

Licensing Sub Committee D - 23 October 2014

Minutes of the meeting of the Licensing Sub Committee D held at Committee Room 4, Town Hall, Upper Street, N1 2UD on 23 October 2014 at 6.30 pm.

Present: **Councillors:** Alex Diner (Chair), Angela Picknell (Items B2-B4) and Aysegul Erdogan

Also Present: **Councillors:** Gary Poole for Item B1.

Councillor Alex Diner in the Chair

13 INTRODUCTIONS AND PROCEDURE (Item 1)

Councillor Alex Diner 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 in the papers.

14 APOLOGIES FOR ABSENCE (Item 2)

None.

15 DECLARATIONS OF SUBSTITUTE MEMBERS (Item 3)

None.

16 DECLARATIONS OF INTEREST (Item 4)

None.

17 ORDER OF BUSINESS (Item 5)

The order of business was as set out in the agenda.

18 MINUTES OF PREVIOUS MEETING (Item 6)

RESOLVED

That the minutes of the meeting held on the 12 August 2014 be confirmed as an accurate record of proceedings and the Chair be authorised to sign them.

19 LEON, UNIT 2, ZINC HOUSE, 19-25 COWCROSS STREET, EC1M 6DR - NEW LICENCE APPLICATION (Item 1)

The Sub-Committee noted the supporting documents supplied by the applicant which would be interleaved with the agenda papers.

The noise officer reported that the noise conditions on page 29 of the agenda had been agreed with an additional condition that tables and chairs would not be placed outside the premises until 08:00 am.

The applicant reported that licensing hours would cease at 10:30 pm Monday to Saturday and at 10:00 pm on Sunday. It was reported that the concept of the business was to sell healthy food with alcohol as a small part of the business. There were to be 40 covers inside the premises with 20 covers outside. The outside space was not to be used after 9pm. It was noted that this was a cumulative impact area but the licence was for earlier hours than for three nearby premises. It was reported that the application fell within the exceptions detailed in the licensing policy and it was unlikely to add to the cumulative impact with the concept and hours.

In response to questions, it was noted that the applicant would accept a Challenge 25 condition, a member of management would monitor the outside area and staff could not start serving alcohol unless trained at selling. The Sub-Committee noted that there would be greater safeguards with the grant of the licence as there would be conditions that would need to be complied with. The applicant offered no off sales after 9pm.

In summary the applicant reported that there had been no representation from the police and that conditions had been agreed with the noise team. Alcohol sales would be minimal. Hours applied for were shorter than those detailed in licensing policy 8. The premises was unlikely to add to the cumulative impact.

RESOLVED

a) That the new premises licence in respect of Leon, Unit 2, Zinc House, 19-25 Cowcross Street, EC1 be granted to sell alcohol for consumption on the premises from 10:00 to 22:30 on Monday to Saturday and from 12:00 to 22:00 on Sunday and consumption off the premises from 10:00 to 21:00 on all days of the week. All in respect of the ground floor only.

b) Conditions as outlined in appendix 3 as detailed on page 29 of the agenda shall be applied to the licence, subject to the following amendments and additions.

- Tables and chairs will not be placed outside until 08:00 am
- The premises shall operate a Challenge 25 scheme.
- Condition 17 to read. Doors and windows to the premises will be kept closed after 21:00 hours except for ingress and egress.

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.

The Sub-Committee took into consideration Licensing Policy 002. The premises fall under the Bunhill and Clerkenwell cumulative impact area. Licensing policy 002 creates a rebuttable presumption that applications for new premises licences that are likely to add to the existing cumulative impact will normally be refused, unless an applicant can demonstrate why the operation of the premises involved will not add to the cumulative impact or otherwise impact adversely on the promotion of the licensing objectives.

The Sub-Committee noted that the conditions proposed by the Noise Team had been agreed by the applicant, and that a further condition relating to tables and chairs outside the premises before 8am had been offered. The Sub-Committee further noted that, following concerns expressed regarding the impact of off sales, the applicant was prepared to accept that there be no off sales from the premises after 9pm. The applicant also offered to change the time for on sales on Sundays, so that on sales would end at 10pm.

The Sub-Committee heard evidence that the premises would be a food led business selling fast, healthy, fresh food, and that across the company's other premises alcohol sales only made up less than 1% of sales. The premises were small, with only 40 covers inside and a further 20 covers outside. The Sub-Committee noted that the hours sought fell within the suggested opening hours as set out in Licensing Policy 8.

The Sub-Committee heard evidence on how the premises would tackle possible public nuisance caused by a further licence in the area. The applicant stated that there was unlikely to be nuisance caused by the premises due to the size of the premises, the fact that alcohol sales are minimal and due to the type of customer the premises was likely to attract.

The Sub-Committee concluded that the grant of the licence with conditions would not add to the cumulative impact and would promote the licensing objectives. The Sub-Committee noted that after 9pm the premises would have only 40 covers and that the hours sought are within those detailed in licensing policy 8. The Sub-Committee noted that in granting the licence it was possible to regulate the outside area with conditions.

20 LIDL, 67-83 SEVEN SISTERS ROAD, N7 6BU - NEW LICENCE APPLICATION (Item 2)

The licensing officer reported that the resident objector on page 58 of the papers had been withdrawn. The Sub-Committee noted that a revised CCTV condition was to replace proposed conditions 5, 7 8 and 9, conditions 18-20 had been amended to state four hours (not two) and noise conditions had been agreed. There was a remaining representation from the MAGPI team referring to street drinking in the area. It was noted that there was a proposed condition regarding super strength alcohol.

The police reported that the applicant had been willing to engage and had put forward more conditions than expected. These premises were a good distance away from Finsbury Park station and with conditions agreed regarding match days the police had withdrawn their concerns.

The applicant's representative spoke in support of the application. Folders outlining training policies and responsibility pledges were made available to the Sub-Committee. It was recognised that greater conditions were required in a cumulative impact area. The training that would be given to staff was outlined. It was noted that alcohol was kept at the furthest point from the door and was monitored by CCTV to reduce theft. Risk assessments were made to ascertain the need for SIA door supervisors. It was reported that the store was proactive and that they participated in a number of community based groups. Street drinkers were no longer an issue in the area. A condition was proposed regarding the time of deliveries.

In response to questions it was noted that the premises would open at 7am. There would be a bakery and until 11am the sales were predominantly fresh food with nominal alcohol sales. There had been an issue with a neighbouring pub near a local store at Finsbury Park but extra security guards were employed when necessary. Alcohol was removed from the shop floor at the neighbouring store for all events held at Finsbury Park. Alcohol sold would not be of so much interest to street drinkers. The store would not be selling alcohol in bulk. The store manager was likely to be someone who already had experience in another Lidl store. It was agreed by the applicant that large scale musical events could be included in proposed condition 17. There would be one delivery a day and the applicant was currently in consultation with the highway department regarding the area for delivery. The applicant stated that alcohol was applied for at 7am as there was a practical difficulty in selling at a later time. The store did not sell a great deal of alcohol early in the morning so they did not consider there would be greater harm. Incidents in the morning related to shop lifting rather than the sale of alcohol and people would not be served if drunk.

In summary the applicant considered that the committee could depart from the cumulative impact policy on this occasion and this store would help improve the area.

RESOLVED

That the new premises licence in respect of Lidl, 67-83 Seven Sisters Road, N7 6BU be granted to allow the sale by retail, off supplies only, Mondays to Sundays from 9:00 until 23:00.

Opening hours to be Mondays to Sundays from 7:00 until 23:00.

Conditions as outlined in appendix 3 as detailed on pages 62/63 of the agenda shall be applied to the licence with the following amendments-

- Conditions 5, 7, 8 and 9 be deleted and replaced with the following wording:-

CCTV shall be installed, operated and maintained in agreement with the Police. Maintained means that the system shall be regularly serviced (at least once a year) and checked every two weeks to ensure that it is storing images correctly and a log kept and signed by a Supervisor to this effect. The system will provide an identifiable full head and shoulder image of everyone entering the premises and will operate in any light conditions within the premises. The system will cover the full exterior of the premises (being the public entrances and exits) and shall record in real time, date and time stamped and will operate whilst the premises is open for licensable activities. The recordings will be kept for a minimum of 31 days and copies will be made available to an authorised officer or a police officer (subject to the Data Protection Act 1998) within 24 hours of any request free of charge. There will always be a member of staff on duty who can operate the system, to allow officers to view recordings and if required by a police officer, provide a copy of images immediately free of charge.

- Condition 10 to read. The premises will participate in the Shopwatch Scheme or any other similar scheme endorsed in the area by the Metropolitan Police and shall participate in the related radio link scheme for as long as it operates in the area. In addition, the premises will become an active member of the Nag's Head Town Centre Management Group, will engage with and attend the Crime Sub Group meetings to help support the development and improvement of the area and will have an active role in the Community Alcohol Partnership.
- Condition 16 to read. No sale of alcohol for consumption off the premises for up to **four** hours before a designated football match at the Emirates stadium if notification in writing from the Metropolitan Police has been given to the Lidl premises at Seven Sisters Road at least 48 hours in advance of the Designated Football Match stating the match is one in respect of which the Metropolitan Police consider that the sale of alcohol at Lidl needs to be restricted as set out in the condition due to the crime and disorder anticipated in connection with the said match.
- Condition 17 to read. On all other occasions when there is a football match at the Emirates stadium or large scale musical events at the Emirates stadium and Finsbury Park the following conditions will apply:-
- For match days, we will employ a security guard for a minimum of 4 hours before kick-off and 4 hours after the scheduled match finish time in order to assist with the policing of sales.
- For match days, from 4 hours prior to kick off and for 4 hours after the match finishes, no beer, lager or cider will be sold in glass bottles.
- For match days, from 4 hours prior to kick off and for 4 hours after the match finishes, a maximum of 4 cans of beer, lager or cider will be sold to anyone.

- On large scale event days, we will employ a security guard for a minimum of 2 hours before gates open and 2 hours after the event finish time in order to assist with the policing of sales.
- On large scale event days, from 2 hours prior to gate opening and for 2 hours after the event finish time, no beer, lager or cider will be sold in glass bottles.
- For large scale event days, from 2 hours prior to gate opening and for 2 hours after the event finish time, a maximum of 4 cans of beer, lager or cider will be sold to anyone.

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.

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 that are likely to add to the existing cumulative impact will normally be refused, unless an applicant can demonstrate why the operation of the premises involved will not add to the cumulative impact or otherwise impact adversely on the promotion of the licensing objectives.

The Sub-Committee noted that the applicant and the police had agreed further conditions and that on this basis the police objection had been withdrawn. The Sub-Committee also noted that the local resident objection had also been withdrawn. The Sub-Committee further noted that the proposed conditions from the noise team, including a condition relating to deliveries, had been agreed and that the noise objection had been withdrawn.

The Sub-Committee heard evidence from the police that there had been good engagement from the applicant and that the applicant had offered more conditions than the police would expect for a premises of this type. The police gave evidence that the premises were far enough away from the Emirates stadium that they were unlikely to cause policing problems on match days with the conditions agreed.

The Sub-Committee noted the further bundle of documents provided by the applicant in relation to, amongst other matters, training and membership of local community based groups.

The Sub-Committee heard evidence from the applicant that this store would be stocking less than 50% of the normal Lidl alcohol range and that it would not be stocking high strength lagers and ciders, nor would it be stocking cider sold in large sized bottles. The Sub-Committee heard evidence that the applicant was a member of the alcohol standards group, community alcohol partnership and follows the responsibility deal. In response to questioning from the Sub-Committee the applicant confirmed that early morning sales of alcohol in another nearby store were nominal.

The Sub-Committee noted that the objection from the East Magpi partnership had not been withdrawn. This objection raised the partnerships concerns regarding street drinking and the extensive work that had been done in the area to tackle this problem.

The Sub-Committee decided that granting the licence with the conditions and with amended hours would promote the licensing objectives. The Sub-Committee formed the view that the extra conditions relating to the Emirates stadium and music events at Finsbury Park were necessary and proportionate to promote the licensing objectives. The Sub-Committee formed the view that the reduction in hours was necessary to avoid the premises adding to

the cumulative impact in the area and was proportionate in light of the anticipated sales early in the morning.

The Sub-Committee considered licensing policy 8 in relation to licensing hours, licensing policy 4 in relation to shops selling alcohol and licensing policy 9 in relation to high standards of management.

21

ADDIS ABABA, 192 SEVEN SISTERS ROAD, N4 3NX - TRANSFER AND VARIATION OF DESIGNATED PREMISES SUPERVISOR (Item 3)

The applicant requested an adjournment as his legal representative could not be present. The police asked that the matter proceed as the transfer was deemed granted until a decision by the Sub-Committee had been made. The Sub-Committee agreed to proceed with the hearing.

The police outlined their objections to the application as detailed in the agenda and summarised events that had occurred on the 16 August 2014. The noise officer was called as a witness for the police. She reported that she had written to the licensee regarding an undischarged noise condition requiring an acoustic survey. Following a lack of response she sent a second letter and then visited with the licensing officer. At the visit, noise outside the premises by customers was witnessed and loud music was witnessed inside. The noise officer left a card and was contacted once but had heard nothing further. The police reported that the applicant had not met the high standards of management required.

The Sub-Committee noted that the applicant had taken over in April. No prior knowledge of the applicant was known. The noise team was still waiting to be contacted by the applicant.

The applicant reported that he had obtained the lease in April and had opened the premises on the 12 July. He believed if he changed his name on the council tax and business rate document, the licence would also change. He had left a person he trusted in charge on the night in question. His job had now been terminated. The CCTV was not working.

In response to questions he reported that he managed other venues. The designated premises supervisor was not present at the meeting as he was working. The person left in charge on the 16 August was not the temporary manager, but the cleaner. The applicant reported that the cleaner had re-opened the business after he had left. The police informed the Sub-Committee that they were unable to confirm this explanation of events as the CCTV was not working. When asked by the Sub-Committee, he reported that he could run a safe, crime free venue. He stated the music was not very loud and he had tried to do everything requested. When asked about his knowledge of the licensing objectives he stated they were 'keeping me alive'.

The police reported that the applicant lacked knowledge about the licensing laws and the objectives. This meeting had not changed his opinion. The applicant was not suitable and he had not demonstrated anything to allay his fears.

The applicant stated he would follow the regulations. If granted he would be careful and he had enough experience not to spoil his business. If it happened again he would hand the keys over himself.

RESOLVED

That the application for a premises licence transfer and variation of the designated premises supervisor in respect of Addis Ababa, 192 Seven Sisters Rd, N4 3NX be refused.

REASONS FOR DECISION

The Sub-Committee heard an application from the applicant for an adjournment of the meeting on the basis that the applicant's legal representative could not be present. When asked, the applicant confirmed that his legal representative was away. The Sub-Committee noted that there was no information from the legal representative and no explanation as to why someone else could not attend in their place. The application for an adjournment was refused and the hearing went ahead.

The Sub-Committee noted the police objection at pages 87 and 88 of the agenda. The Sub-Committee heard evidence that the police were concerned that the applicant appeared to know nothing about the licensing act, the councils licensing policy, or, indeed, the terms of the licence. The Sub-Committee noted the police concerns that the applicant had no ability to run a safe, crime free venue.

The Sub-Committee heard evidence from the noise team, who spoke as a witness for the police, that they had written to the applicant regarding an undischarged noise condition and had received no response. The noise team confirmed that a second letter was sent with no response. The noise team gave details of a visit to the premises when pushing and shoving between young men of North African origin was witnessed outside the premises and loud live music was witnessed inside the premises and that it was only after this visit that any contact was made by the applicant. It was noted that there had been no further contact after this.

The Sub-Committee heard evidence from the applicant that he believed that after he took over the lease for the premises and changed the Council Tax and Business Rates into his name, the licence would automatically change as well. The applicant stated that he had been doing business in the area for a long time and was familiar with the area. The applicant stated that he made a mistake which he regretted and that a person that he had trusted had left the premises open. Upon questioning by the Sub-Committee the applicant confirmed that the person he had trusted with the keys to the premises was a cleaner and that this person had now been dismissed. The Sub-Committee noted that the CCTV inside the premises was not working and that it was therefore not possible to verify the applicant's version of events. The Sub-Committee noted that the person named in the application as the new designated premises supervisor was not present at the meeting and so could not be questioned. The Sub-Committee noted that the applicant was asked if he could state the licensing objectives and he answered 'keeping me alive'.

The Sub-Committee shared the police concerns that the applicant had not demonstrated any ability to run a safe, crime free venue. The Sub-Committee was concerned with the applicant's lack of knowledge or concern regarding licensing law and the licensing objectives. The Sub-Committee was concerned that the applicant was unable to manage the premises to the required standards and did not seem aware of the responsibilities that come with an alcohol licence. The Sub-Committee noted the breaches of the existing conditions and the trading out of hours. The Sub-Committee formed the view that granting the applications would not promote the licensing objectives.

The Sub-Committee took into account licensing policies 9 and 10 in relation to the standards of management.

22

URGENT NON-EXEMPT/CONFIDENTIAL ITEM (Item C)

The following item was ruled urgent by the Chair as it was necessary to hear the application within 7 working days following the last day for objections.

23 **THE GUNNERS, 204 BLACKSTOCK ROAD, N5 - TEMPORARY NOTICE APPLICATION (Item 1)**

The noise officer reported that following a letter sent in June regarding noise complaints she had initially received a positive response from the applicant but in August had received a further complaint and she had not been contacted further since that time. She considered that residents would be disturbed if a temporary notice was granted until 04:00 am.

The applicant was not present at the meeting.

RESOLVED

That the temporary event notice on the 8/9 November be prohibited and a counter notice be served on the applicant.

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.

The Sub-Committee noted the submission from the noise team that there had been intermittent noise complaints about the premises and a Mindful To letter was sent. The noise team confirmed that a very positive response was initially received and that the designated premises supervisor had indicated that he was going to allow the noise levels to be set by acoustic consultant. However, two months later a further complaint was received regarding noise from the premises and there had been no further response from the designated premises supervisor.

The Sub-Committee noted that during an incident of noise from the premises in 2013 the designated premises supervisor was found intoxicated at the premises. No-one from the premises was present at the hearing.

The Sub-Committee decided that the licensing objectives would not be promoted if the TEN was granted. The Sub-Committee shared the noise teams concerns that the sound levels in the premises had not been properly set and that an event going on until 04:00 am would cause noise nuisance to neighbouring properties.

The Sub-Committee considered licensing policy 28. The Sub-Committee concluded that the additional hours would be an additional stress to the area and it was satisfied that the granting of the TENs would undermine the licensing objective related to the prevention of public nuisance.

24 **ADDIS ABABA, 192 SEVEN SISTERS ROAD, N4 3NX - EXEMPT APPENDICES (Item 1)**
RESOLVED

That the exempt information in the appendix to agenda item B3 be noted.

The meeting ended at 9.40 pm

CHAIR