

Licensing Sub Committee A - 4 September 2014

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

Present: **Councillors:** Raphael Andrews (Chair), Nick Wayne (Vice-Chair) and
Flora Williamson

Councillor Raphael Andrews in the Chair

17 INTRODUCTIONS AND PROCEDURE (Item 1)

The Chair welcomed everyone to the meeting and outlined the procedure as detailed in the agenda.

18 APOLOGIES FOR ABSENCE (Item 2)

None received.

19 DECLARATIONS OF SUBSTITUTE MEMBERS (Item 3)

None.

20 DECLARATIONS OF INTEREST (Item 4)

None.

21 ORDER OF BUSINESS (Item 5)

The order of business would be B1, B3 and B4. The Sub-Committee noted that items B2 and B5 had been withdrawn from the agenda.

22 MINUTES OF PREVIOUS MEETING (Item 6)

RESOLVED:

That the minutes of the meeting held on the 25 June 2014 be confirmed as a correct record of proceedings and the Chair be authorised to sign them.

23 KALE FOOD CENTRE, 534-536 HOLLOWAY ROAD, N7 6JP - VARIATION APPLICATION (Item 1)

The licensing officer reported that these premises were in a cumulative impact area. The applicant had agreed to reduce the hours and the police conditions had been accepted.

The police officer reported that the premises was situated in the Holloway/Finsbury Park cumulative impact area. He reported that there were seven off-licences within 100 metres of this premises and he recommended that the application be refused. However, he stated that if the application was agreed that the two conditions be placed on the licence as detailed in their representation.

The licensing authority objected to the application for a 24 hour off-licence. She stated that the applicant had not demonstrated in their application how the licensing objectives would be promoted with the additional hours and how they would not add to the cumulative impact in the area, which was already an area of high crime.

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The public health authority reported that this area already had a high density of premises and had the sixth highest rate of alcohol specific hospital admissions in the borough.

Nedim Kale, supported by an interpreter, reported that he wished to reduce the application hours to 2am or 3am. This was not a new business. He stated he would apply strict ID regulations to sales to prevent problems. He had tried to open later for one week, without selling alcohol and had received customers. As his business was new and he was having problems, selling alcohol was one of the options he needed to try.

In response to questions it was noted that there were three staff working at the premises. The applicant had seven years experience. He had attended a training course initially. He would promote the licensing objectives with the strict rules that he used. He operated Challenge 25, he did not sell after 11pm and he did not sell to people who were drunk. He would not operate any drink promotions. He had no problems since opening a year ago. He informed the Sub-Committee that his refusal book initially showed a lot of entries but this had reduced. His licence was important to him and he would stick to the rules.

In response to questions from the licensing officer it was confirmed that his amended application was for 8am to 2am, Monday to Sunday.

In summary, the police informed the Sub-Committee that the applicant's licence restricted him from opening after 11pm and he should not have opened beyond that time.

Mr Kale reported that he had asked the Council and they had told him that it would be not be a problem opening after 11pm. He stated that he needed the additional cashflow and was trying the later extension to the licence. He would operate strictly and he did not consider that there would be added problems in a cumulative impact zone.

RESOLVED:

That the application for a variation of a premises licence in respect of 534-536 Holloway Road, N7 6JP 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.

The Sub-Committee took into consideration Licensing Policy 2. The premises fall under the Holloway Road and Finsbury Park cumulative impact area. Licensing policy 2 creates a rebuttable presumption that applications for new or variations to 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 licensing Sub-Committee concluded that allowing the variation and the extension of hours would be likely to add to the existing cumulative impact in the area and would undermine the licensing objective of crime and disorder. It considered that the applicant had failed to rebut the presumption.

The Sub-Committee noted that the premises appeared to be well managed and the applicant demonstrated a commitment to a high standard of management. However, licensing policy 2, paragraph 7, states that the licensing authority will not consider this as an exceptional circumstance, justifying the Sub-Committee in departing from the special policy in this case.

24 **THE SCREEN WORKS, 22 Highbury Grove, N5 2EA - New Application (Item 2)**

The Sub-Committee noted that this item had been withdrawn.

25 **90 Old Street, EC1V 9AQ - New Application (Item 3)**

The Sub-Committee noted the operating schedule that had been circulated and would be interleaved with the agenda papers. The hours had been reduced from the original application.

The licensing authority reported that there had not been enough detail included in the original application. In response to questions, the applicant reported that the restaurant would be on the ground floor with approximately 45 covers. Customers would be seated only and would be served alcohol with meals only.

A local resident spoke against the application. He reported that the premises was in a cumulative impact area and as Whitecross Street was narrow, small noise levels could be heard. He could hear every word from smokers on the street. He was concerned that the granting of the application would also disturb the weekend that was currently quiet. He stated that the cumulative impact policy placed the burden on the applicant and he could not see how the applicant could rebut the presumption. The conditions proposed were typical of licensed premises and were not exceptional. This was an application for a new premises licence for a premises where there was no existing licence. The applicant had originally made an application for a bar and in his view there was not adequate protection that this would not be a bar in the future. He was not given confidence that the granting of the licence would not add to the cumulative impact.

The applicant, Robert Campese, stated that the police had proposed conditions to allow no vertical drinking and in order that alcohol could only be served to customers seated and taking a meal. The restaurant would not be opening on Sunday. He had reduced hours to 11pm. There would be no late night deliveries. The business would be mainly focussed Monday to Fridays. There would be no drinking outside the premises. He would be selling wine and beer and not cheap alcohol. He lived locally and would not wish to add to problems in the area. He would operate Challenge 25 and would not want to add to the cumulative impact area.

In response to questions, the Sub-Committee noted that there would be 10 tables on the ground floor. He intended to operate on Mondays to Fridays from 12 noon to 11 pm and on Saturdays from 6 pm to 11 pm. He did not intend to open on Sundays at the present time. Alcohol was not the main focus of the business as it was food driven. The premises had been left empty for four years and a restaurant would be better for the area. He was expecting to have a couple of lunchtime turnovers but only one in the evening. He expected this from his experience in the area. The downstairs basement area would be used for storage and the kitchen was also in this area. He stated he would be happy to have a restriction on the numbers of smokers outside to allow 4 or 5 customers.

The licensing authority raised concerns regarding the extractor fan and Mr Campese undertook to consider the position of the extractor fan.

RESOLVED:

- 1) The Sub-Committee have decided to grant the application for a new premises licence in respect of 90 Old Street, EC1

To supply alcohol for consumption on the premises on the ground floor only from 12:00 to 22:00 hours on Monday to Friday and 18:00 to 22:00 hours on Saturday.

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The opening hours of the premises shall be from 11:00 to 22:30 Monday to Saturday.

2) The following conditions shall apply to the licence:

Conditions as outlined in appendix 3 as detailed on pages 118 and 119 of the agenda with the following amendments:-

- Condition 17 to read. Customers shall only smoke in Old Street and smokers shall be limited to four people.
- Condition 18 to read. Noise, smell or vibration shall not emanate from the premises so as to cause a nuisance to residents of nearby properties.
- Additional condition. Prominent, clear and legible notices must be displayed at all exits requesting the public to respect the needs of local residents and to leave the premises and the area quietly.

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 2. The premises fall under the Bunhill and Clerkenwell cumulative impact area. Licensing policy 2 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 had noted that the applicant had agreed conditions with the police, noise and trading standards. The applicant had reduced the hours for the supply of alcohol and removed recorded music and late night refreshment from the application following consultation with the noise team. The applicant had experience of running licensed premises in the location. The Sub-Committee further reduced the hours to support the prevention of undue noise disturbance. The Sub-Committee modified proposed conditions in relation to smokers outside and to take account of representations relating to potential nuisance to neighbours.

The Sub-Committee further noted that the application was for a restaurant where alcohol would be served with a table meal and no vertical drinking would take place. The application was for a small restaurant within the description of licensing policy 2, paragraph 6 and with the addition of appropriate conditions would not add to the cumulative effect in the area.

The Sub-Committee considered licensing policies 1 and 2 regarding the cumulative impact and framework hours.

26 A AND Z SUPERMARKETS, 92 OLD STREET, EC1V 9AY - NEW APPLICATION (Item 4)

The applicant reported that he would be reducing the hours of opening to 07:00 to 23:00 hours.

The police reported that the premises were in a cumulative impact zone with a total of 18 licensed premises within 150 metres. This was a very demanding area where over 2500 crimes were reported across the year from April 2013 to March 2014.

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A local resident spoke against the application. He reported that the same objections that he put forward in the previous application would also relate to this application (see Minute No. 25 – 90 Old Street). He considered that the concerns of the police were well founded. These premises had a problematic history and he had no confidence in the current applicant.

Mr Mostak, spoke in support of the applicant, Mr Naveed. He reported that the reduced opening hours would reduce the cumulative impact. He reported that there was a reasonable training programme, an incident log book and the applicant would operate Challenge 25.

In response to questions it was noted that Mr Naveed was the sole owner. He confirmed that he was a friend of the previous applicant and they were not related. To help ensure there was no adverse impact on the area, he would not allow people to stand outside the shop, he would operate Challenge 25, he had reduced the opening hours and he would join a local pub watch or other scheme. The Sub-Committee noted that the applicant had worked in a restaurant previously. He would ensure that staff were trained. There were no former staff that worked in the premises. He would agree to a condition regarding the sale of high strength beers to deter street drinkers.

In summary the police officer stated that he had not heard anything that would make him feel confident about how the applicant would deal with crime.

The local resident reported that this area was a magnet for anti-social behaviour. Drinkers would take alcohol to the local gardens or Coltash Court. This premises would add to the cumulative impact in the area.

The applicant reported that there had been a misunderstanding regarding the meeting with the police and the police had not yet had time to meet up with the him. The applicant wished to work with residents and the police.

RESOLVED:

That the application for a new premises licence in respect of A&Z Supermarkets, 92 Old 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.

The Sub-Committee took into consideration Licensing Policy 2. The premises fall under the Bunhill and Clerkenwell cumulative impact area. Licensing policy 2 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 applicant failed to rebut the presumption that the application if granted, would add to the cumulative impact already existing in the area. The applicant did not show any exceptional circumstances as to why the Sub-Committee should grant the application.

The Sub-Committee noted that the applicant had very little experience of running an off-licence and there was a history of past management of the premises failing to comply with conditions. Licensing policy 10 states that where there is a history of non-compliance associated with the premises, the licensing authority is unlikely to grant a new or variation

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application unless there is evidence of significant improvement in management standards. The Sub-Committee noted the police representation which stated there was a high level of crime in the area. The police had described it as a challenging and demanding area.

The Sub-Committee concluded that allowing the application for a new premises licence would undermine the licensing objective of crime and disorder. It would add to the availability of alcohol in an area already suffering cumulative impact from a large number of licensed premises with associated anti-social and criminal behaviour.

27 MALTHURST, 89 HORNSEY RISE, N19 3SH- VARIATION APPLICATION (Item 5)

The Sub-Committee noted that this item had been withdrawn.

The meeting ended at 9.00 pm

CHAIR