

**London Borough of Islington**  
**DRAFT**  
**Licensing Sub-Committee 'D' – 23 April 2013**

Minutes of the meeting of Licensing Sub-Committee 'D' held at the Town Hall, Upper Street, N1 2UD on 23 April 2013 at 6:45 pm

Present: Councillors: Barry Edwards, Troy Gallagher and Phil Kelly.

Also

Present: Councillors: George Allan (Item B1) and Claudia Webbe (Item B5).

**COUNCILLOR TROY GALLAGHER IN THE CHAIR**

**145 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 pages 5-7 of the agenda.

**146 APOLOGIES FOR ABSENCE (Item A2)**

Apologies were received from Councillors Caluori and Wilson.

**147 DECLARATION OF SUBSTITUTE MEMBERS (Item A3)**

Councillor Barry Edwards substituted for Councillor Joe Caluori and Councillor Phil Kelly substituted for Councillor David Wilson.

**148 DECLARATIONS OF INTEREST (Item A4)**

Councillor Troy Gallagher declared a personal interest in Item B5, Coral, 16 City Road, EC1 as he was a ward councillor.

**149 ORDER OF BUSINESS (Item A5)**

The order of business would be as the agenda.

**150 SAINSBURY'S, GROUND FLOOR, 91-93 ST JOHN STREET, EC1M - APPLICATION FOR A NEW PREMISES LICENCE UNDER THE LICENSING ACT 2003 (Item B1)**

The licensing officer tabled a floor plan of the premises. This would be interleaved with the agenda papers.

The Service Manager, licensing authority, reported that this premises was in the Clerkenwell cumulative impact area and the licensing policy 002 created a rebuttable presumption that applications for new premises licences would normally be refused. She did not consider that the applicant had demonstrated why the premises would not add to the cumulative impact in the application. Should the Sub-Committee decide to grant the application, she requested that the sale of alcohol cease at 8pm in order to avoid adding to the cumulative impact associated with visitors consuming alcohol for consumption in the street.

The health authority reported that the area already suffered from a greater number of alcohol related ambulance call outs than other wards which represented a substantial use of health services.

Local residents, Ruth Enshaw and Deborah Hutchinson and Councillor George Allan spoke against the application. Councillor Allan considered that the applicant would be unlikely to discharge the rebuttable presumption. The premises were in an area which already had a serious issue with the clients of night clubs due to the practice of pre-loading. There had been widespread support from residents for the cumulative impact area and the trend for the number licensed premises should be downwards. Residents spoke about the negative impact in the area from customers drinking. A typical weekend could include noise from car stereos at 1 am in the morning and men drinking

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outside with supermarket bags in hand. The alley by the Sainsbury's exit was in complete darkness and was used as a public toilet and people took shelter and smoked in a recessed area next to Sainsbury's late at night. Siren noises at night were constant from police and ambulances dealing with the issues. If the licence were to be granted residents considered that conditions regarding deliveries and rubbish collection times should be applied to the licence.

Robert Botkai, solicitor, supported by Joanne Surguy the licensee, spoke in support of the application. He reported that there was a licence in existence for Bar 38 at the premises. The applicant was not asking for on sales or for a music licence. Sainsbury's had no intention to trade for 24 hours. He reported that the policy for the Clerkenwell area was more concerned about the late night economy and this premises type would not be adding to it. The police had not submitted a representation and he informed the Sub-Committee that case law existed that indicated that the lack of police representation should carry heavy weight in applications. Standard conditions proposed would meet the licensing objectives and additional conditions were also tabled for members consideration. These would be interleaved with the agenda papers. Street drinking was not raised in the impact policy for this area. The store would be closed late at night and whilst the alley and the recessed area were not Sainsbury's land there may be measures that they could take to improve them. Rubbish was kept in the store late overnight and not collected until the day. Timing of deliveries was conditioned in the planning consent. He offered a condition that deliveries could be to the front door of the premises only. He reported that there were two supermarkets nearby that were open until 23:00 hours and which sold a similar range of alcohol. He would question whether these premises would add to the cumulative impact as customers could buy alcohol at these premises in any case and the late night bar licence would not be operating. Sainsbury's were a responsible retailer and would not be serving customers when drunk.

Mr Botkai reported that the Sub-Committee would need to be satisfied that granting the licence would increase the ambulance call outs. The premises were in a quiet residential street and not in the main hotspot of the cumulative impact area. Whilst crime statistics peaked between 8pm and midnight he considered it was fair to assume that this would peak after the pubs closed for the evening and this was after the proposed hours.

In response to questions from the Sub-Committee, it was noted that, in order to use the previous bar licence, the premises would have to be converted back to the original plan of the premises. The licence for a bar could not be used in its current form. With regard to rebutting the presumption, Mr Botkai reported that should customers wish to purchase alcohol they could from other local premises and another premises would not add to the amount sold. The police had raised no issues and the Designated Public Places Order gave powers to prevent street drinking if necessary. Smaller independent off-licences may see a reduction in their alcohol sales. Mr Botkai considered that the problems in the area were due to the number of bar and clubs rather than off licences. He informed the Sub-Committee that they could add conditions restricting the type of alcohol sold.

In summing up, the licensing authority considered that there was a problem in this area with the public pre-loading and then entering nightclubs. One more licensed premises would impact on the area. The authority wished to restrict pre-loading through application rather than intervention through the use of the designated public places order. The health authority considered that the area was already at saturation and from a health perspective would prefer less licensed premises. The high number of ambulance calls in the area were a cause for concern and the Sub-Committee were asked to consider licensing policy 004 regarding the restriction in the number of shops selling alcohol.

Councillor George Allan did not consider that Sainsbury's had addressed the problems that concerned residents. He reported that, although there was no representation from the police there were strong representations from local people. The applicant reported that the Government's guidance, at paragraph 9.12 advised the police should be the licensing authority's main source of advice on matters relating to the promotion of crime and disorder. The problems reported in passing alley could be dealt with through CCTV, signage and proper lighting. He considered that they would only be adding to the cumulative impact if other premises nearby did not sell alcohol

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and the premises had a music and alcohol licence when operating as a bar.

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

### **RESOLVED:**

That the premises licence in respect of Sainsbury's, Ground Floor, 91-93 St John Street, 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 2013-2017.

The Sub-Committee noted that the police did not make any representations in regard to this application, however, the Sub-Committee took the view that the problems associated with crime and disorder were covered in the representation from the licensing authority. The Sub-Committee were of the view that the applicant had not discharged the presumption that the application would add to the existing cumulative impact. Furthermore, the applicant's submissions in regard to the problem of pre-loading in the immediate vicinity of the premises did not persuade the Sub-Committee that the licensing objectives of crime and disorder, public safety and public nuisance would not be undermined if the application was granted.

In reaching their decision, the Sub-Committee took into particular consideration Licensing Policy 001 and 002 regarding location, cumulative impact and saturation, licensing policy 004 regarding shops selling alcohol and licensing policy 007 regarding licensing hours.

### **151 69-73 ST JOHN STREET, EC1– APPLICATION FOR A NEW PREMISES LICENCE UNDER THE LICENSING ACT 2003 (Item B2)**

The licensing officer reported that one resident had withdrawn their objection. A resident, not present at the meeting, asked for two additional conditions regarding the closing of the rear windows and the use of the air conditioning unit.

James Anderson, solicitor, speaking in support of the applicant, Vivienne Lorans, reported that this was an application for re-licensing following the previous licence lapsing due to insolvency. The applicant had a problem free history and the premises were proposed to be a very good Italian restaurant. They had received no complaints regarding the air conditioning unit and would be reluctant to agree to keep the windows shut and turn off the air conditioning unit at 6.30 pm. They considered that it would be acceptable to close the rear windows at 6.30pm to ensure there was no noise leakage from customers.

In response to questions it was considered that it was proposed to be a fine dining experience and patrons would be unlikely to move onto other premises in the area. The application for recorded music had been withdrawn.

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

### **RESOLVED:**

a) That the premises licence in respect of 69-73 St John Street, EC1 be granted to:-

- i) permit the premises to sell alcohol on supplies only, Sundays to Thursdays from 11:00 until 23:00 and Fridays and Saturdays from 11:00 until midnight.
- ii) supply late night refreshment (hot food and drink) on Fridays and Saturdays until midnight.

b) That the conditions as outlined in appendix 3 on page 86 of the agenda be applied to the licence with the following additional condition.

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- Windows at the rear of the premises will be closed at 6.30 pm.

### **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 2013-2017.

The Sub-Committee noted that the applicant accepted the conditions put forward by the responsible authorities and that the applicant agreed an additional condition, proposed by a local resident, that windows at the rear of the premises would be closed at 6.30pm.

The Sub-Committee considered that the premises were located in a cumulative impact area but were satisfied that the applicant had rebutted the presumption that the premises involved would not add to the cumulative impact.

In reaching their decision, the Sub-Committee took into particular consideration licensing policy 002 relating to cumulative impact, licensing policy 008 relating to licensing hours and licensing policy 010 regarding standards of management.

The Sub-Committee considered that with the conditions detailed on appendix 3 on page 86 of the report subject to the addition, the licensing objectives would be promoted.

### **152 UNIQUE NEWSAGENT, 335 HOLLOWAY ROAD, N7 6NJ – APPLICATION FOR A PREMISES LICENCE REVIEW UNDER THE LICENSING ACT 2003 (Item B3)**

The trading standards officer summarised the reasons for the review. He reported that two underage sales of alcohol were made by Mr Haria within a year. Mr Haria sold to an underage volunteer in February 2012. He then attended an officer panel in March 2012, refused one underage sale in June 2012 but then sold to a volunteer in December 2012. He considered that the volunteers were over 18 years of age. Mr Haria had been the licensee of the business for 22 years and had no other problems previously. Mr Haria had attended training in February 2013 and was now operating Challenge 25. Mr Haria agreed to additional licensing conditions proposed by the trading standards officer. The trading standards officer considered that a suspension for a short period would be sufficient.

Mr R Jordan the licensing representative spoke in support of the licence holder, Bharat Haria. He reported that there had been no previous issues and measures had now been taken to ensure that underage sales would not happen again, for example with training and appropriate signage. He advised that trading standards were not asking for revocation. The police had reported that there were no further problems with the premises. Mr Jordan accepted that the sales should not have happened but reported that Mr Haria considered that the volunteer looked over 18 years of age although did not look over 25 years of age. A Challenge 25 policy was now in place. There had been letters of support for the licensee and he asked that the Sub-Committee not suspend on this occasion.

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

### **RESOLVED:**

That the premises licence in respect of Unique Newsagent, 336 Holloway Road, N7 be suspended for a period of two weeks and that the licence be modified to allow the addition of conditions as detailed on page 106 of the agenda.

**REASONS FOR DECISION**

The Sub-Committee considered the submissions put forward by the responsible authority, the interested parties and the licensee's representative.

In making their decision they took into account that the licensee had been in business for twenty years at the licensed premises and that there had been no previous issues relating to the licence. The Sub-Committee also noted that since the underage sale in December 2012 the licensee had attended training provided by the trading standards team and had recently improved their management practices to uphold the licensing objectives. They also noted the letters of support from local residents.

However, the Sub-Committee noted that there had been two underage sales during 2012 and in each case the sale had been made by the licensee. The Sub-Committee took the view that this was a serious lapse in management practices and considered that a short suspension of the licence was necessary. This would enable the licensee to implement staff training regarding alcohol sales to ensure that the licensing objectives would be met.

In reaching their decision, the Sub-Committee took into particular consideration Licensing Policy 001 in relation to location, licensing policy 004 regarding shops selling alcohol, licensing policy 010 regarding the highest standards of management and licensing policy 025 regarding the illegal sale of alcohol to children.

**153 EXPRESS SUPERMARKET, 81 HAZELLVILLE ROAD, N19 – APPLICATION FOR A PREMISES LICENCE REVIEW UNDER THE LICENSING ACT 2003 (Item B4)**

The trading standards officer reported that on the 7 December 2012 an employee sold to an underage volunteer. Mr Aslan, a partner in the business, informed the officer that the employee was just helping out for the day and had not been trained. On the 11 December officers from HMRC and the police returned to the shop and seized 328 bottles of Italian wine, which was suspected to be non-duty paid. At a PACE interview with trading standards and the police on the 7 February, Mr Erdogan a business partner, claimed not to know that the wine was illegal, he said he recognised the guidance sheet sent in March 2011, he reported that the wine was purchased from a caller to the shop in early December but no paperwork had been provided. When the seller returned to the shop trading standards were not informed.

Mr Erdogan, supported by a translator, reported that he had been in business for the past eleven years and was an experienced licensee. Most of the issues had happened in his absence when he was abroad and he was now keen to work with trading standards.

In response to questions it was noted that Mr Erdogan had purchased the wine and then had not reported the return of the seller to the trading standards team. Mr Erdogan did not consider that purchasing cheap wine for cash only from a man he had never seen before was suspicious as he had been referred to him by the previous shop owner.

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

**RESOLVED:**

That the premises licence in respect of Express Supermarket, 81 Hazellville Road, N19 be revoked.

**REASONS FOR DECISION**

The Sub-Committee noted that the review was brought following the discovery of illicit alcohol found at the premises and an underage sale in December 2012. The Home Office guidance at paragraph 11.27 and 11.28 identifies criminal activity which the Secretary of State considers should be treated particularly seriously.

The Sub-Committee noted that the underage sale took place when the licensee was out of the country. However, it was the licensee who had bought the large quantity of illicit wine and further, once it had been seized by trading standards, he did not report the visit made to him subsequently by the seller. The Sub-Committee noted that advice had been given to the licensee about buying cheap Italian wine from door to door sellers which the licensee had chosen to ignore. The Sub-Committee was told that since the two incidents, the licensee had failed to engage with Trading Standards. The Sub-Committee had not been provided with any evidence to show that the standards of management at the licensed premises had improved. The Sub-Committee noted that training had been given verbally and no records had been kept of the training. The Sub-Committee concluded that the licensing objectives, the prevention of crime and disorder and the protection of children from harm, had been undermined. Given these considerations, the Sub-Committee decided that the revocation of the licence was a proportionate response to this review.

In reaching their decision, the Sub-Committee took into particular consideration licensing policies 25 and 26 regarding licensing reviews and licensing policy 010 regarding the highest standards of management.

**154 CORAL, 16 CITY ROAD, EC1Y 2AA – APPLICATION FOR A NEW PREMISES LICENCE UNDER THE GAMBLING ACT 2005 (Item B5)**

Local resident, supported by ward Councillor Webbe, reported that there were 14 betting shops within 0.7 miles. She asked the Sub-Committee to consider paragraphs 038 and 039 of the Gambling policy which raised concerns about saturation and vulnerable residents. The premises was located within close proximity to schools and was in a residential area with flats and families and in an area close to schools and parks. It was reported that in an area with vulnerable residents, this was one application too many.

Mr Woods, solicitor, speaking in support of Corals, reported that Corals had exceptionally high standards of management. He reported that the Sub-Committee would need to apply the law which aimed to permit to grant. Demand and need were not reasons for refusal and nor was there a saturation policy for the area. The Sub-Committee would need to consider that applications protected the children and vulnerable through the high standards of management.

The public considered that it was not safe to walk past betting shops but the perception was not the case in reality. Shops did not have a large number of people hanging around outside. There had been no objections from the police or from the Gambling Commission. He considered that the papers circulated separately, which would be interleaved with the agenda papers, provided evidence of the high standards of training and management and were approved by the Gambling Commission. There was no evidence to suggest that their policies did not work. Mr Woods invited the Sub-Committee to consider the Gambling Act and the licensing objectives and accept the lack of police and Gambling Commission representations as evidence.

He considered that the area and residents would not be impacted on at all by the additional premises.

In response to questions it was noted that the premises would contain four fixed odds machines which was the maximum number allowed. It was accepted that these could take £300 in an hour but that was not to say that this was the amount people spent. This was the number allowed in law and it was the amount that could be taken over the counter in one bet. Mr Woods informed the Sub-Committee that there was much speculation about these machines in the press but their policies allowed them to take all steps possible in monitoring and assessing customers. It was

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noted that there was no toilet in the premises.

In response to questions directed to Councillor Webbe it was noted that there were schools and a park nearby with a leisure centre and a Methodist church nearby. There was a high density of vulnerable families and Islington was the 5<sup>th</sup> most deprived borough. The Bunhill ward contained a dense population with many residents living in poverty and the Council wished to reduce the number of opportunities for gambling in the Borough.

Mr Woods informed the Sub-Committee that Coral were the best in the industry and their training was continually assessed. There was no toilet to ensure that customers did not stay a long time in the premises.

In summary, Councillor Webbe reported on the high levels of vulnerability in the ward and that the ability of residents who wished to engage in gambling needed to be reduced. Addiction affected families and she would not wish to see the number of places for those already addicted increased. Mr Wood understood the moral arguments about betting offices, however he reported that Gambling law was specific and applications were difficult to refuse. Reference to addicts and vulnerable persons had not been made in the representations and nor had the policy. The number of betting premises in the area was not uncommon in Islington or other areas of London. The Act advised that authorities should aim to permit the use and allow the premises to be used for gambling. The applicant would need to have measures in place to ensure gambling was not a source of crime and disorder. Training and management practices were of the highest standard and this had not been challenged. The Sub-Committee may consider that customers on low incomes should not gamble but this approach would be unlawful. Corals would promote the licensing objectives as detailed in the Act.

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

### **RESOLVED:**

That the application for a premises licence in respect of Coral, 16 City Road, EC1Y 2AA be refused.

### **REASONS FOR DECISION**

The Sub-Committee considered the submissions put forward by the interested party and the applicant.

The Sub-Committee considered the operators policy document and took the view that, although it addressed how children and certain types of vulnerable persons would be protected, it did not sufficiently address how vulnerable persons, such as the unemployed, would be protected. The Sub-Committee concluded that the applicant had therefore failed to demonstrate that it would meet the objective of protecting vulnerable persons from being harmed or exploited by gambling.

The Sub-Committee noted that although the operator was committed to have four fixed betting terminals they were concerned that this was a small premises and there would be an intensification of the use of these machines; these machines provide higher prize money and therefore the primary use of the premises would not be traditional betting over the counter but directed towards the fixed terminals.

In reaching their decision, the Sub-Committee gave due regard to the Council's Gambling Policy 2013-2016 paragraphs 35-39 regarding saturation and paragraphs 44 and 45 regarding the location of the premises, noting that the premises was in close proximity to residential properties, schools, a local park, rail stations and a religious centre.

The meeting ended at 10.15pm

**CHAIR**