

London Borough of Islington

Licensing Sub-Committee 'D' – 18 December 2012

Minutes of the meeting of Licensing Sub-Committee 'D' held at the Town Hall, Upper Street, N1 2UD on 18 December 2012 at 6:05 pm

Present: Councillors: Joe Caluori, Troy Gallagher and David Wilson.

COUNCILLOR TROY GALLAGHER IN THE CHAIR

119 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 and those present were informed that the procedure was detailed on page 3 of the agenda.

120 APOLOGIES FOR ABSENCE (Item A2)

None.

121 DECLARATION OF SUBSTITUTE MEMBERS (Item A3)

None.

122 DECLARATIONS OF INTEREST (Item A4)

There were no declarations of interest.

123 ORDER OF BUSINESS (Item A5)

The order of business would be as the agenda.

124 CONFIRMATION OF THE MINUTES OF LICENSING SUB-COMMITTEE D HELD ON 30 AUGUST 2012 (Item A6)

RESOLVED:

That the minutes of the meeting held on the 30 August 2012 be confirmed as an accurate record of proceedings and the Chair be authorised to sign them.

125 RATTLESNAKE, 56 UPPER STREET, N1 0NY - APPLICATION FOR A NEW PREMISES LICENCE UNDER THE LICENSING ACT 2003 (Item B1)

The licensing officer tabled coloured copies of the police representation for members' consideration. It was noted that CCTV evidence substantiated the licensee's version of events regarding the second incident detailed in the additional information circulated by the police authority. The noise and health and safety conditions had been agreed.

The service director, public protection, raised particular concerns regarding the large number of licensed premises in the area. The Sub-Committee were requested to be mindful of the cumulative impact created by further premises in the area.

The police reported that there had been four reported offences in six months inside the premises. However concerns were expressed regarding the type of environment outside the premises. He highlighted that the Angel area was one of three violent hotspots in the Borough and a crime hotspot for robbery, in the early hours of the morning. He raised concerns regarding the lack of underground trains at 4am and the crime associated with unlicensed taxis. He also raised concerns about police resources and stated that the police would not be able to respond to victims of crime if there further late licences were issued.

The noise officer had spoken to the licensee, had set noise levels which had been agreed and recommended a closing down procedure which she hoped would be adopted.

The interested party, A Meredith, lived opposite the premises and reported that there was a street party atmosphere around Islington Green. Patrons of nearby premises with a 4:00 am licence

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often talked outside from 5am until dawn. She reported that, in the summer she did not get any sleep and patrons from premises that had an earlier closing time would move to other licensed premises in the area.

Mr Dadds, counsel, supported by designated premises supervisor, Paul Daly, spoke in support of the application. He reported that he had met with the police before the summer and informed them that they would be requesting a 4am licence for a live music venue. To demonstrate that this was a trouble free venue they had run a number of late night events through TENs and non-standard timing from the middle of August onwards on Friday and Saturday evenings. They had spent £500 000 updating the premises which was attracting a different crowd from neighbouring venues. He reported that the licensing policy at paragraphs 52 and 53 sought to encourage small scale live music venues in the borough.

Mr Dadds accepted that the premises were in a special interest area rather than in a cumulative impact zone. He reminded members that each application be considered on its merits and referred them to paragraph 13.42 of the home office guidance. He drew members attention to paragraphs 9.14 and 9.15 of the guidance and stated that there had been only one resident objector and objections had been of a general nature. He informed the Sub-Committee about a magistrate's court decision which had considered that it was not for the operator to be responsible for patrons once they had moved away from the premises. He reported that this venue was not a bar that targeted young people. He considered that in order for a venue to be considered a public nuisance there would need to be more than one objection from interested parties.

Mr Dadds reported that, according to the business improvement group statistics, violent crime had reduced by 33 %. He considered that the premises would not be adding to these statistics in any event. Mr Dadds passed photographs of the premises to members.

In response to questions from members it was noted that live music was provided until 02:00 am and background music was played after that time. The premises would be providing food until 04:30. Mr Dadds offered a condition that there would be no entry to the premises after 03:00 and informed members that when operating until 04:00, the premises had operated well. He reported that the police had not brought forward evidence that the premises had been impacting on the area during the times that they had been operating until 04:00 am. Members considered that the photographs showed evidence of a vertical drinking bar. Mr Dadds considered that the same type of crowd would be at the venue after the live music had ceased. He informed the Sub-Committee that tweets regarding the premises had been generally positive. In response the police informed the Sub-Committee that at least nine residents had tweeted in support of the interested party. In response to a question from the interested party, Mr Dadds informed members that need was not a consideration under the Licensing Act.

In summary, the licensing authority reported that the points raised in the representation were still valid and there were still particular concerns regarding the problems associated with a cumulative impact. The police were concerned that with other late night venues in other areas of Islington they would not have resources to cover this area.

Mr Dadds reported that these were not premises that attracted young people. The area was not in a cumulative impact zone and an offer of a condition for last admittance to be at 3am could be considered.

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

RESOLVED:

That, having considered all the oral and written evidence submitted and having given consideration to the Licensing Act 2003, as amended, and its regulations, the national guidance and the Council's licensing policy, the premises licence in respect of Rattlesnake, 56 Upper Street, N1 be refused.

REASONS FOR DECISION

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

In making the decision, the Sub-Committee took account of the following:-

- 1) The representation from the licensing authority and in particular its concern that this application if granted, would increase the availability of alcohol for consumption in the early hours of the morning thereby adding to the cumulative impact in the Angel/Essex Road area in terms of public nuisance, crime and disorder. Although the premises were not in a designated cumulative impact area within the borough, the Licensing Sub-Committee was still able to consider cumulative impact and saturation under licensing policy 023.
- 2) The police accepted that there were very few offences associated with the premises and four of the offences that had been recorded in the last six months related to thefts. However, the police remained concerned about the cumulative impact of the premises if it was licensed to supply alcohol until 4am in that it would lead to an increase of people on the pavements of Angel/Essex Road at that hour in the morning. This would increase the number of people that could be involved in criminal incidents fuelled by alcohol.
- 3) The police submitted that the demand on their resources already meant that they could not deal with all the late night calls in Bunhill/Clerkenwell where there was a density of late night venues. The police submitted that if this premises licence was granted this would add to the pressure on resourcing the Angel/Essex Road area. Police research shows that where there are more premises there are more victims and more crimes. The police also raised concerns about how patrons would be able to leave the area at 4am as the tubes had stopped and there was a problem with unlicensed taxis and the crimes associated with this. The Sub-Committee also considered the 'reclaim the night' police submission and considered paragraph 9.12 of the home office guidance that stated that the licensing authority should accept all reasonable and proportionate representations made by the Police unless the Authority had evidence that to do so would not be appropriate for the promotion of the Licensing Objectives.
- 4) The representation from the noise team was that agreement had been reached about a closing down procedure at the premises. This has been recently implemented and it was observed last weekend that noise nuisance from patrons leaving the premises was reduced. The Sub-Committee recognised the steps that the licensee has taken but however, remained concerned about the impact of patrons leaving the premises in the early hours of the morning.
- 5) The interested party submitted that she had lived opposite Islington Green for 15 years. She had experienced noise nuisance and disturbance from patrons leaving venues in the Angel/Essex Road area and was concerned that the dispersal of patrons would be towards Islington Green. In advance of the hearing, the police carried out research via twitter and another social network and nine residents demonstrated support for the representation of the interested party.
- 6) The Sub-Committee noted that the applicant had been operating until 4am on Friday and Saturday nights from mid-August under TENs and by using the 12 non-standard timings under the present licence. It was noted that the police had recorded two violent incidents and this was presented to the Sub-Committee in a witness statement of Robin Clark dated 10 December 2012. It was however, accepted by all parties that the second incident did not involve patrons from the premises.
- 7) The applicant submitted that he had invested £500 000 in the premises to provide a live music venue five days a week. The applicant stated that the premises were away from Islington Green and they were attracting a different crowd. The applicant put forward that this type of premises is one falling under licensing policy 003 and 004. It was submitted that the venue provided cultural diversity and was a small scale live music venue. However, the Sub-Committee were of the view that the type of venues covered by licensing policies 003 and 004 were those offering community entertainment on a much smaller scale

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- than the commercial operation being run by the licensee.
- 8) The applicant submitted that under paragraph 13.42 of the home office guidance that the fixing of times was unlawful and that each application should be determined on its own merits. The Sub-Committee noted this and made a decision in this case on the representations made by all parties in relation to the application.
 - 9) The applicant submitted that under paragraph 9.14 and 9.15 of the home office guidance licensing authorities are not expected to act for residents. The Sub-Committee noted this and were satisfied that the licensing authority was making representations as a responsible authority in accordance with its duties to promote the licensing objectives.
 - 10) The applicant submitted that the premises were not a vertical drinking venue and that they would accept a condition that no new patrons could enter after 3am. The applicant stated that they are very picky on the door. The Sub-Committee considered the photographs of the premises and observed that they were laid out to provide for vertical drinking. The Sub-Committee considered whether the imposition of the proposed condition would meet concerns raised by the responsible authorities (and the interested party who raised concern that patrons leaving premises with a 2am closing time would move to this premises if it was given a later licence). However it was decided that if the premises remained open until 4am even with a restricted entry policy after 3am there would still be a cumulative impact of patrons when they left in the Angel/Essex Road area.

The Sub-Committee were satisfied that in making this decision the licensing objectives would be promoted.

126 THE PRINCE OF WALES, 342 CALEDONIAN ROAD, N1 1BB – APPLICATION FOR A PREMISES LICENCE REVIEW UNDER THE LICENSING ACT 2003 (Item B2)

The licensing officer reported that there had been a change of layout to the premises that would normally require a minor variation but could in this case be dealt with through agreement by the officer for health and public safety. Members agreed that this be dealt with through the health and safety officer.

The noise officer asked that members consider the addition of deregulated entertainment to the list on page 73 of the report.

Eileen Boratac, the designated premises supervisor, supported by a number of patrons, in particular Jean Stokes, spoke against the review of the licence. She reported that there had been a need for the noise team to come out to complaints on only two occasions. The police had not been called to the premises, it was an important part of the local community and was used as a family public house. She considered that the interested parties were prejudiced about the people using the premises.

In response to questions it was reported that no smoking signs had been placed in the premises and Ms Boratac had made it clear that smoking will not be tolerated. The noise officer reported that when works had been carried out to change the layout of the premises, sound insulation had been removed from the bar area and the premises were no longer suitable as a music venue. The premises needed extensive sound insulation work in order to prevent noise nuisance to neighbouring premises. Currently, the sound limiter was unable to be set as customer voices would trip the limiter. The noise abatement notice was the responsibility of the person on which it was served. The Sub-Committee noted that planning enforcement were taking action to the rear of the property.

In summary, the noise officer reported that the premises were not fit for regulated entertainment and was a statutory nuisance to people living in the flats above. Music that was not very loud in the premises could be heard quite clearly in the accommodation above.

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

RESOLVED:

a) That, having considered all the oral and written evidence submitted and having given consideration to the Licensing Act 2003, as amended, and its regulations, the national guidance and the Council's licensing policy, the premises licence in respect of The Prince Public House, 342 Caledonian Road, N1 1BB be modified to reduce the hours for regulated entertainment by way of the exhibition of films – karaoke only, the performance of live music, the playing of recorded music, the performance of dance and the provision of entertainment facilities for making music and dancing, to 21:00 hours.

b) That the following conditions be applied to the licence:-

- i) The conditions of the current licence:
- ii) That the hours for the provision of deregulated entertainment (under the Live Music Act) at the premises be limited to 21:00 hours:
- iii) That, following completion of sound proofing works and/or compliance with planning enforcement measures and, subject to the satisfaction of the licensing authority that sufficient soundproofing is in place to eliminate noise nuisance to adjacent residential premises, the hours for regulated entertainment will revert to the hours set out in the original licence.
- iv) That, following completion of sound proofing works and/or compliance with planning enforcement measures and, subject to the satisfaction of the licensing authority that sufficient soundproofing is in place to eliminate noise nuisance to adjacent residential premises, the hours for deregulated entertainment will revert to the hours set out in the original licence.
- v) Conditions as detailed on page 121 of the agenda.

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 010 regarding the protection of the amenity of residents and preventing undue noise disturbance from licensed premises.

The Sub-Committee noted the level of noise breakout from the premises into the flats above and that a noise abatement notice had been served. The Sub-Committee also noted that the licensee's business would not be viable if she was not able to provide music at the premises. The Sub-Committee also noted that the premises provides a community public house and patrons spoke in support of the continuation of the licence.

The Sub-Committee considered that it was not appropriate to revoke the licence and the licensing objectives could be promoted by limiting the provision of music at the premises until such time that adequate sound proofing measures were in place.

The Sub-Committee considered that with the additional conditions the licensing objectives would be promoted.

127 A K LONDIS, 55-57 JUNCTION ROAD, N19 5QU – APPLICATION FOR A PREMISES LICENCE VARIATION UNDER THE LICENSING ACT 2003 (ITEM B3)

The licensing officer reported that the health and safety conditions had been agreed.

Keith Walmsley, the applicant, reported that the new owners had modified the application and requested only the extended hours of 08:00 and 10:00 am on Sundays and the removal of the restrictions relating to the retail sale of alcohol on Good Friday and Christmas Day. They were no

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longer seeking a licence for late night refreshment.

RESOLVED:

a) That, having considered all the evidence and having considered the Licensing Act 2003, as amended, its regulations, the national guidance and the Council's Licensing Policy, the premises licence in respect of A K Londis, 55-57 Junction Road, N19 be granted to allow:-

- i) The extension of the current hours for the sale by retail of alcohol, Sunday 08:00 to 10:00am.
 - ii) The removal of the restrictions relating to the retail sale of alcohol on Good Friday and Christmas Day.
- b) That the following conditions shall be applied to the licence.
- i) Conditions of the current licence;
 - ii) Conditions outlined on pages 152- 154 of the agenda.

REASONS FOR DECISION

The Sub-Committee considered the submissions put forward by the responsible authority, the interested parties and the applicant.

The Sub-Committee noted that the applicant accepted the conditions put forward by the responsible authority.

The Sub-Committee noted the amended application and that the new owner was only seeking additional hours on Sunday morning and removing the restrictions on Good Friday and Christmas Day.

In reaching their decision, the Sub-Committee took into particular consideration Licensing Policy 023 regarding the location of the premises, the character of the area, the 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.

The Sub-Committee considered that with the conditions detailed on appendix 3 on page 152-154 of the agenda the licensing objectives would be promoted.

128 FAR EAST STORY, 126 JUNCTION ROAD, N19 5LB – APPLICATION FOR A NEW PREMISES LICENCE UNDER THE LICENSING ACT 2003 (ITEM B4)

The applicant, Hao Xin Wang, spoke in support of the application. He informed members that he would be selling drinks with a low alcohol content and that it would be served with food provided. The café had only three tables and the police had proposed a condition that there be no vertical drinking.

In response to questions from the Sub-Committee, Mr Wang reported that off sales would be sold only with take away food.

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

RESOLVED:

a) That, having considered all the evidence and having considered the Licensing Act 2003, as amended, its regulations, the national guidance and the Council's Licensing Policy, the premises licence in respect of A K Londis, 55-57 Junction Road, N19 be granted to allow:-

- i) The sale by retail of alcohol, Monday to Sunday, 10:00 to 22:00 for on and off sales.
- ii) The extension of opening hours for sale by retail of alcohol until midnight for Christmas week,

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New Year week and Chinese New Year.

b) That the following conditions be applied to the licence:-

i) Conditions as detailed in appendix 3 on page 173 of the agenda with the following additions:-

- No on sales of alcohol at the premises otherwise than to:-
Persons taking table meals there and for consumption by such a person as ancillary to his/her meal.
Persons waiting to be seated in the designated waiting area.
- There be no vertical drinking.
- No off sales of alcohol at the premises otherwise than to people purchasing food.

REASONS FOR DECISION

The Sub-Committee considered the submissions put forward by the responsible authority, the interested parties and the applicant and balanced the conflicting needs of residents and the business interests of the applicant.

The Sub-Committee noted that the applicant accepted the conditions put forward by the responsible authority.

In reaching their decision, the Sub-Committee took into particular consideration licensing policy 023 regarding the location of the premises, the character of the area, the views of the interested parties and licensing policy 025 and the proposed hours of operation.

The applicant agreed to accept a condition limiting off sales to customers purchasing food.

The Sub-Committee considered that with the conditions detailed on appendix 3 on page 173 of the report subject to the amendments, the licensing objectives would be promoted.

The meeting ended at 8:30 pm.

CHAIR