

London Borough of Islington

Licensing Sub-Committee 'D' – 20 February 2012

Minutes of the additional meeting of Licensing Sub-Committee 'D' held at the Town Hall, Upper Street, N1 2UD on 20 February 2012 at 6:00 pm

Present: Councillors: Barry Edwards, Troy Gallagher and Julie Horten.

COUNCILLOR TROY GALLAGHER IN THE CHAIR

84 INTRODUCTIONS (Item A1)

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

85 APOLOGIES FOR ABSENCE (Item A2)

None.

86 DECLARATION OF SUBSTITUTE MEMBERS (Item A3)

Councillor Barry Edwards substituted for Councillor Jean-Roger Kaseki and Councillor Julie Horten substituted for Councillor Arthur Graves.

87 DECLARATIONS OF INTEREST (Item A4)

There were no declarations of interest.

88 ORDER OF BUSINESS (Item A5)

The order of business would be B2 and B1.

89 CONFIRMATION OF THE MINUTES OF LICENSING SUB-COMMITTEE D HELD ON 15 DECEMBER 2011 (Item A6)

RESOLVED:

That the minutes of the meeting held on the 15 December 2011 be confirmed as an accurate record of proceedings and the Chair be authorised to sign them.

**90 SHAM CAFE, 196 SEVEN SISTERS ROAD, N4 3NX
APPLICATION FOR A NEW PREMISES LICENCE UNDER THE LICENSING ACT 2003
(Item B1)**

The Sub-Committee noted that the applicant was not present at the hearing and agreed to consider the application in his absence.

The noise officer reported that following a noise complaint, they attended the premises at approximately 4am on the 18 December. There were people outside the premises shouting across the street and about 60-80 people inside the premises drinking bottles of beer. The police were called and Mr Mulubrhan, who was the organiser, informed officers that he had applied for a licence. This was untrue. The Sub-Committee also noted from the papers that a closure notice had been served following a licensing visit in January when officers believed that shish smoking had been taking place and that alcohol was available for sale without a licence.

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 application for a premises licence in respect of **Sham Cafe, 196 Seven Sisters Road, N4 3NX**, be refused.

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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 013 regarding the highest standards of management in licensed premises and Licensing Policy 010 which sought to protect the amenity of residents particularly from undue disturbance against noise. The applicant submitted an operating schedule setting out how the licensing objectives would be promoted. However the Sub-Committee received evidence of the premises operating without a licence and without regard to the impact of noise and nuisance to neighbours. The noise team attended at the premises on 18 December 2011 at 4am and there were about 60 to 80 people drinking inside and noise and music were clearly audible from the street. A further visit by a licensing officer on 27 January 2012 found the premises open at 10pm and alcohol being provided to customers. The authority was so concerned that the premises were being used for the unauthorised sale of alcohol that a closure notice was served on the applicant.

The Sub-Committee noted that the applicant had provided inconsistent information to the responsible authorities and failed to take management action regarding the unlawful activity at the premises.

The Sub-Committee noted that the responsible authorities were concerned about the applicant's control and management of the premises and the Sub-Committee concluded that the applicant would not take the necessary steps to promote the licensing objectives.

The Sub-Committee therefore considered that the application should be refused.

91 CENTRAL STATION, 37 WHARF DALE ROAD, N1 9SD APPLICATION FOR A WAIVER FOR A SEX ESTABLISHMENT LICENCE (Item B2)

The licensing officer reported that a leaflet had been circulated following agenda despatch, which outlined the themed clubs available in the underground club. This would be interleaved with the agenda papers.

Duncan Irvine and Martin Mason the owners and licensees for Central Station supported by a neighbour Mike Jackson, spoke in support of the application. It was reported that there was a bar on the ground floor of the premises and the basement hosted a number of clubs, including fetish groups and a disco at the weekend. It was reported that there may be sexual contact in some of the clubs. The owners supplied the space and took money from the bar whilst the clubs made a charge for entry to cover costs. Mr Irvine stated his opinion that, should the Sub-Committee consider that the club was a licensable sex establishment, the requirement for a licence be waived as it was not considered that the legislation was aimed at this type of venue and it would be unreasonable and inappropriate to require a licence.

In response to questions from the Sub-Committee it was reported there were no paid performers at the premises. Strippers did perform in the club at one time but this entertainment was no longer provided.

In response to questions, the licensing officer reported that there were no reported problems with the club. The police had no complaints. There had been an issue with noise breakout from the terrace but this had now been resolved. The licensing officer reported that he had visited the premises and on that evening there were a number of customers watching sexual activity. He advised that in his opinion this could be seen as fitting the definition for a sex establishment on this occasion.

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

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RESOLVED:

That, having considered all the oral and written evidence submitted and having given consideration to Schedule 3, Local Government (Miscellaneous Provisions) Act 1982 and the home office guidance, it be agreed that a sex establishment licence in respect of **Central Station, 37 Wharfdale Rd, N1 9SD** be not required.

REASONS FOR DECISION

The Sub-Committee considered the written and oral submissions.

The Sub-Committee were satisfied that the premises did not require a sex establishment licence for the following reasons:-

1. The premises did not provide performances within the definition of Schedule 3 of the Act. The Sub-Committee received evidence that sexual contact between customers took place in the basement of the premises but this did not equate to a provision of relevant entertainment by the applicant or organisers of the themed clubs.
2. Although there was evidence of some patrons watching other patrons, this did not fall within the definition of entertainment before a live audience, as required for a licensable sexual encounter venue. The Sub-Committee concluded that an audience for the purposes of the Act, would be present at the premises to pay to watch paid/professional performers. The Sub-Committee concluded that all persons present during a club night were merely customers.
3. The Sub-Committee were advised that the organisers of the themed clubs covered their costs with the entrance fee and the applicant took the proceeds from the bar. The Sub-Committee concluded that as the sexual contact and displays of nudity were spontaneous displays by customers in the basement, they were not held for the financial gain of the applicant or the organisers.
4. The Sub-Committee considered the forms of entertainment set out in the Home Office guidance that are commonly understood to be licensable relevant entertainment including lap dancing, pole dancing, table dancing, strip shows, peep shows and live sex shows. The clubs provided in the basement of the premises did not fall within any of these categories.

In view of the Sub-Committees decision it was not necessary for it to then consider a waiver of the requirement for a licence.

The meeting ended at 7.25 pm

CHAIR