

London Borough of Islington
DRAFT
Licensing Sub-Committee C – 17 June 2013

Minutes of the meeting of Licensing Sub-Committee C held at the Town Hall, Upper Street, N1 2UD on 17 June 2013 at 6.30 pm.

Present: Councillors: Raphael Andrews (Item B2), Gary Doolan, Gary Poole and Marian Spall (Items B1, B3 and B4).
Also Present: Councillor: Paul Convery (Item B4)

Councillor Gary Poole in the Chair (Item B2)
Councillor Marian Spall in the Chair (Items B1, B3 and B4)

198. INTRODUCTIONS AND PROCEDURE (ITEM A1)

Councillor Poole welcomed everyone to the meeting and asked members and officers to introduce themselves. The Chair outlined the procedures for the meeting.

199. APOLOGIES FOR ABSENCE (ITEM A2)

Apologies were received from Councillor Spall for Item B2.

200. DECLARATION OF SUBSTITUTE MEMBERS (ITEM A3)

Councillor Andrews substituted for Councillor Spall for Item B2.

201. DECLARATIONS OF INTEREST (ITEM A4)

None.

202. ORDER OF BUSINESS (ITEM A5)

The order of business would be B2, B1, B3 and B4.

203. MINUTES (ITEM A6)

RESOLVED

That the minutes of the meetings held on the 18 April 2013, one at 5.30 pm and one at 6.30 pm, be confirmed as an accurate record of proceedings and the Chair be authorised to sign them.

**204. MCDONALDS, 280 HOLLOWAY ROAD, LONDON, N7 8AJ
APPLICATION FOR A NEW PREMISES LICENCE UNDER THE LICENSING ACT 2003
(Item B1)**

The Licensing Authority reported that the premises were in a cumulative impact area and the authority was concerned that the granting of the licence would keep people on the streets later than would be preferred. She recommended refusal of the licence, however, should the Sub-Committee consider that the applicant had met the special policy test then it would be recommended to grant the licence until midnight only.

The police officer reported that police attended a serious incident at the premises on the 23 May 2013. Although no further action was to be taken by the police, he considered that this type of incident was indicative of the type of area in which the premises were located and more public would remain if the premises were kept open later.

Isabella Tafur, barrister, supported by Matthew Day, store manager, requested that the Sub-Committee bear in mind the non-attendance of the interested parties. The concerns from the interested parties in the papers had been addressed through conditions. She reported that the restaurant had a licence for late night refreshment until midnight and the

Licensing Sub-Committee C– 17 June 2013

incident on the 23 May was an isolated one. She considered that the police would have made a representation should this type of incident be indicative of the area. She reported that McDonalds was proactive regarding litter collections and the applicant would agree to amending litter routes if that was considered necessary. The premises had been at the same location for 10 years and there had been no other concerns. It was a very well operated and well run restaurant. She considered that the supply of alcohol was the concern of the cumulative impact policy and that this was an application for late night refreshment. She submitted that there would be no additional impact on the licensing objectives with the additional two hours.

In response to questions, the licensing authority reported that a licence for late night refreshment would have an impact on the cumulative impact area. More people would be attracted to the area and there was the potential to encourage more people to consume alcohol. There was a link between alcohol and late night refreshment. It was reported that ten years ago the area was quiet and now with the increase in local residents and students from the university it had created more potential customers. This meant that an application for a late night licence had become more viable. Ms Tafur apologised that the franchisee was not present as he had a personal emergency, however, all the managers were trained to deal with conflict resolutions and anti-social behaviour in their restaurants. Mr Day reported that it was best to refuse customers who had been drinking straight away in order to reduce likely conflict. There was a long history of the premises being problem free except for the incident in May and it would be surprising if there had been no incidents in ten years of running this business. It was noted that the evening clientele was mostly the same type as came into the premises during the day.

The meeting was adjourned for ten minutes to establish whether or not the premises were licensed until midnight. Licensing records showed that the premises were not licensed for late night refreshment. Ms Tafur apologised for misleading the Sub-Committee during her submissions. There was no evidence that the premises had been operating until midnight. She reported that the submissions made would remain the same.

In summary, the licensing authority reported that whilst the premises presented good management for litter controls, the authority were concerned about the number of people on the streets for longer hours. It was recommended that this application be refused or the hours restricted to midnight. The barrister for the applicant reported that the noise team conditions had been agreed and the police had not made representations. There was evidence of efficient and well managed premises and there was no evidence that additional hours would undermine the licensing objectives. The fact that the area was busy was no reason to refuse the application.

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

RESOLVED:

That the premises licence in respect of McDonalds, 280 Holloway Road, N7 8AJ be refused.

REASONS FOR DECISION

The Sub-Committee considered 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 was not in possession of a licence and that this was a new licence application.

Licensing Sub-Committee C– 17 June 2013

The Sub-Committee took into consideration Licensing Policy 002. The premises fall under the Holloway and Finsbury Park 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 would accordingly normally be refused unless an applicant can demonstrate why the operation of the premises involved would not impact adversely on the cumulative impact or otherwise impact adversely on the promotion of the licensing objectives.

The sub- committee gave weight to the submissions made by the applicant's representative and specifically in relation to patrols in the area.

The sub- committee also took into consideration submissions presented by the police that a criminal incident had occurred at McDonalds recently. It further noted from the representations made that there had been an increase in the number of students living in the area and that members of the public often took shelter in McDonalds from the weather after other premises had closed and/or on their way home.

The Sub-Committee was of the view that the granting of the licence would add to the cumulative impact of the area and could very possibly adversely affect the licensing objectives especially in view of the recent criminal activity that had been reported in the area and accordingly found that the applicant had not discharged the onus of rebutting the presumption. Consideration was given to the possibility of reducing the hours that had been applied for until midnight. In this regard the applicant did not express any willingness to reduce the hours applied for. The Sub-Committee was also not convinced that such a reduction would satisfy the rebuttable presumption element.

The application was accordingly refused.

**205. BAL SUPERMARKET, 89-91 HOLLAND WALK, N19 3XU
APPLICATION FOR A NEW PREMISES LICENCE UNDER THE LICENSING ACT 2003
(Item B2)**

The licensing officer reported that the proposed health and safety condition had been agreed by the applicant.

In response to a question from the police, counsel for the applicant reported that the personal licence was obtained on the 10 June 2013. The certificate was made available to the members of the Sub-Committee.

The Sub-Committee moved into private session (see minute number 209).

Returning to public session the police officer reported that there was some building work proposed near the premises and suggested that a licence should not be granted until this work had been completed. There were problems related to the premises for the previous six years and the re-licensing of the premises in this location would lead of groups of youths gathering in the area. He considered that if there was no shop, the youths would not hang around in the area.

Local resident, Dorothy Barlow, informed the Sub-Committee that since the premises had closed the area had been very peaceful. She reported that groups of youths hung around the premises and were intimidating and offensive. Since the premises had closed the problems with the youths had decreased and it had been a nice area to walk through. In response to a question she informed the Sub-Committee that she saw youths outside the premises between 6.30 and 8.30 pm when she was returning from work.

Licensing Sub-Committee C– 17 June 2013

Mr Dadds, counsel, and Ozun Doganbaloglu, the applicant, attended the meeting. Mr Dadds reported that there had only been two representations from residents and the suitability of the applicant had been dealt with. The problems that existed previously had no bearing on the current applicant. The applicant had been a deputy manager for William Hill for three years and understood how to deal with a number of situations as they arose. He had a personal licence and had undertaken a CRB check. He considered there was little weight to be attached to the representation from the police as they had produced no statistics or crime figures for the area and there was other legislation that could be used to deal with dispersal. The premises were not in a cumulative impact area and under the Licensing Act there was a presumption to grant. The premises had bad operators previously. The applicant had experience of difficult patrons at William Hill and the operating schedule was robust. He had good character references.

In response to questions from the Sub-Committee it was noted that training would be provided to all staff through Dadds solicitors and through ADA. Dispersal would be controlled through proactive intervention and the applicant would have close contact with the SNT. The premises were not yet acquired and would not be opening shortly as the lease would need to be organised and staff training would be arranged. Mr Dadds considered that if the applicant did not sell irresponsibly then he would not be attracting the same crowd outside. If the premises were left empty that would attract problems. Mr Doganbaloglu reported that as deputy manager at William Hill he overcame problems with people outside the shop. He would not expect staff to interact with groups of youths.

Mr Doganbaloglu stated he would be looking for determination, empathy and knowledge in his staff. He would hold weekly staff reviews to look at areas where he could strengthen development and learning and if there were problems with youths outside the premises they would be discussing measures which they could implement in order to prevent bad behaviour.

In response to a question from the police the Sub-Committee noted that the applicant had not spoken to the police service regarding police reports but the applicant would wish to work with the police regarding the sharing of intelligence. It was also noted that a draft dispersal police was available and would be submitted if required.

In summarising, Mr Dadds reported that there were only two resident objections from many hundreds of residents on the estate. The premises were able to be used as a community shop with robust conditions and a good licensee. The premises had a poor history but that was not relevant to this applicant. The applicant was a personal licence holder who understood the licensing objectives and had outlined the steps that he intended to take.

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

RESOLVED:

That the premises licence in respect of Bal Supermarket, 89-91 Holland Walk, N19 3XU be refused.

REASONS FOR DECISION

The Sub-Committee considered the verbal and written submissions and reached its decision in accordance with the Licensing Act 2003, as amended, and its regulations, the national guidance and the Council's Licensing Policy.

The applicant was present and was represented by Mr Dadds. Verbal submissions were made by the licensing officer, the police and the licensing authority, an interested party, the applicant and the applicant's representative.

Licensing Sub-Committee C– 17 June 2013

Mr Dadds handed in a personal licence granted to the applicant on the 10 June 2013.

It was acknowledged by all parties that the area in question was and had been a crime hotspot with a high incidence of anti-social behaviour and that the premises in question had had a history of attracting undesirable elements when it operated with a licence in the recent past. A previous licence for the premises had been suspended in May 2009 and then it was revoked on 8 March 2012.

The crime and intimidation of residents had decreased in the immediate area since the licence had been revoked.

Due to the specific dynamics of the area concerned and the history of a business in the applicant's premises, the sub-committee was persuaded that strong, robust management practices were required so as to prevent the area taking a step backwards as far as crime and anti-social behaviour was concerned.

The Sub-Committee took the applicants submissions into account. The applicant and his representative were questioned by the Sub-Committee on the proposed conditions and how they would be enforced.

In relation to the issue of Management, the Sub-Committee considered licensing policy 010 and given the factors referred to above was not satisfied that the applicant possessed the necessary management standards required for running the business in the area. The Sub-Committee found that the proposed conditions and specifically conditions 18, 19, 20 and 24 were vague and there was insufficient and or lack of clarity provided by the applicant on how these conditions would or could be enforced.

In relation to the Licensing Objective -The prevention of crime and disorder. The Sub-Committee took into consideration the representations referred to in relation to the crime patterns of the area and the decrease in crime that had occurred since the licence for the premises was revoked. The Sub-Committee took into account the submissions of the police and the interested party as well as the submissions made by the applicant's representative. The Sub-Committee was of the opinion that the granting of the licence would almost certainly increase the crime and disorder levels in the area.

In light of the conclusions drawn by the Sub-Committee it was decided that the application should be refused.

206. THE HORNS, 262-264 OLD STREET, EC1V 9DD - APPLICATION FOR A SEX ESTABLISHMENT LICENCE UNDER THE LOCAL GOVERNMENT (MISCELLANEOUS PROVISIONS) ACT 1982 (Item B3)

The licensing officer informed the Sub-Committee that an enforcement visit had taken place on the 31 May and informed the Sub-Committee that all was satisfactory.

Michael Jones, Director, reported that he had complied with strong conditions and had no problems with the venue. Many of the clientele were from the local area and many were women. The premises did not have a large bar and the smoking area was at the rear of the premises. Rubbish was also taken out the back. There was a neighbouring premises with a late licence and they did leave rubbish outside. The doorman was very experienced.

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

Licensing Sub-Committee C– 17 June 2013

RESOLVED:

That the sex entertainment licence in respect of The Horns, 262-264 Old Street, EC1V 9DD be agreed with the existing licence conditions.

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 Local Government (Miscellaneous Provisions) Act 1982 as amended, the national guidance and the Council's Sex Establishment Licensing Policy, the application and papers as well as the views of those who made representations.

The Sub-Committee took into consideration the submissions of the licensing officer. The material elements of the licensing officer's submissions were as follows;-

- An inspection had been undertaken on the 31 May 2013 and she found the business to be operating in a satisfactory manner. There was door supervision, the changing rooms were satisfactory and there were separate toilets which were all found to be in a satisfactory condition.
- No submissions were made by the licensing officer that there had been any breaches of the conditions attached to the license.

No representations were received by the Sub-Committee from the police with regard to crime and/or anti- social behaviour in the area that was either directly or indirectly attributable to the presence of the business in question.

The Sub-Committee also considered the single written representation made by one member of the public. These are set out on page 88 of the application report. Besides the moral objection to such a premises, the representative alleged the presence of a nearby school and litter and noise emanating from the premises.

The applicant made verbal representations to the Sub-Committee, stating that he never had any problems with the venue, had an over 21 policy, the smoking area was at the back of the premises and that all rubbish generated from the business was cleared from the back of the premises. He had a doorman continually on site and that all his bar staff were local Islington residents. In considering the application for renewal the Sub-Committee took into account the applicant's ability to minimise the impact of his business on local residents and businesses, reports about the licensee and the management of the premises submitted by the parties referred to above, the fact that no police representation was made in relation to the business, and whether appropriate measures had been put in place to mitigate against any adverse impact and noise and/or disturbance.

The Sub-Committee, in arriving at it's conclusion, weighed up the submission received from the member of the public with the completely different submissions made or not made by the responsible authority/ies and the submissions made regarding management by the applicant.

The Sub-Committee found on balance that the applicant has and continues to demonstrate an ability to minimise the impact of the business on the local residents and businesses and that appropriate measures are in place to mitigate any adverse impacts. The licence conditions further provide for this.

Taking the above factors into account, the Sub-Committee was satisfied that that the renewal application should be granted.

207. **THE FLYING SCOTSMAN, 2-4 CALEDONIAN ROAD, N1 9DT - APPLICATION FOR A SEX ESTABLISHMENT LICENCE UNDER THE LOCAL GOVERNMENT (MISCELLANEOUS PROVISIONS) ACT 1982 (Item B4)**

The licensing officer informed the Sub-Committee that an enforcement visit had taken place on the 31 May and informed the Sub-Committee that all was satisfactory.

Local resident Alexandra Lilly, and Councillor Paul Convery, representing a local resident whose submission was at page 100 of the agenda, spoke against the application. The Sub-Committee were informed that the area had undergone a transformation over recent years and the granting of the licence would not help this change. Councillor Paul Convery reported that the policy allowed the Council to take into consideration the location of premises and this premises was near to schools and two places of worship. He considered that the standards of management were not as good as it should be and he had personally witnessed scantily dressed performers outside the premises. The nature of the area had changed profoundly in recent years. Councillor Convery reported that he had withdrawn objections last year following discussions with the applicant but he now considered it was necessary to refuse this licence.

Lee Hoddinott, agent, and Robin Norris, owner, spoke in favour of the application. They considered that the management was excellent and had received no complaints. His long term plan was to develop the premises and at the last renewal he had considered that he would need 12 – 18 months to achieve this aim. This was the first renewal and he was not intending to renew the licence next year. He had submitted a licence application to combine the premises and there was the intention to surrender the adult entertainment licence.

In summary Councillor Convery reported that his objections at this time were broadly the same as at the time of the previous application. He informed the Sub-Committee that Kings Cross had changed profoundly in recent years and refusing the application would help to speed regeneration of the area. The applicant and his agent reported that it was his intention to combine the premises which has had to be carried out in stages, that this was a transitional period and this renewal was only until the end of March 2014.

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

RESOLVED:

That the sex entertainment licence in respect of The Flying Scotsman, 2-4 Caledonian Road, N1 9DT be agreed with the existing licence conditions.

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 Local Government (Miscellaneous Provisions) Act 1982 as amended, the national guidance and the Council's Sex Establishment Licensing Policy, the application papers as well as the views of those who made representations.

The Sub-Committee took the submissions of the Licensing Officer into consideration. The material elements of her submissions were as follows:-

- An inspection had been undertaken on 31st May 2013 and she found the business to be operating in a satisfactory manner. Staff files were randomly selected and inspected.
- All was found to be in order and in compliance with the conditions of the licence. No

Licensing Sub-Committee C– 17 June 2013

submissions were made by the licensing officer that there were any breaches of the existing licence conditions, either at present or in the past. No submissions were made of any reports from nearby residents to the authority in relation to the manner in which the business had been conducted.

No representations were received by the Sub-Committee from the police with regard to crime and/or anti- social behaviour in the area that was either directly or indirectly attributable to the presence of the business in question.

No representations were made by the police or the noise team.

The Sub-Committee considered the written and verbal representations made by the members of the public. There were 8 such representations. Three made in support of the renewal of the licence and five made in opposition to the application.

The views in the written submissions in opposition to the renewal of the licence can be summarised as follows:-

- Would like seedy establishments to be in decline in the area
- Would like the gentrification of the area to accelerate and not be set back by such an establishment
- Disapproval of living near such an establishment and the negative connotation many associate with such an enterprise
- Alleged congregation of drunk people outside or near the premises
- People smoking outside the venue, noise (music), soliciting in the street (alleged to be connected to the premises)

Not all points mentioned above were raised by every person opposing the application. It records a summary of the different views.

Verbal submissions were made by one of the members of the public in support of their written submissions.

Councillor Convery made verbal submissions on behalf of “representation 1” which appears on page 100 of the report. He re-iterated what was in the written submissions and added verbally that there were 2 religious establishments not far from the business and an educational facility. An educational facility is referred to in the written submissions as well that he was speaking on addressing on behalf of.

The views in the written submissions in support of the renewal of the application can be summarised as follows:-

- A view that the business did no harm to the area and that it added colour and interest
- An opinion that the building “should not be gentrified” with gastro pubs etc and that opponents were “nimbys”
- A view that the venue has not changed and that it’s closure would have an adverse effect on business and passers- by in the area.

The Sub-Committee also considered the submissions made by the applicant. The material aspects of his submissions were as follows:-

- there had been no adverse problems or incidents relating to the business
- that he was undertaking major changes to his businesses in the area
- a submission by the applicant that he would not be making any further application for renewal of the licence when such an application would be required, namely 31st March 2014.
- the business will accordingly no longer operate after 31st March 2014.

Licensing Sub-Committee C– 17 June 2013

The Licensing Officer confirmed that the applicant had made a separate application for a separate business licence and in that application the licensee had stated that the Sexual establishment Licence would be surrendered.

The Sub-Committee in arriving at its decision weighed all the submissions referred to above. The Sub-Committee although concerned about the locality of the business and mindful of the fact that the area had over a period of time experienced a degree of gentrification, found that on balance the submissions or lack thereof, showed that the applicant demonstrated an ability to minimise the impact of the business on local residents and businesses. That appropriate measures are in place to mitigate against any adverse impacts. There was no evidence from the responsible authorities that the conditions of the licence (standard conditions) set out in Appendix 3 had been breached.

The Sub-Committee accordingly granted the renewal of the licence until 31 March 2014 on the standard conditions attached.

208 **EXCLUSION OF PRESS AND PUBLIC**

RESOLVED:

That the press and public be excluded during consideration of the following items as the presence of members of the public and press would result in the disclosure of exempt information within the terms of Schedule 12A of the Local Government Act 1972, for the reasons indicated:

B2	Bal Supermarket, 88-91 Holland Walk, N19.	<u>Category 7</u> – Information relating to any action taken or to be taken in connection with the prevention, investigation or prosecution of crime.
----	--	---

209 **BAL SUPERMARKET, 89=91 HOLLAND WALK, N19 3XU – APPLICATION FOR A NEW PREMISES UNDER THE LICENSING ACT 2003 (ITEM B2)**

RESOLVED:

That the exempt information in relation to agenda item B2 be noted (See minute 205 for decision).

The meeting finished at 10:00 pm.

CHAIR