

## London Borough of Islington

### Licensing Sub-Committee 'D' – 22 August 2011

Minutes of the additional meeting of Licensing Sub-Committee 'D' held at the Town Hall, Upper Street, N1 2UD on 22 August 2011 at 6:10 pm

Present: Councillors: Raphael Andrews (Items B3 and B4), Barry Edwards, Troy Gallagher (Items B1 and B2) and Tracy Ismail

#### **COUNCILLOR BARRY EDWARDS IN THE CHAIR (Items B3 and B4) COUNCILLOR TROY GALLAGHER IN THE CHAIR (Items B1 and B2)**

#### **64 INTRODUCTIONS (Item A1)**

Councillor Barry Edwards welcomed everyone to the meeting and officers and members introduced themselves. The procedure for the conduct of the meeting was outlined.

#### **65 APOLOGIES FOR ABSENCE (Item A2)**

Apologies for absence were received from Councillors Jean-Roger Kaseki, Arthur Graves and Troy Gallagher (for items B3 and B4).

#### **66 DECLARATION OF SUBSTITUTE MEMBERS (Item A3)**

Councillor Ismail substituted for Councillor Graves, Councillor Edwards substituted for Councillor Kaseki and Councillor Andrews substituted for Councillor Gallagher for items B3 and B4.

#### **67 DECLARATIONS OF INTEREST (Item A4)**

There were no declarations of interest.

#### **68 ORDER OF BUSINESS (Item A5)**

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

#### **69 CONFIRMATION OF THE MINUTES OF LICENSING SUB-COMMITTEE D HELD ON 21 JUNE 2011 (Item A6)**

##### **RESOLVED:**

That the minutes of the meeting held on the 21 June 2011 be confirmed as an accurate record of proceedings and the Chair be authorised to sign them.

#### **70 THE STAR OF KINGS, 126 YORK WAY, N1 0AX APPLICATION FOR A PREMISES LICENCE VARIATION UNDER THE LICENSING ACT 2003 (Item B1)**

The licensing officer reported that the applicant had written to withdraw the application in relation to the extended hours although the application to vary the conditions would remain. The email had been forwarded to members and would be interleaved with the agenda papers.

Local residents, Michael Sweeney, Janys Lomax and Agnes Fagbohungle, spoke against the application. They were particularly concerned about the noise from customers talking outside the premises and on the forecourt and reported that the premises was in an area that was becoming increasingly residential. Councillor Rupert Perry was pleased that the extended hours had been withdrawn and considered that a well run establishment should not cause problems for residents.

Rob Hives, Director, supported by Steve Macri, the DPS, reported that the application had been amended because of the large number of representations received. He reported that noise and dispersal policies had been adopted and security would remain until all customers had left. He advised that dancing mainly took place in the basement. He requested that plays be included in the application and agreed with a number of changes to the conditions. The applicant accepted

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that condition 5 of the current licence should be retained.

### **RESOLVED:**

a) That, having considered all the oral and written evidence submitted and having given consideration to the Licensing Act 2003 and its regulations, the national guidance and the Council's licensing policy, the premises licence in respect of **The Star of Kings, 126 York Way, N1 0AX** be granted to allow

i) the performance of plays from 09:00 until 00:00 Sunday to Thursday and 09:00 to 02:00 on Fridays and Saturdays.

ii) the reduction in hours for recorded music from 09:00 until 00:00 Sunday to Thursday and from 09:00 to 02:00 on Fridays and Saturdays.

iii) on New Year's Eve all activities are permitted throughout the night until the start of permitted hours on New Year's Day.

b) That the conditions be amended as follows:

i) The following conditions be removed. Annex 2, Conditions 1, 4, 6, 7, 28, 36 and 37.

ii) The following conditions on the current licence be amended as follows:

Condition 25, Annex 2. All windows shall be kept shut, except for entry and exit to the premises, to prevent the escape of music or light, which may cause nuisance.

Condition 17, Annex 2. A member of staff shall monitor persons on the forecourt after 22:00.

Condition 20, Annex 2. The name and telephone number of the person in charge of the premises shall be displayed on the premises in a prominent position so that it can be seen from outside the premises.

Condition 26, Annex 2. A Challenge 25 scheme shall be operated at the premises.

Condition 33, Annex 2. In the event of a noise complaint verified by the Council's noise service, the premises will work with the service to reduce noise levels to their satisfaction. In the event that the music noise limiter is found to exceed maximum music noise levels set out in this licence, the system will be recalibrated and levels agreed with the service.

Condition 1, Annex 3. On any given day when either DJs or bands are performing and the patrons exceed 100 people, one registered door supervisor per 100 people will be required.

Condition 2, Annex 3. Tables and chairs in the forecourt shall be rendered unusable after 22:00 hours and the area cleared of drinks (bottles and glasses).

iii) Additional condition. The premises shall not be used under the variation to the licence until the requirements specified in the schedule date 13 July 2011 have been completed and approved in writing by the responsible authority for health and safety.

### **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.

In reaching their decision, the Sub-Committee took into particular consideration licensing policy 023 regarding the location of the premises, character of the area, 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 and which states that, where relevant representations are received, the licensing authority will attach appropriate conditions to licences, necessary to support the prevention of undue noise disturbance from licensed premises. The Sub-Committee also considered licensing policy 020 which recognises that where tables and chairs are provided, for smoking, drinking and eating outside, users can cause nuisance.

The Sub-Committee noted that, prior to making the application, the licensee had liaised with the Council's noise team and the health and safety officer in respect of the conditions on the licence and were satisfied that with the conditions detailed, the licensing objectives would be promoted.

**71 ASMARA CAFÉ, 340 CALEDONIAN ROAD, N1 1BB  
APPLICATION FOR A NEW PREMISES LICENCE UNDER THE LICENSING ACT 2003  
(Item B2)**

The licensing officer reported that a closure order had been served on the premises as they had been selling alcohol without a premises licence. They had also been served an enforcement notice by the planning team. A copy of the enforcement notice was tabled for information and would be interleaved with the agenda papers. A visit had since been made to the premises by licensing officers; alcohol was not being sold on the premises and the applicant was working with the planning department to try and resolve planning issues.

Hirini Gezagne, representing the applicant Aman Mahari, reported that, as the DPS named on the application was living in Birmingham, Mr Mahari had taken the appropriate course and had now received his certificate although had not yet obtained his personal licence. He intended to submit apply for a premises licence variation if the licence was granted.

Councillor Alice Perry raised concerns that the premises had been operating without making a change of use application and despite being served with an enforcement notice. She did not consider that the premises were suitable as they had not been soundproofed and recorded music and noise from the television could be heard in the flat above. As no consideration had been given to residents by the applicant, she had no confidence that the applicant would meet any conditions set out in a licence if operated. Councillor Rupert Perry raised concerns that planning permission had not been obtained prior to an application for licensing being made.

During questioning the applicant agreed to a reduction in hours applied for to 23:00 hours. The Sub-Committee noted that steps the applicant would take to promote the licensing objectives, namely, the protection of children from harm and the prevention of crime and disorder that, had not been included in the application and were not forthcoming at the meeting.

**RESOLVED:**

a) That, having considered all the oral and written evidence submitted and having given consideration to the Licensing Act 2003 and its regulations, the national guidance and the Council's licensing policy, the application for a new premises licence in respect of **Asmara Cafe, 340 Caledonian Road, N1 1BB** be refused.

**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 considered licensing policy 013 which seeks to encourage the highest standards of management in licensed premises and expects the operating schedule to describe

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how these standards would be achieved. The Sub-Committee noted that in this case the operating schedule did not address the licensing objectives of the protection of children from harm and the prevention of crime and disorder. The Sub-Committee also considered licensing policy 035 which expects businesses to comply with all relevant legal requirements and heard evidence which indicated that the applicant had commenced trading without making an application for a premises licence which resulted in a closure notice being served on the applicant.

The Sub-Committee considered licensing policy 009 which states that the licensing authority will only grant licences for premises without planning consent in exceptional circumstances.

In refusing this application the Sub-Committee noted that the applicant had shown a disregard for the legal processes necessary to operate a licensed premise and had failed to satisfy the Sub-Committee, on being questioned, that he would meet the licensing objectives and operate in ways consistent with community interests if a licence was granted.

### 72 **CITY SUPERMARKET, 190-194 GOSWELL ROAD, EC1V 7DT** **APPLICATION FOR A PREMISES LICENCE REVIEW UNDER THE LICENSING ACT 2003** **(Item B3)**

The service manager - trading standards outlined the details of the case and the reasons for the review as detailed in the report. He reported that the licence had been previously reviewed after two sales of alcohol were made to volunteer children in 2006. One sale of cigarettes had also been made. In January 2011, a large volume of alcohol had been seized from the premises which the Her Majesty's Revenue and Customs officers recognised as brands that had been regularly smuggled. The vodka from the seizure was tested and found to be counterfeit although not found to be harmful to health. Invoices had not been provided by the licensee. The service manager highlighted the home office guidance that stated that revocation of the licence should be seriously considered where the crime prevention objective was being undermined.

Les Smith, advocate, supported by interpreter, Ms Oskan and representing Ajay Kasapoglu, spoke against the review. He informed the Sub-Committee that the licensee had not received any advice from trading standards about smuggled goods prior to the visit in January 2011. The licensee had bought goods from a caller to the shop in good faith on one occasion. Once the seizure of goods had been seized and the error brought to his attention, the licensee had put in place all of the measures recommended by trading standards. The licensee had been convinced by the labels on the products that the products were genuine. The Sub-Committee were informed that the licensee was unsure when the goods were purchased and invoices were not available as they would have been sent to the accountant.

During questioning, the service manager – trading standards, reported that the authority were under no legal obligation to give advice about smuggled goods and would expect a high level of management in licensed premises where licensees would have correct purchasing procedures in place. On some bottles, labels had been placed over other labels and there had been no quantity or alcohol markings on the Famous Grouse labels. It would be expected that managers would notice this. Although trading standards had not given advice directly to the licensee there had been information about the dangers of counterfeit alcohol in the local press over the past three years.

#### **RESOLVED:**

That, having considered all the oral and written evidence submitted and having given consideration to the Licensing Act 2003 and its regulations, the national guidance and the Council's licensing policy, the premises licence in respect of **City Supermarket, 190-194 Goswell Road, EC1V 7DT** be revoked.

#### **REASONS FOR DECISION**

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

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The Sub-Committee noted that the review was brought following smuggled alcohol found at the premises by the responsible authorities. The Home Office guidance at paragraphs 11.23, 11.26 and 11.27 identifies criminal activity which the Secretary of State considers should be treated particularly seriously. This includes the sale of smuggled and counterfeit alcohol. The Sub-Committee considered that the crime prevention objective was undermined through the premises being used for the sale of smuggled and counterfeit alcohol.

The Sub-Committee noted that a large quantity of alcohol, namely 158.5 litres of spirits and 164 bottles of wine had been seized from the licensed premises, that a quantity of the spirits had been examined and found to be counterfeit and that the licensee was unable to produce valid receipts. The Sub-Committee considered that the manner in which the goods were purchased reflected poor management practice.

Given these considerations the Sub-Committee decided to revoke the licence rather than suspend. In reaching their decision they took into particular consideration licensing policy 039 regarding the sale of smuggled goods and considered their decision was necessary and proportionate to the promotion of the licensing objectives.

**73** **CITY SUPERMARKET, 190-194 GOSWELL ROAD, EC1V 7DT**  
**APPLICATION FOR A PREMISES LICENCE TRANSFER AND CPS VARIATION UNDER THE**  
**LICENSING ACT 2003**  
**(Item B4)**

The applicant withdrew this application in view of the decision made by the Sub-Committee at Minute 72 above.

The meeting ended at 9.15 pm.

**CHAIR**