

London Borough of Islington

Licensing Sub Committee B - 2 June 2015

Minutes of the meeting of the Licensing Sub Committee B held at Committee Room 4, Town Hall, Upper Street, N1 2UD on 2 June 2015 at 6.35 pm.

Present: **Councillors:** Alex Diner (Chair), Robert Khan and Michelline Safi-Ngongo.

Councillor Alex Diner in the Chair

37 INTRODUCTIONS AND PROCEDURE (Item A1)

Councillor Alex Diner welcomed everyone to the meeting, asked members and officers to introduce themselves and outlined the procedures for the meeting.

38 APOLOGIES FOR ABSENCE (Item A2)

Apologies were received from Councillor Spall.

39 DECLARATIONS OF SUBSTITUTE MEMBERS (Item A3)

Councillor Ngongo substituted for Councillor Spall.

40 DECLARATIONS OF INTEREST (Item A4)

Councillor Robert Khan declared an interest as Bunhill ward councillor. He stated that he not spoken to the applicant or objectors in the cases of Items B4 and B5 on the agenda and came to the Sub-Committee with an open mind.

41 ORDER OF BUSINESS (Item A5)

The order of business was as the agenda.

42 MINUTES OF PREVIOUS MEETING (Item A6)

RESOLVED

That the minutes of the meeting held on the 22 January 2015 be confirmed as an accurate record of proceedings and the Chair be authorised to sign them.

43 BOTTLEDOG, 29-31 ESSEX ROAD, N1 2SA - NEW PREMISES LICENCE (Item B1)

The Sub-Committee noted that this item had been withdrawn.

44 19 CLERKENWELL GREEN, EC1R 0DP - NEW PREMISES LICENCE (Item B2)

The Sub-Committee noted that this application had been adjourned.

45 BELLANGER, 9 ISLINGTON GREEN N1 2XH - NEW PREMISES LICENCE (Item B3)

The applicant reported that this was a new application for a previously licensed bar/restaurant which included a smaller bar area than previously and had restaurant conditions throughout. Discussions had been held with interested parties but objections still remained. It was proposed to surrender the existing licence if granted.

In response to questions, the applicant agreed to limit off sales to external tables and chairs. It was noted that the bar area would hold approximately 20 people. There would be waitress service to the outside and tables and chairs would be put away quietly. This was a high end sit down restaurant. A condition was offered regarding patrolling the outside area and it was noted that music would be background only.

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RESOLVED:

That the application for a new premises licence in respect of Bellanger, 9 Islington Green, N1 2XH be granted

- i) To permit the premises to sell alcohol, on and off sales, Monday to Sunday from 10:00 until midnight.
- ii) To allow the provision of late night refreshment, Sundays to Wednesdays from 23:00 until 00:30 and from Thursdays to Saturdays from 23:00 until 01:00.

Proposed opening hours: Sundays to Wednesdays from 08:00 until 00:30 and Thursdays to Saturdays from 08:00 until 01:00.

iii) Conditions as outlined in appendix 3 as detailed on page 172 of the agenda shall be applied to the licence with the following amendments.

- Deletion of condition number 10.
- Additional condition. Off sales shall be limited to the external tables and chairs.
- Additional condition. Regular hourly staff patrols for outside area to include Collins Yard from 9pm until close.

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 Angel and Upper Street 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 current premises licence, previously held by Browns had been transferred to the applicant and further, the applicant indicated that the current premises licence would be surrendered if the application was agreed. The Sub-Committee noted that the proposed hours of operation mirror the current licence and was therefore satisfied that the premises would not contribute to the cumulative impact area.

The Sub-Committee heard evidence about the applicant's experience in managing licensed premises and was satisfied that the high standards required by licensing policy 10 would be met. In particular the applicant indicated that outside diners would have dedicated waiting staff and that the duty manager would be responsible for organising regular staff patrols around the premises. The Sub-Committee was satisfied that these measures would address the concerns of residents and would promote the licensing objectives.

The Sub-Committee noted that the premises would be run as a restaurant and that the licence previously held by Browns was akin to a pub licence. The Sub-Committee was satisfied that the proposed operation by the applicant would promote the licensing objective regarding public nuisance.

The applicant agreed with the two additional conditions and the Sub-Committee was therefore satisfied that the application should be granted.

46

256-260 OLD STREET, EC1 - NEW PREMISES LICENCE (Item B4)

The licensing officer reported that further submissions from the applicant had been circulated and also additional conditions tabled that had been agreed with the police. These would be interleaved with the agenda papers.

The applicant amended condition 1 of the tabled papers to include the wording 'or any successor' after the licence number.

The police reported that the police representation was withdrawn as the applicant had agreed to operate with an additional seven conditions on the licence which allayed his concerns. This was an area with a high crime level although incidents could not be directly associated with the premises. There were also problems related to the premises being on the borough boundary.

The licensing authority was satisfied that the licence would not add to the cumulative impact. There were concerns that the premises should be operated by an experienced licensee so would not withdraw the representation but amended the recommendation that she was happy to support the police view.

The current license holders objected to the application. They reported that they understood that there was nothing to preclude a shadow licence but this did not mean that an application should not be considered in the light of the licensing objectives and the licensing policy. They had concerns regarding the management and also the impact on the licensing objectives of crime and disorder and public nuisance. The applicant was unknown and had no track record of this type of business. Although the application only related to the basement of the premises, the nature of the business may change and it was possible that the free flow of people from upstairs to downstairs could undermine the licensing objectives.

In response to questions it was noted that the applicant had no experience in this type of business. There was a concern that, whilst it was accepted that the licence did not relate to the whole of the premises, changes in the lease could potentially change the format of the premises. The owners of the premises were distant landlords in America to whom bills were paid and the licence holders were currently negotiating a new lease with the landlord. It was noted that the current operator had a twenty year track record. It was accepted that other licensees could manage the premises but it was considered that any operator would need to be experienced in licensable activities to be able to deal with the particular challenges of these premises.

The applicant's representative stated that the application for the licence had been made by the landlord as was their right. This did not impact on the licence currently held by the licensees but was an insurance policy for the landlord should the tenant go into liquidation or refuse to hand over the licence. In this instance the landlord would use the shadow licence. The new licence would not add to the cumulative impact and did not add any licensable activities but preserved the status quo. The police and licensing authority agreed that the application did not undermine the licensing objectives. The tenant had instructed a firm of solicitors who had issued a document that was factually incorrect and full use of the building would require a further application. The landlord had no plans to be the operator and would transfer the licence to experienced operators if required.

In response to questions it was noted that the application did not address the cumulative impact policy as it was a shadow licence and the cumulative impact did not apply. The licence could be transferred to another operator and the police would object if there were

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concerns. Condition 2 of the tabled conditions excluded the landlord from operating the business. An additional condition was offered that stated that the licence would have no effect until it is transferred to the operator approved by the police in writing. The opening hours reflected the hours already in operation. The landlord was not aware until recently that a shadow licence could be applied for.

The Sub-Committee noted that the licensee removed the blue notice as they were unaware that the landlord had put in a new application and they believed that it was not a serious application.

In summary, the licensee's representative stated that the first knowledge that her client had knowledge of the application was when he saw the blue notice. He had contacted the local authority at that stage. It was stated that a new application was not a tick box exercise and management concerns remained.

The applicant's representative stated that the additional conditions dealt with the management issue.

RESOLVED

That the application for a new premises licence in respect of 256-260 Old Street, EC1 be granted to allow:-

- iii) alcohol for consumption on and off the premises 09:00 to 02:30 on Monday and Tuesday, 09:00 to 03:30 on Wednesday, 09:00 to 06:00 on Thursday and 09:00 to 09:00 on Friday, Saturday and Sunday.
- iv) Live music and the performance of dance 09:00 to 03:00 on Monday and Tuesday, 09:00 to 04:00 on Wednesday, 09:00 to 06:00 on Thursday and 09:00 to 09:00 on Friday, Saturday and Sunday.
- v) Recorded music 24 hours a day, seven days a week.
- vi) Late night refreshment 23:00 to 03:00 on Monday and Tuesday, 23:00 to 04:00 on Wednesday and Thursday, 23:00 to 05:00 on Friday and Saturday and 09:00 to 04:00 on Sunday.

Opening hours of the premises to be 09:00 to 03:30 on Monday and Tuesday, 09:00 to 04:30 on Wednesday, 09:00 to 06:30 on Thursday and 09:00 to 09:00 on Friday, Saturday and Sunday.

v) Conditions as outlined in appendix 3 as detailed on page 222 and 224 of the agenda shall be applied to the licence with the following additions:-

- The conditions agreed with the police tabled at the meeting, subject to the amendment of condition 1 to read 'or any successor' following the licence number and
- Additional condition. The licence shall have no effect until it is transferred to the operator approved by the police in writing.

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

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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 police had agreed conditions with the applicant and were therefore withdrawing their objection.

The Sub-Committee noted that the Licensing Authority's position was that they were supporting the police and it was accepted that the shadow licence would not add to the cumulative impact area. The Licensing Authority indicated that their position had changed because the applicant indicated that if the shadow licence was to become operative an experienced licensing team would be appointed to run the premises.

The Sub-Committee heard submissions from the interested party who accepted that there was nothing to preclude a shadow licence running in tandem with the current premises licence. However, the interested party submitted that the licensing authority should still consider the promotion of the licensing objectives and the Council policy. It was submitted that the interested party were concerned that the applicant had no track record of running licensed premises and had not demonstrated that they could manage this type of venue.

The applicant's representative submitted that the applicant had applied for the shadow licence to secure his asset and that the shadow licence could not add to the cumulative impact as it did not add licensable activities and would simply preserve the status quo. It was submitted that the shadow licence would place duties on the landlord that would not otherwise be there and would incentivise the applicant as their own licence would be vulnerable.

The Sub-Committee noted that the applicant didn't plan to be the operator if the shadow licence became operative in the future. In this event the applicant would look to transfer the licence to an experienced operator approved by the police. The applicant agreed to a condition regarding this.

The Sub-Committee was satisfied that, with the further conditions agreed between the police and the applicant and the condition offered at the hearing, that the licensing objectives would be promoted. The Sub-Committee was satisfied that the shadow licence mirrored the current premises licence and that, if the shadow licence became operative, the high standards of management that the licensing authority requires under licensing policy 10 would be met.

47 **424 ST JOHN STREET, EC1 - NEW PREMISES LICENCE (Item B5)**

Following a short adjournment, the applicant's representative applied for the withdrawal of the application.

RESOLVED that the application be withdrawn.

The meeting ended at 8.00 pm

CHAIR