

London Borough of Islington
DRAFT
Licensing Sub-Committee B – 13 August 2013

Minutes of the meeting of Licensing Sub-Committee B held at the Town Hall, Upper Street, N1 2UD on 13 August 2013 at 6.30 pm.

Present: Councillors: George Allan (Item B2), Mouna Hamitouche (Item B1), Gary Poole and Claudia Webbe.

COUNCILLOR CLAUDIA WEBBE IN THE CHAIR

160. INTRODUCTIONS AND PROCEDURE (ITEM A1)

Councillor Claudia Webbe welcomed everyone to the meeting and asked members and officers to introduce themselves. The Chair outlined the procedures for the meeting and informed the public that the procedures were on pages 5/6 of the agenda papers.

161. APOLOGIES FOR ABSENCE (ITEM A2)

None.

162. DECLARATION OF SUBSTITUTE MEMBERS (ITEM A3)

Councillor Mouna Hamitouche substituted for Councillor George Allan for Item B1.

163. DECLARATIONS OF INTEREST (ITEM A4)

None.

164. ORDER OF BUSINESS (ITEM A5)

The order of business would be as the agenda.

165. MINUTES (Item A6)

RESOLVED

That the minutes of the meeting held on the 3 June 2013 be confirmed as an accurate record of proceedings and the Chair be authorised to sign them.

166. OLD SESSIONS HOUSE, 22 CLERKENWELL GREEN, N1 1RU - APPLICATION FOR A PREMISES LICENCE VARIATION UNDER THE LICENSING ACT 2003 (Item B1)

The licensing officer reported that this application was for a variation in hours until 06:00 am for the sale of alcohol. Noise conditions proposed had been agreed by the applicant. He reported that there had been no representation made by the police.

The licensing authority reported that her representation was on page 115 of the agenda. She considered that the application should be refused as the applicant had failed to demonstrate in

Licensing Sub-Committee B – 13 August 2013

the operating schedule how the operation of the premises would not add to the cumulative impact in the area.

Councillor Andrews, speaking on behalf of a resident, had concerns regarding the way in which the premises would be managed. He considered that the application for longer hours was excessive and would lead to deterioration in the character of the area. Local residents, Victor Allan and Paul Murray, raised concerns regarding the lack of planning permission, the 67% increase in licensed hours in a cumulative impact zone and reported that the premises was also in a conservation area. Mr Allan considered that the hours applied for went beyond reasonableness and were beyond the framework hours outlined in the licensing policy. Even where premises were well managed the late hours would attract additional people and taxi drivers to the area leading to late night disturbance and the applicant would not be able to demonstrate that there would be no cumulative impact. Mr Murray reported that the impact policy had been adopted for good reasons and should be adhered to. The applicant had not held consultation with residents which demonstrated that they would not be good neighbours.

Jeremy Phillips, counsel, and Stephen Ayres, the Chair of the applicant company, spoke in support of the application. He reported that this proposal was vastly different to premises that had caused problems in the past. The premises were a Grade II listed building and required a large investment to maintain. There was no proposal for dance or for use as a casino and the premises were not suitable for use as a nightclub. Mr Phillips went through the proposed conditions listed in Appendix 4 and the Sub-Committee noted the brochure that was tabled and which would be interleaved with the agenda papers. He understood the concerns of residents but considered that residents would not be aware that the premises were open.

In response to questions it was noted that this would be a private members club which would be subject to strict conditions. Investment was required for the premises and a buyer had been considered who would maintain the premises and have a business plan that would be compatible with the area. It was noted that the total capacity of the premises was for 700 people. Members raised concerns regarding the number of people who would be waiting in reception for cars outside and the general dispersal of customers from the premises. The Sub-Committee noted that patrons would exit onto Clerkenwell Road and not onto Clerkenwell Green. Clarity was sought regarding the operation of the premises but as the future operator of the premises was not present at the meeting, this could not be given. Mr Phillips informed the Sub-Committee that, as strict conditions would be attached to the licence it did not matter that the operator was not present. It was noted that the purchaser would be reluctant to invest if a licence was not commercially viable. It was noted that, regarding consultation, the applicant had complied with the legislation.

In summing up, the licensing authority had noted that this was a private members club which was controlled by membership. The premises already held a licence to 11pm. There were concerns regarding how the investment would materialise. Parking on Clerkenwell Green was already a problem and the conditions proposed were standard conditions for licensed premises. It was not considered that the rebuttable presumption test had been passed and it was believed that the premises would have an adverse impact. Councillor Andrews considered that the application did not address the concerns of cumulative impact. There was no reason to have a licensing policy if members chose to ignore the policy. He did not consider that this application was unique.

Mr Allan informed the Sub-Committee that he would not object to the use of the premises with the hours as they were. He was not confident as to how it would be run in the future. He considered the hours requested were unreasonable, the management was not present and so it

Licensing Sub-Committee B – 13 August 2013

was not known how the premises would be operating. The applicant had failed to rebut the presumption. He would support the use of the premises within framework hours.

Mr Phillips submitted that there had been no crime and disorder associated with the premises and there was no likelihood that there would be in the future. There had been no suggestion that the applicant was an unsuitable person. The building was unique which required investment. Strict conditions were proposed and the member rules could be incorporated in the conditions. The Sub-Committee could impose additional conditions to meet specific concerns. He asked the Sub-Committee to consider reduced hours if they felt necessary. He considered that the premises would bring a positive to the area regarding local employment.

Members of the Sub-Committee left the room to deliberate before returning to announce their decision.

RESOLVED:

That the premises licence variation for Old Sessions House, 22 Clerkenwell Green, EC1 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 Bunhill and Clerkenwell cumulative impact area. Licensing policy 002 creates a rebuttable presumption that applications for new premises licences, or variation applications, 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 heard evidence from local residents that the operating hours proposed by the applicant (for the sale of alcohol to 6am every day) were well beyond what was fair and reasonable. Local residents expressed concerns that such operating hours would have a major impact on a peaceful area. Concerns were raised regarding the 'satellite industries' that could be attracted by a venue with such late hours, such as lines of taxis causing a nuisance and food vendors. Local residents were concerned that this would cause an increase in smoking, chatting, laughing and the use of back lanes as public toilets. Concerns were raised regarding the premises' proposed smoking and dispersal policies. Local residents were of the view that the applicant could not demonstrate that the granting of the variation would not add to the cumulative impact.

The Sub-Committee heard from the applicant that the building in which the premises are located is a Grade II* listed building which requires a great deal of investment to maintain. The applicant intends to sell the building as the company can no longer afford the upkeep of the building, but turned down the highest bidder as their proposed use of the building was not compatible with the local area. The applicant confirmed that the premises would not be used as a casino and that it could not be used as a nightclub as the layout of the premises does not lend itself to this use. The applicant confirmed that the sale of the premises is due to complete in October 2013. The applicant confirmed that it is proposed that the premises be used as a

Licensing Sub-Committee B – 13 August 2013

not inexpensive private members club which would also be able to raise extra revenue by hiring out the space for exhibitions, banqueting and conferences.

The Sub-Committee noted that the applicant was unable to answer questions concerning the proposed operation of the premises as, due to the forthcoming sale, it would not be the applicant who would actually be operating the premises. The Sub-Committee further noted that the applicant had agreed the suggested conditions proposed by the Noise Team, and appeared prepared to accept a reduction in hours if the Sub-Committee was so minded. The Sub-Committee noted that the applicant was suggesting that the rules of membership be added as a condition on the licence so that the premises would have to operate within those rules.

The Sub-Committee considered licensing policy 002 and concluded that the applicant had failed to demonstrate why the operation of the premises would not add to the cumulative impact of the area. The hours sought were well beyond the hours set out in licensing policy 008. The total capacity of the premises is around 700 and, even though it was stated as being highly unlikely that 700 people would be exiting the premises at the same time in the early hours of the morning, the Sub-Committee was concerned that the applicant could not say how the proposed purchasers would disperse people from the premises. The Sub-Committee was concerned that it was not possible to assess how the premises would be operated under the licence or the standards of management that would be in place as the applicant would not be managing the premises and could not say how the proposed new management would operate. The Sub-Committee were concerned that the grant of the proposed variation would add to public nuisance in the area. The applicant did not show any exceptional circumstances as to why the Sub-Committee should grant the application.

It was not considered appropriate to grant the licence variation with reduced hours as the concerns of the Sub-Committee would still be relevant.

The Sub-Committee was concerned that the granting of the new licence would undermine the licensing objectives. In accordance with Licensing Policy 7, the Sub-Committee noted the cumulative impact that the proliferation of late night venues and retailers in the borough is having on the promotion of the licensing objectives.

The Sub-Committee concluded that the increased hours would add to the availability of alcohol in an area where there is already a large number of licensed premises with associated anti-social and criminal behaviour and therefore have a cumulative impact on the licensing objectives.

The Sub-Committee was satisfied that the grant of the application would undermine the licensing objectives.

167. **CALEDONIAN KEBAB AND BURGERS, 355 CALEDONIAN ROAD, N7 9DQ - APPLICATION FOR A NEW PREMISES LICENCE VARIATION UNDER THE LICENSING ACT 2003 (Item B2)**

The licensing officer reported that this was a new application. There had been a previous licence for the premises but this had lapsed when the company went into administration.

The police officer reported that although this premises was not in the cumulative impact zone it was close enough to still have an impact. He reported that in a 12 week period up until the end of July there were 62 offences on Caledonian Road. Although he was unable to link crime to a

Licensing Sub-Committee B – 13 August 2013

specific premises it was reasonable to assume that there was a link to crime and disorder in the area. He requested that should the licence be granted there be a CCTV condition applied to the licence as there was a recent altercation with someone from the shop.

The licensing authority reported that it was a new application and as the premises were just outside the cumulative impact area it would be appropriate to restrict the licence to 1am.

Mrs Dilan Yildirim, licensing agent, supported by the applicant Mr Mehmet Paksoy, spoke in support of the application. It was reported that the applicant had been running the premises since 2004 with a business partner. The licence had lapsed. The premises were outside the cumulative impact zone and a decrease in hours would affect the income of the business. It had only been necessary to call the police on two occasions. The applicant agreed to the CCTV condition suggested by the police. This was not a new business and if the licence had been transferred it would not have been necessary to apply for a new licence.

In response to questions it was noted that there was a public toilet in the premises and there was a litter bin outside the front. The applicant considered that it would be beneficial for drunk people to eat food and drunk people would cause a nuisance whether or not they were open. It was not believed the premises attracted people who were drunk. The applicant considered that if hours were reduced he would lose business and he could only do a limited amount once drunk people moved away from the premises. The licensing authority reported that the area and the potential for causing anti-social behaviour had been considered when making the representation. It was at the discretion of the Sub-Committee to make an exception. The Sub-Committee could take into account paragraph 66 of licensing policy 008 if they wished to make an exception.

In summing up the police stated that over the past nine years crime levels had increased in the area and another licensed premises would add to the impact. The applicant stated that the premises were outside the cumulative impact area. Conditions would apply to the licence. The CCTV condition would benefit the area and prevent nuisance.

Members of the Sub-Committee left the room to deliberate before returning to announce their decision.

RESOLVED:

a) That the new premises licence for Caledonian Kebab and Burgers 355 Caledonian Road, N7 9DQ be granted to allow the provision of late night refreshment from 23:00 until midnight Sunday to Thursday and from 23:00 to 01:00 on Fridays and Saturdays.

b) That conditions as outlined in appendix 3 as detailed on page 242 of the agenda shall be applied to the licence.

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 heard evidence from the police that although the premises are outside the cumulative impact zone for Caledonian Road, they are close enough to the zone that they will still have an impact. The police stated that in the 12 weeks up to the end of July 2013 there

Licensing Sub-Committee B – 13 August 2013

were 62 recorded offences on the Caledonian Road, and that the Caledonian Road was producing almost all of the crime in the ward. The Sub-Committee heard that although crime could not be linked to these premises, an extra licensed premises would inevitably add to the crime in the area. The Sub-Committee heard evidence of a recent racially aggravated criminal incident involving customers at the premises.

The Sub-Committee heard from the applicant that he had been running the premises since 2004 and that he and a business partner had previously held a licence for the premises under the name of a company. This licence lapsed in 2009 when the company went into liquidation. The applicant confirmed that in the time that he had run the premises he had only had to call the police once. The applicant confirmed that he kept the front of the premises clean and had a litter bin there. The applicant confirmed that he provided training to his staff on how to deal with drunken customers. The Sub-Committee heard that the applicant's finances would suffer if the licence were not granted or if the hours granted were reduced.

The Sub-Committee noted that the applicant had agreed the majority of the suggested conditions, and had agreed to install a CCTV system as requested by the police and would be putting up signage in the premises.

The Sub-Committee was concerned that the operating schedule does not show the high standards of management expected. The Sub-Committee was not satisfied that the applicant had in place proper mechanisms for ensuring that the premises would not, in the early hours of the morning, attract customers who were already drunk and could cause a nuisance. The Sub-Committee noted that, in response to questions, the applicant failed to accept that he had any responsibility to try to mitigate nuisance that might be caused by his customers. It was also noted that the premises are adjacent to residential premises. The Sub-Committee considered Licensing Policy 008 and the operating hours recommended by the Licensing Authority. The Sub-Committee considered paragraph 66 of the Licensing Policy and concluded that the proposed hours in an area in which crime appears to be rising, together with the applicant's failure to show how he intends to prevent crime and disorder and public nuisance meant that the granting of the licence as sought would not promote the licensing objectives.

However, while the Sub-Committee concluded that the grant of the licence as sought would not promote the licensing objectives, the Sub-Committee also concluded that the grant of a licence with reduced hours, in line with those recommended in the Licensing Policy, would promote the licensing objectives; incidents of drunken crime are likely to be less at that time in the morning and the measures put in place by the applicant are likely to be more effective in promoting the licensing objectives.

The Sub-Committee took into consideration Licensing Policy 008 concerning hours of operation and Licensing Policies 009 and 010 concerning the operating schedule and standards of management.

168. **HIGHBURY FINE FOOD AND WINE, 249 UPPER STREET, N1 1RU - APPLICATION FOR A NEW PREMISES LICENCE VARIATION UNDER THE LICENSING ACT 2003 (Item B3)**

The Sub-Committee noted that this item had been adjourned.

Licensing Sub-Committee B – 13 August 2013

The meeting ended at 9.30 pm

CHAIR