

**London Borough of Islington**  
**DRAFT**  
**Licensing Sub-Committee A – 25 March 2014**

Minutes of the meeting of Licensing Sub-Committee A held at the Town Hall, Upper Street, N1 2UD on 25 March 2014 at 6.35 pm.

**Present: Councillors:** Jilani Chowdhury, Phil Kelly, Gary Poole and Catherine West.

**COUNCILLOR CATHERINE WEST IN THE CHAIR (ITEMS B1 AND B4)**  
**COUNCILLOR GARY POOLE IN THE CHAIR (ITEMS B2-B3, C1 and C2)**

**270 INTRODUCTIONS (ITEM A1)**

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

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

Received from Councillor Poole for Items B1 and B4.

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

Councillor Kelly substituted for Councillor Poole for Items B1 and B4.

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

None

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

The order of business was as follows:- B4, B1, B2, B3, C1 and C2.

**275 MINUTES OF THE MEETING HELD ON 21 JANUARY 2014 (ITEM A6)**

**RESOLVED**

That the minutes of the meeting held on 21 January 2014 be confirmed as an accurate record of proceedings and the Chair be authorised to sign them.

**276 ZONE 8 MEDIA LTD, 11 SHILLINGFORD STREET, N1 2DP – APPLICATION FOR A NEW PREMISES LICENCE UNDER THE LICENSING ACT 2013 (Item B1)**

The Sub-Committee noted the additional information from the applicant. This would be interleaved with the agenda papers.

The licensing officer reported that one resident representation had been withdrawn and drew the applicant's attention to the conditions listed on page 52 of the agenda. He informed the applicant that these conditions had been taken from his operating schedule that he had submitted.

The applicant informed the Sub-Committee that he invested in top end champagnes and his plan was to sell through a website. Bottles would cost around £200. More than two bottles would be despatched from a bonded warehouse whilst one or two bottles would be despatched from the premises.

In response to questions regarding the proposed conditions he considered that two despatches would give him greater flexibility. The despatches would be via the Post Office and not by courier.

The Sub-Committee left the room to deliberate and returned to announce their decision.

## Licensing Sub-Committee A – 25 March 2014

### **RESOLVED:**

(a) That the premises licence in respect of Zone 8 Media Ltd, 11 Shillingford Street, N1 2DP be granted to allow the sale by retail of alcohol, off supplies only, Mondays to Sundays from 09:00 until 17:00 hours.

(b) That conditions as outlined in appendix 3 as detailed on page 52 of the agenda shall be applied to the licence with the following amendment.

- Condition 3 to read. There shall be no more than two despatches of alcohol a day.

### **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 that are likely to add to the existing cumulative impact will normally be refused, unless an applicant can demonstrate why the operation of the premises involved will not add to the cumulative impact or otherwise impact adversely on the promotion of the licensing objectives.

The Sub-Committee noted that the applicant invested in top end champagnes and currently owned just six items that a few of the best producers made. Orders over two bottles would be delivered direct from a bonded warehouse where most of the bottles were stored. The applicant submitted that it was intended that despatches of alcohol would be carried out via the Post Office twice a day.

The Sub-Committee noted that there were no sales at the premises for consumption on the premises and considered that, as there would be only two despatches from the premises for delivery to the Post Office, there would be very little impact, if any, on residents and would not add to the existing cumulative impact or otherwise impact adversely on the promotion of the licensing objectives.

The application was therefore granted subject to conditions set out.

### **277 NICHE, 197-199 ROSEBERY AVENUE, EC1R 4TJ – APPLICATION FOR A PREMISES LICENCE VARIATION UNDER THE LICENSING ACT 2013 (Item B2)**

The applicant reported that the premises mainly operated as a café between the 10:00 and 21:30 hours. The variation was to enable the business to sell wine in the afternoon between 3pm and 6pm. It was noted that the licence was currently granted until midnight. This variation amended the hours to the licensing policy framework hours. Although the premises usually stopped trading at 21:30, a licence to 11pm would allow for occasional private parties.

In response to questions it was noted that private parties would be a sit down dinner as furniture could not be moved. They were unlikely to be on a Sunday. The music was background and there was a restriction on off sales which did not allow outside drinking. Patrons were predominantly pre-theatre trade.

The Sub-Committee left the room to deliberate and returned to announce their decision.

### **RESOLVED**

(a) That the premises licence variation in respect of Niche, 197-199 Rosebery Avenue, EC1 be granted to amend the authorised hours for the supply of alcohol, for consumption on the premises only and playing of recorded music between 10:00 and 2300 Sundays to Thursdays and between 10:00 and midnight on Saturdays and Sundays.

(b) The conditions of the current premises licence shall be applied to the licence.

## Licensing Sub-Committee A – 25 March 2014

### **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 Clerkenwell cumulative impact area. Licensing policy 002 creates a rebuttable presumption that applications for variations to premises licences that are likely to add to the existing cumulative impact will normally be refused, unless an applicant can demonstrate why the operation of the premises involved will not add to the cumulative impact or otherwise impact adversely on the promotion of the licensing objectives.

The Sub-Committee noted that the premises mainly operated as a café/restaurant between the hours 10:00 and 21:30 pm. The premises are currently unlicensed between 3pm and 6pm and the granting of the variation would allow patrons to drink alcohol with a meal in the afternoon. The current licensing hours were until midnight and the applicant had reduced these hours to 23:00 hours on Sundays to Thursdays in line with the Council's framework hours. The café was usually quiet following the pre-theatre trade. The Sub-Committee noted that there was no off sales licence to the tables outside the premises.

Under the circumstances the Sub-Committee were satisfied that the granting of the variation would not adversely impact on the licensing objectives and the application was granted.

### **278 FESTAC, 146 HOLLOWAY ROAD, N7 8DD – APPLICATION FOR A PREMISES LICENCE REVIEW UNDER THE LICENSING ACT 2003 (ITEM B3)**

The noise officer reported that the licensee had now appointed an acoustic consultant and noise levels had been agreed. These were as detailed in the additional information despatched to members and would be interleaved with the agenda papers. Additional proposed conditions were listed in the supplementary papers to help prevent noise escape from both inside and outside the premises.

The police reported that there had been no previous reported crime history at the premises until the stabbing on the 12 January. The licensee had attended the council offices to discuss this incident. The police officer reported that the suspect had left the club after an altercation. He returned, was allowed to re-enter after 1am, a breach of conditions, and had brought in a weapon. Following the stabbing the licensee did not call the police. He cleaned up the blood even though the scene should have been preserved for the police. The CCTV was not working as it had been unplugged and did not work. The police officer considered that the licensee's management style left a lot to be desired.

In response to questions the police expected that the licensee knew that he should have preserved the crime scene. The CCTV was not working and the licensee had been aware of this prior to the event. The suspect was allowed to enter with a weapon despite the use of hand held search wands for patrons being a condition on the licence. Staff had been aware that the suspect had been involved in an altercation earlier in the evening.

The licensing authority reported that the licence holder had taken over the licence one year ago and had taken a while to engage with the responsible authorities. It was considered that a reduction in hours may help to alleviate some of the reported problems and a short suspension could allow time for new measures to be put in place.

A local resident reported that he had first contacted the noise team in the summer of 2013 and they had spoken to the licensee. Ten months later the noise issue was still outstanding. Noise officers had attended his property on at least a dozen times and tried to agree noise levels with the licensee. The noise officer had visited multiple times in one evening. Noise levels agreed had been disregarded. On occasion the noise level had increased once the noise officer had left.

## Licensing Sub-Committee A – 25 March 2014

The resident reported that he had witnessed about six fights outside the premises. There had been no attempt by the door supervisors to break up the violence. He reported that he represented five other residents in the block who were disturbed by noise disturbance.

The landlord's representative reported that he had received complaints from tenants about the noise level and two had left due to the noise disturbance.

Mr Akinyele Afe, the licensee, informed the Sub-Committee that he had received no complaints until the noise team visited in May 2013. He had been surprised by the visit by the noise team as he had purchased less powerful speakers for £3000. The noise team had suggested that he would need to carry out a sound insulation scheme. He informed the noise team that he had no money to do the work. He had spoken to the neighbours who had said they had no issue with the noise. He had offered a neighbour hotel accommodation until he could raise the money for sound insulation but he had not heard back from him. A consultant had now been appointed and the matter was resolved to the satisfaction of the neighbours and the authorities. He reported that there was no issue with the sound levels on the ground floor or the mezzanine and he apologised for the matter taking so long. He informed the Sub-Committee that there had been no issues regarding crime before the incident in January. He was aware that the CCTV was not working that evening of the incident in January but it had been difficult to cancel the event which, with hindsight he regretted. On the evening of the incident the perpetrator had come back into the premises when the door supervisor had left the door temporarily. He stated that this was a one off mistake. He had taken on board the criticisms and agreed that the sound issue had gone on too long. He had put in place tighter security since the incident.

In response to questions it was noted that it had not been substantiated that the premises had traded after hours and without CCTV evidence it could not be proved either way. It was noted that there had been two contraventions of the noise abatement notice in December and January but Mr Afe stated that once the consultant had been appointed there had been no other contraventions. There were now three door supervisors regularly at the entrance. He stated that a DJ had been hostile and had been verbally aggressive to the noise officer. He stepped in. Mr Afe stated that he tried to take bookings from people he knew and where necessary would not hesitate in removing people from the premises. He removed the DJ from the premises at 2.30 on this occasion. Regarding the stabbing incident, the victim did not want to report the incident so Mr Afe did not inform the authorities. The victim went to hospital and the hospital informed the police about the incident. Mr Afe stated that he had called the police a number of times regarding incidents outside the premises. There was a nightclub nearby that closed later and often incidents had been attributed to Festac which had emanated from a neighbouring nightclub.

In response to questions from the legal advisor Mr Afe stated that he had cleaned up the floor as patrons were treading in the blood. He did not clean all of the blood as he was aware that the police would attend.

In summary the noise officer reported that there was a condition on the licence regarding the agreement of sound levels and this had been consistently broken. The police reported that they would like to see further conditions added to the licence regarding an arch metal detector and customer ID verification. The police considered that the licensee did not fully understand his responsibilities. The licensing authority reported that they still had reservations regarding the management of the club. The licensee reported that there was no issue regarding the noise levels on the ground floor and the mezzanine. He had taken on board the noise disturbance outside the premises and stated that this was not a problem limited to Festac. He stated that it was a condition of the licence that patrons would be accompanied to their cars and this was unworkable and needed to be amended.

The Sub-Committee left the room to deliberate and returned to announce their decision.

## Licensing Sub-Committee A – 25 March 2014

### **RESOLVED:**

That the premises licence in respect of Festac, 146 Holloway Road, N7 8DD be revoked.

### **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.

This was an application for the review of the licence under Section 51 of the Licensing Act 2003.

The grounds for the review were the prevention of public nuisance.

The present licence holder has held the licence since 7 March 2013. Prior to that date there had been two previous reviews of the licence, but these were when it was held by a different licence holder.

The current licensing conditions came into operation after a variation in May 2012.

The sub-Committee received and heard representation from:-

1. The Licensing Officer- Niall Forde
2. The Licensing Authority- Janice Gibbons
3. The Noise Team- Anne Brothers
4. The Police- Steve Harrington
5. The Licensee- Mr. Akinyele Afe
6. A local resident.
7. A representative of the landlord.

The undisputed facts were as follows:-

- On 1 November 2013, the licensee breached his conditions of the licence in that patrons under the age of 25 were granted permission to enter the premises.
- When the underage patrons emerged from the premises on 1 November 2013, they were loitering around the immediate vicinity of the premises and 2 of the said patrons ended up having a fight in the street, causing a public nuisance.
- On 12 January 2014, an incident occurred at the premises. A patron was causing problems in the premises and was asked to leave. A few minutes later the same person was allowed back into the premises. That person was armed with a knife and he stabbed another patron inside the premises. He was allowed to leave the premises after the incident and was not detained until the police arrived.
- The Licensee gave instructions to clean up some of the blood at the scene thus disturbing the crime scene prior to the police arriving.
- The Licensee and/or his staff did not inform the police of the incident.
- The Police were advised after the victim went to hospital. The Police arrived at the scene thereafter and discovered that the scene had been tampered with and cleaned.
- The CCTV which would have recorded the incident and the people entering and leaving the premises was not working on the night in question in contravention of the licence conditions.
- The Licensee was aware that the CCTV was not working.
- The Police discovered that the CCTV was not working only after they requested the licensee to provide the CCTV recording.
- The Licensee had not complied with his conditions in relation to noise control.
- He failed to do so due to financial constraints.
- He has now appointed an Acoustic Consultant to assist him with the noise issues and sound levels have been agreed with the noise team in relation to the basement level
- Further work is required in relation to noise control.

## Licensing Sub-Committee A – 25 March 2014

- Sound levels have not yet been addressed properly and/or agreed in relation to the ground floors and mezzanine levels.
- It was accepted by both sides that there are management issues.
- That a Section 80 Noise Abatement Notice had been breached after service thereof.

The residents addressed the Sub-Committee. The landlord informed the committee that he has difficulty renting out premises in the immediate area due to the noise emanating from the premises.

The resident states that he lives right next to the premises in question. He stated that he suffers intolerable levels of noise nuisance. He stated that he has endured many visits by the Noise Team staff, sitting in his bedroom in the early hours of the morning, monitoring noise levels. He stated that on occasion, after the noise team left the premises following on from one of his complaints, that the noise levels increased, which in his view was a form of intimidation.

Anne Brothers informed the Sub-Committee that the conditions of the licence in relation to noise, had been consistently breached.

The licensee disputed the allegations of intimidation and/or deliberately increasing the sound levels so as to annoy his neighbour/s.

On the issues relating to the allowing of underage patrons, allowing a person who had been evicted from the premises to come back in, armed with a knife, he blamed his staff who he stated were aware of their duties and obligations.

On the issue of cleaning/interfering with the crime scene, the licensee acknowledged that the scene should not have been interfered with.

The Licensing Authority expressed reservations about the Licensee's standards of management and she still had those concerns after hearing the Licensee's submissions at the application.

In relation to the assessment of the Licensee's ability to demonstrate a commitment to high standards of management ( Licensing Policy 10), the Sub-Committee considered whether the licensee:-

- Could demonstrate comprehensive knowledge of best practice
- Has sought advice from the responsible authorities
- Has implemented advice that has been given by responsible authorities
- Is able to understand legal requirements
- Can demonstrate knowledge of the licensing objectives
- Is able to run his business lawfully and in accordance with good business practices
- Is able to demonstrate a track record of compliance with legal requirements.

The Sub-Committee found as follows:-

The Licensee failed to demonstrate best practice.

He appeared to be well aware of his obligations and yet failed to take appropriate action on many levels.

He demonstrated a failure to properly manage the following aspects of his business:-

- Door entry
- Security and searches
- CCTV recordings

## Licensing Sub-Committee A – 25 March 2014

- Crime and anti-social behaviour both inside the premises and immediately outside the premises
- Crime/incident reporting.

Due to his failure to properly manage the business, he has breached his licence conditions.

In addition thereto, the Sub-Committee found that he had breached the licence conditions in relation to noise management.

The Licensee conceded that this was a deliberate management decision on his part due to financial constraints.

Advice was regularly provided by the Noise Team and Anne Brothers to the licensee in relation to the noise issues. Many inspections were held and it was generally conceded that the licensee has belatedly started taking some action to remedy the noise issues due to the pending review.

The Sub-Committee was of the opinion that taking the above factors into account that the licensee has failed to demonstrate high standards of management or the ability to attain high standards of management.

Due to this inability, licence conditions have been breached resulting in public nuisance to the inhabitants of the area. Crime and disorder has occurred and in was on two occasions, the fight in the street and the knife crime in the premises, as a direct result of the failure of the management to ensure that appropriate security measures were not only in place but that proper practice was followed through.

The Sub-Committee gave serious consideration to attaching further conditions to the Licence, but were of the firm view, that in light of the licensee's history in failing to comply with existing conditions and the seriousness of those breaches and their consequences and potential consequences, that the imposition of further conditions would not be appropriate.

Under the circumstances, the Sub-Committee were of the opinion that it was proportionate to revoke the licence.

### **279 URGENT NON-EXEMPT/CONFIDENTIAL ITEMS**

The following items were considered urgent as the temporary events were to be held prior to the next ordinary meeting of the Licensing Sub-Committee.

### **280 THE GARAGE, 20-22 Highbury Corner, N5 – Application for a Temporary Event Notice under the Licensing Act 2003 (Item C1)**

The Sub-Committee noted that this application for a temporary event notice had been withdrawn following despatch of the papers.

### **281 Dusk Til Dawn, 1 Archway Close, N19 3TD – Application for a Temporary Event Notice under the Licensing Act 2003 (Item C2)**

The Sub-Committee noted that this application for a temporary event notice had been withdrawn following despatch of the papers.

The meeting closed at 8.45 pm

CHAIR