence. The plan had been agreed with the health and safety officer. It was proposed to delete outdated conditions on the licence. It was reported that this was a high quality restaurant, details were included in papers tabled at the meeting and which would be interleaved with the agenda papers. It was noted that the flexibility of an off sales licence was requested in order to allow alcohol to be purchased with take away food. It was noted that there had been no police objections and it was expected that most tables would be pre-booked.

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In response to questions, it was noted that there was limited space for people waiting. An additional half hour was requested for flexibility with dispersal and the price of alcohol was high end. There was already an existing licence which did not previously have a customer capacity.

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

RESOLVED:

a) That the premises licence variation in respect of The Fish and Chip Shop, 189 Upper Street, N1 1RQ be granted as follows:

i). Change the layout of the premises in accordance with the new layout plans referenced TF&CS1209/12/101 (Ground Floor) and TF&CS1209/12/102 (1st Floor)

ii) Extend the terminal hour for the supply of alcohol to 00:00, Mondays to Sundays

iii) Add the facility for off sales, Mondays to Sundays, until 00:00

iv) Extend the terminal hour for the provision of late night refreshment to 00:30, Mondays to Sundays, and

v) Include opening hours of 08:00 until 00:30, Mondays to Sundays

vi) Remove the restrictions on Good Friday and Christmas Day trading

b) That the conditions of Annex 2 of the current licence be deleted and replaced with conditions as detailed on page 139 of the report subject to the amendment of condition 10 to read as follows:-

Condition 10. The maximum number of persons accommodated at any one time in the premises shall not exceed the following:

- Ground floor – 60.

REASON FOR DECISION

The Sub-Committee listened to all the evidence and submissions and read all the material. The Sub-Committee reached the decision having given consideration to the Licensing Act 2003, as amended, and its regulations, the national guidance and the Council's Licensing Policy.

The Sub-Committee took into consideration Licensing Policies 001 and 002. The premises fall under the Angel and Upper Street cumulative impact area. The applicant had demonstrated through their operating schedule that the operation of the premises would not add to the cumulative impact or otherwise impact adversely on the promotion of the licensing objectives.

The Sub-Committee further considered licensing policies 007 and 008 regarding the hours of operation, licensing policy 009 regarding high standards of management and licensing policy 019 regarding noise and considered that the conditions imposed on the licence were proportionate and would promote the licensing objectives

202 AFRIC CARIB, 1-3 STROUD GREEN ROAD, LONDON, N4 2DQ – APPLICATION FOR A PREMISES LICENCE REVIEW UNDER THE LICENSING ACT 2003 (Item B4)

The licensing officer reported that condition 7 had been completed and was deleted from the proposed conditions.

The noise officer outlined the reasons for the review of the licence. It was noted that the problems

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with the premises were regarding the music played in the basement. There had been no problems regarding the use of the restaurant on the first floor.

The licensing authority reported that the venue was not considered suitable for a late night music venue and asked for conditions to be applied to the licence to restrict the basement to restaurant use.

Mr Isebor reported that he had carried out the health and safety works in 2011 but it had not been signed off as completed. He was agreeable to the reduction in hours as he considered that the basement was not suitable as a music venue and he would be looking for more suitable premises. He did not consider that he should be removed as designated premises supervisor as he was capable of managing the business as a restaurant and had been running the business for 30 years.

In response to questions, it was noted that the noise officer would agree to the setting aside of conditions if the premises was not used for regulated entertainment. Mr Isebor informed the Sub-Committee that he had run the restaurant with no problems. He had carried out the health and safety works when requested. He agreed with the proposed conditions with the exception of the removal of the designated premises supervisor.

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

RESOLVED:

a) That it be agreed in respect of the premises licence for Afric Carib, 1-3 Stroud Green Road, N4 2DQ:

- i) that the licence conditions be modified,
- ii) that the effect of the deregulation provided for by the 2003 Act (as amended by the Live Music Act 2012) be removed,
- iii) that the playing of recorded music be removed from the scope of the licence.

b) That the conditions of the licence be modified as follows:

1. Amend the permitted hours for the supply of alcohol to:-
 - a. 10am to 23:00 hours Mondays to Saturdays.
 - b. 12 noon to 10:30 pm on Sundays.
2. Amend the permitted hours for late night refreshment to
 - a. 23:30 Mondays to Saturdays.
 - b. 23:30pm on Sundays.
3. Add conditions
 - The sale of alcohol shall be ancillary to a table meal.
 - No vertical drinking shall be permitted.
 - The licensee shall take all practical steps to prevent alcohol from being consumed on the premises 30 minutes after the permitted hour for the sale of alcohol.
 - The performance of live music and the playing of recorded music shall not be permitted in the premises.

REASON FOR DECISION

The Sub-Committee listened to all the evidence and submissions and read all the material. The Sub-Committee reached the decision having given consideration to the Licensing Act 2003, as amended, and its regulations, the national guidance and the Council's Licensing Policy.

The Sub-Committee noted that the applicant accepted the conditions proposed by the responsible authority. The Sub-Committee considered the applicant's submissions regarding the responsible

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authority's representations in respect of breaches of licence conditions in the past and his acceptance of advice given by the noise team and noted that he had conceded that the basement premises were not suited for certain licensable activities.

The Sub-Committee took into account licensing policy 007 regarding the restriction of licensing hours and licensing policy 030 regarding licence reviews and considered that the conditions imposed on the licence were proportionate and would promote the licensing objectives.

203 ORLEANS, 259 SEVEN SISTERS ROAD, LONDON, N4 2DD – APPLICATION FOR A PREMISES LICENCE REVIEW UNDER THE LICENSING ACT 2003 (Item B4)

The licensing officer reported that a representation had been received from the police in support of the review. This had not been included in the report. In addition to that already proposed by the noise team, the police required the strengthening of the CCTV condition on the licence.

The noise officer reported that the licensee had adopted a positive attitude to the complaints made and had carried out the works requested. The noise officer had agreed amended wording with the applicant to those suggested on page 230 of the report.

Deen Tiyamiyu, solicitor, accompanied by Mr Raphael the licensee, made complaint that the police representation was late. However, the Sub-Committee noted that the representation was received within the 28 day period.

Mr Tiyamiyu reported that he had agreed with the police, earlier that day, a revised condition with the addition of words suggested 'with a view to promote the prevention of crime and disorder objective'.

Mr Raphael reported that there had been problems with communications with the noise team initially but once he discovered the noise outbreak he had been horrified. He no problems with the amended conditions proposed and he had carried out the work required. Mr Tiyamiyu reported that he was concerned regarding the CCTV condition and would not wish to accidentally breach the condition with the wording of an imprecise condition. He requested that recordings only be sought when the police were trying to promote the objective of crime and disorder.

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

RESOLVED:

That the conditions of the premises licence in respect of Orleans, 259 Seven Sisters Road, N4 2DD be modified as follows:

1. A noise limiting device shall be installed and the entertainment noise control system shall be monitored, checked and calibrated as necessary, so that the levels approved by the Council are not exceeded. The maximum music levels permitted are as follows.

94 dB linear (1 min)

87 dB "A" (1 min)

93 dB @ 63 Hz (1 min)

83 dB @125 Hz (1 min)

Measured 2 metres distant from the bass bin facing the bass bin.

2. The controls for the entertainment noise control system shall be located in a secure, lockable cupboard or similar location. The entertainment noise control system is to be independent of control by persons other than the licensee. Access to the entertainment noise control

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system is to be restricted to the Licensee or a designated manager.

3. When regulated entertainment is provided by way of music and dancing and continues past midnight, an SIA registered door supervisor shall be employed at the premises to patrol outside to supervise customers outside who may wish to smoke.
4. Door supervisors shall remain on duty outside until all customers have left the immediate vicinity of the premises.
5. Condition 13 on the existing licence shall be amended to read. CCTV at the premises shall include an operating system which shall be of a standard acceptable to the police; when the premises are open to the public a member of staff must be present at the premises who is able to operate and download the system. The data shall be stored for a period of 31 days and provided to the police within 24 hours of any request with a view to promoting the licensing objective of preventing crime and disorder.

REASON FOR DECISION

The Sub-Committee listened to all the evidence and submissions and read all the material. The Sub-Committee reached the decision having given consideration to the Licensing Act 2003, as amended, and its regulations, the national guidance and the Council's Licensing Policy.

The Sub-Committee noted that the licensee had adopted a positive attitude, had responded responsibly and co-operated fully with the Council's noise team. Since the review application, the licensee had appointed an acoustic consultant, commissioned an acoustic report from a reputable association and had commissioned extensive works at the premises and was liaising with the noise team regarding music levels. The Sub-Committee also noted that the licensee had agreed the noise conditions proposed by the reviewing officer as reported at the meeting. The Sub-Committee further noted that the licensee had agreed to the modification of the existing CCTV condition as suggested by the police in their letter dated the 4 April 2013. These agreements were now properly reflected in the decision of the Sub-Committee to modify the conditions of the licence.

The Sub-Committee considered that the conditions imposed on the licence were proportionate and would promote the licensing objective of preventing public nuisance.

The meeting ended at 10.15 pm.

CHAIR