

Licensing Sub Committee D - 30 June 2015

Minutes of the meeting of the Licensing Sub Committee D held at Committee Room 4, Town Hall, Upper Street, N1 2UD on 30 June 2015 at 6.30 pm.

Present: **Councillors:** Flora Williamson (Items B2-B4), Satnam Gill, Alex Diner and Angela Picknell (Item B1)

Councillor Satnam Gill in the Chair (Item B1)
Councillor Flora Williamson in the Chair (Items B2-B4)

62 INTRODUCTIONS AND PROCEDURE (Item A1)

Councillor Flora Williamson 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.

63 APOLOGIES FOR ABSENCE (Item A2)

Apologies for absence were received from Councillor Erdogan.

64 DECLARATIONS OF SUBSTITUTE MEMBERS (Item A3)

Councillor Diner substituted for Councillor Erdogan. Councillor Picknell substituted for Councillor Williamson for Item B1 – Pistachio and Pickle.

65 DECLARATIONS OF INTEREST (Item A4)

None.

66 ORDER OF BUSINESS (Item A5)

The order of business was as the agenda.

67 PISTACHIO AND PICKLE DAIRY, 6 CAMDEN PASSAGE, N1 8ED - APPLICATION FOR A NEW PREMISES LICENCE (Item B1)

The licensing officer reported that the premises were to be open until 10pm and there had been 9 resident objections.

Three local residents spoke in objection to the application. It was stated that this was in a cumulative impact zone that already had eight licensed premises between the Camden Head and the York public house. Concern was expressed that future occupiers could use the licence but not as a cheese shop. Concerns were raised regarding an on and off licence and considered that the food allowed with alcohol should be defined as a substantial or main meal. It was stated that there would be 16 persons on the first floor in a very small area and there would be noise escape from the windows on this floor. Concern was also expressed about the overlooking from customers into the houses opposite. It was considered that the pavement outside was too narrow to eat and drink outside and was a significant reduction, in terms of space, for pedestrians and for local residents. It was further stated that there should be no off sales and no eating outside. It was reported that similar licensed premises in the vicinity removed their outside tables and chairs at 6pm. The number of licensed premises had to be limited and this application should be refused.

Councillor Klute considered that it was inevitable that people from the premises would spill out onto the pavement. He stated that he had sought legal advice and the application could be refused on grounds of the number of premises in the area, the proximity of residents and

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the special feature of the narrow passageway. He considered that there could not be eight customers outside the premises, at the tables and chairs, without obstruction. It was inevitable that alcohol caused people to make more noise. This was a very good cheese shop but including the sale of alcohol created an intensification of use. If the licence was granted the use of the tables and chairs until 6pm in line with other premises seemed reasonable.

In response to questions it was noted that footfall and noise had increased in Camden Passage over the years and it was difficult to use front rooms with the noise. Residents reported that Coffeeworks and Applestat did not sell alcohol. This was the narrowest part of Camden Passage and was the reason why Applestat was refused.

The applicants reported that the cheese shop was a welcome addition to the area. Alcohol was ancillary to food and customers would not be able to drink alcohol unless they were eating. They did not want to compromise the existing passageway and would be happy to take in tables and chairs at 6pm. There had been no representations from the licensing authority, the police or other responsible authorities. They stated that they may be able to put film over the first floor window to prevent overlooking. They would be willing to consider restricting the number of tables and chairs outside. The premises could not end up as a wine bar as cheese would need to be sold with alcohol. Wines and fortified wine would be sold at the premises with some bottled craft beers. They would not sell spirits or beers on tap. They could reduce outside the tables and chairs outside to two with four people. Sales of alcohol only would be refused. Music was background only. The number of people that could be accommodated on the first floor was 16. This could be restricted if necessary. The applicants were concerned that planning permission may not be granted for an air conditioning unit as the premises was situated in a conservation area. They had followed the correct consultation process but had not held a meeting with residents to discuss the application.

In summary, the interested parties considered that this was too small a premises for this use. This was the wrong location for this type of premises, the street was too small and it would impact on residents at both the front and the rear of the premises. Applestat had been refused and it was considered that this should remain as a cheese shop without alcohol.

The applicant stated that this premises had a unique offering. It was unlike Applestat and wine would be paired with cheese. The applicant stated that there was no intention of turning the shop into a wine bar.

RESOLVED that

a) the application for a new premises licence in respect of Pistachio and Pickle Dairy, 6 Camden Passage, N1 8ED be granted:-

- i) To permit the premises to sell alcohol, on and off the premises, from 10 am to 10.30 pm on Monday to Saturday and 10 am to 10 pm on Sunday.
 - ii) Opening hours to be from 10 am to 10.30 pm on Monday to Saturday and 10 am to 10 pm on Sunday.
- b) Conditions as outlined in appendix 3 as detailed on page 34 of the agenda with the following additions shall be applied to the licence.
- Tables and chairs outside shall be cleared away at 6pm.
 - Tables shall be restricted to two outside the premises with two people seated at each table.
 - Customers on the first floor shall be limited to 12 people, excluding staff.

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 Angel and Upper Street 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 heard from the residents that there were already eight licensed premises between the Camden Head and the York public houses and granting this application would add to the cumulative impact. The premises were situated along a particularly narrow passageway and having tables and chairs outside the shop would restrict the access for pedestrians. There were concerns expressed that the application was for full on and off sales and residents asked that if granted there be no off sales and tables and chairs be removed at 6pm in keeping with neighbouring licences. There were also concerns regarding noise escape from the first floor windows and the number of customers to be accommodated in a limited space.

The applicant confirmed that the intention of the business was to provide an alcohol drink with a cheese plate and would not be a wine bar and the sale of alcohol would be ancillary to the sale of cheese platters. The applicants conceded to the removal of tables and chairs at 6pm and a limit of 2 tables with 4 people seated to reduce the noise impact on residents and footfall for pedestrians. There would be a limited number of covers. Music would only be background.

The Sub-Committee noted that there were no representations from responsible authorities.

The Sub-Committee noted that the premises were in close proximity to residential premises. The applicant had made concessions to the application by agreeing to limit the number of tables and chairs outside and would liaise with residents to address concerns raised regarding noise and privacy issues.

The Sub-Committee considered that the premises were within the exceptions to the cumulative impact policy detailed in licensing policy 2. This was a small premises with a capacity of 50 or less, the operating hours were within the hours specified in licensing policy 8 and the premises were not alcohol led. The Sub-Committee was satisfied that the agreed conditions would prevent future use as a wine bar only. The Sub-Committee therefore considered that the operation of the premises would not add to the cumulative impact or otherwise impact adversely on the promotion of the licensing objectives.

Note of the Sub-Committee

The Sub-Committee expects the applicant to work with residents to reduce overlooking and noise from the first floor windows at the front and rear of the premises.

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OLDROYD, 344 UPPER STREET, N1 0PD - APPLICATION FOR A NEW PREMISES LICENCE (Item B2)

The licensing officer reported that additional papers had been circulated by the applicant. These would be interleaved with the agenda papers.

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A local resident spoke against the application. She had concerns regarding the off sales proposal. It was proposed that space had been made available for ten people to consume alcohol without a meal and she requested that alcohol was served with a main or substantial meal throughout the premises. She raised concerns regarding outside seating as this was a very busy part of Upper Street for pedestrians and cyclists. She stated that there should be no tables outside, no off sales and a full on licence that was qualified to include meals and the whole of the ground floor.

The applicant's representative reported that the application was within the framework hours in licensing policy 8. Conditions had been agreed with the police and noise officer following consultation. The police had been in agreement with condition 2, which allowed for 10 persons on the ground floor to have alcohol with no food. A letter had been sent to residents but no response had been received. Off sales were tightly restricted and external seating would be controlled with an application to the highways department. He considered that the application, with conditions in place, would not add to the cumulative impact and the responsible authorities had agreed with this. The premises had a capacity of less than 50 people, was food led and the hours sought were within the framework policy hours in licensing policy 8. It was hoped that the restaurant would be a popular addition to the area.

In response to questions it was noted that the promotion of the licensing objectives in the application form were reflected in the schedule of conditions. There were 40 covers and 10 people in the bar area. The first floor was laid out as a restaurant. Off sales were required for wine sold with a take away meal and for service to the tables and chairs area. It was considered that the application fell within the exceptions to the policy however, if there was a need for compromise, condition 2 could be amended.

RESOLVED that

- a) the application for a new premises licence in respect of Oldroyd, 344 Upper Street, N1 be granted:-
 - iii) To permit the premises to sell alcohol, on and off sales from Sunday to Thursday from 10 am until 11pm and on Fridays and Saturdays from 10 am until midnight.
 - iv) To allow the provision of late night refreshment on Fridays and Saturdays from 11pm to midnight.
 - v) Proposed opening hours to be: Sundays to Thursdays from 10am until 11.30 pm and Fridays and Saturdays from 10 am until half past midnight.
- b) conditions as outlined in appendix 3 as detailed on page 68 of the agenda with the following amendment shall be applied to the licence.

Condition 2 to read. The supply of alcohol at the premises shall only be to persons taking a table meal or have booked a table meal and are drinking prior to their meal on the ground floor. The ground floor customers shall be limited to 10 persons waiting to eat and consumption of alcohol by customers shall be ancillary to their meal.

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 Angel and Upper Street 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

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operation of the premises involved will not add to the cumulative impact or otherwise impact adversely on the promotion of the licensing objectives.

The interested parties reported that they objected to the application on the grounds of cumulative impact. They had particular concerns regarding the application seeking off sales of alcohol and the number of customers on the ground floor that would be allowed to consume alcohol without a meal. They requested that alcohol be served with a main or substantial meal throughout the premises. They also considered that a tables and chairs licence should not be granted as this would obstruct the pavement.

The applicant stated that this premises was a restaurant with capacity of less than 50 persons and within the licensing policy framework hours. Off sales would be tightly restricted to the table and chairs area and only sealed wine with a take away meal. He applicant had consulted with the police and the noise team and agreed the conditions proposed in the agenda. The applicant had responded to the interested parties and invited them to meet to address their concerns but they had not responded. The concerns raised about the external seating area was controlled by separate legislation and was a matter for the highways department.

The Sub-Committee noted that there were no objections from the responsible authorities.

The Sub-Committee considered that the premises were within the exceptions to the cumulative impact policy detailed in licensing policy 2. This was a small premises with a capacity of 50 or less, the operating hours were within the hours specified in licensing policy 8 and the premises were not alcohol led. The Sub-Committee was satisfied that, with the conditions proposed and with the amendment to the proposed condition 2, the operation of the premises would not add to the cumulative impact or otherwise impact adversely on the promotion of the licensing objectives.

69 BONE DADDIES, 10 BALDWIN STREET, EC1V 9NU - APPLICATION FOR A NEW PREMISES LICENCE (Item B3)

The licensing officer reported that there had been one response to the notice of hearing and the resident still required that the meeting be held. Hours had been reduced to framework hours.

The applicant's representative reported that this was to be a Japanese Ramen restaurant. As recorded music had been applied for from 11pm until midnight on Fridays and Saturdays, noise conditions had been agreed with the noise officer and would be added to the licence if granted. Noise conditions were tabled and would be interleaved with the agenda papers. This was a restaurant but music would be above background levels. Windows did not open and the restaurant was air conditioned. There was to be no external drinking. Hours had been amended to start at 11am on Sunday although midday could be agreed. It was a food led premises and fell within the exception to the cumulative impact policy. The licensing authority agreed that the application was policy compliant.

In response to questions, it was stated that music was slightly above the background level at the other three Bone Daddy restaurants and the noise officer was happy with the additional conditions as the restaurant was situated in a modern building with double glazing. The applicant would like the flexibility for the bar area. The capacity was for 65 persons in the restaurant and another 10 to 15 in the bar area. The police had agreed 15 people in the bar area. A plan indicating the revised hatched area could be resubmitted.

RESOLVED that:

a) The application for a new premises licence in respect of Bone Daddies, 10 Baldwin Street, EC1V 9NU be granted:-

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- vi) To permit the premises to sell alcohol on and off the premises from 11 am to 11pm on Sundays to Thursdays and 11 am to midnight on Fridays and Saturdays.
- vii) To allow the provision of late night refreshment from 11pm to midnight on Fridays and Saturdays.
- viii) To allow the provision of recorded music from 11pm to midnight on Fridays and Saturdays.

The proposed opening hours are 11am to 11pm on Sundays to Thursdays and 11am to midnight on Fridays and Saturdays.

b) Conditions as outlined in appendix 3 as detailed on page 106 of the agenda with the following amendment and addition shall be applied to the licence.

- Condition 2 to read. The supply of alcohol at the premises shall only be to persons taking a table meal or have booked a table meal and are drinking prior to their meal on the bar area. The bar area customers shall be limited to 15 persons waiting to eat and consumption of alcohol by customers shall be ancillary to their meal.

Additional noise conditions.

- On receipt of a substantiated noise complaint an assessment of sound insulation will be undertaken and appropriate improvement works and noise control measures carried out, so as to ensure that music and people noise generated within the licensed premises meets with the Council's noise criteria within noise sensitive premises to the satisfaction of the Council's Noise Team, in writing, before any regulated entertainment takes place.
- During the hours that regulated entertainment takes place, windows shall be closed and doors closed so far as reasonably practicable.

70 **LOVES COMPANY, UNIT 1, 104-122 CITY ROAD, EC1V 2NR -REVIEW OF PREMISES LICENCE (Item B4)**

The licensing officer reported that a licence variation had been issued adding the conditions detailed on page 146 of the report.

The licensing authority had submitted the review following concerns regarding the standards of management. She summarised events that had led to the review and stated that there had been a couple of unsatisfactory visits in both February and March. A police closure notice was issued in April following breaches of the licence conditions. She reported that she had been informed today that the noise limiter had been calibrated, copies of the training plan had been made available, staff were to go on a personal licence course at the end of the month and changes had been made to the CCTV, although this had not been checked. Progress was being made but it was suggested that a suspension of the licence up to one month would be appropriate in order to allow outstanding measures to be put in place. However, this would depend on the evidence given by the licensee at the meeting.

In response to questions, the licensing authority stated that the management structure had been a key issue. The designated premises supervisor and other staff had reasonable experience. A management structure was now in place and the licensing authority considered that communication may have been the main issue.

The police supported the review. CCTV had not been working in April but they had now been assured that a new system had been fitted and upgraded. The police would need to see that this was in full working order and of sufficient quality. The police stated that they would like to see the training plan up and running and considered a suspension was appropriate to see this work carried out. It was noted that combustible material stored beneath the escape stairway was still an ongoing problem.

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The applicant's representative reported that improvements had been made but accepted that these had been at a slow pace. It was recognised that one month would assist the designated premises supervisor to put these measures in place. Copies of safety and fire certificates were now available and demonstrated compliance. It was accepted that the rubbish under the fire escape was still an issue but this was to be boxed in. A training template had been devised and two employees were to take the personal licence course in July. A one month suspension was proportionate and would tie in with ensuring these measures were in place. CCTV had been upgraded and the police would be invited to check this, together with the search and drugs policies. The noise limiter was now secured and boxed. The premises had been sub-let to an independent DJ which had caused problems.

In response to questions it was noted that if issues had been dealt with more speedily the premises would not have been reviewed. The licensee accepted that it was a mistake not to have engaged with responsible authorities. Contractors had been carrying out ongoing work and certificates had now been provided. There was a daily checklist. Staff received ongoing training on licensing issues.

In summation the licensing authority stated that conditions 1 and 10, Annex 2 of the licence were duplicated and could be deleted.

RESOLVED that:-

- a) The premises licence in respect of Loves Company, Unit 1, 104-122 City Road, EC1 be suspended for a period of one month.
- b) Conditions 1 and 10, Annex 2, of the current premises licence shall be deleted from the licence.

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 that licensing officers had made two visits to the premises in February 2015 to check compliance with licence conditions and the visits were found to be unsatisfactory with a number of conditions not being complied with resulting in the issue of a section 19 closure notice. Two further visits in March 2015 and one in April 2015 also proved unsatisfactory resulting in the issue of a closure notice detailing the breaches. The breaches included CCTV not working, failure to provide copies of fire and safety certificates and staff training records. The Sub-Committee noted that noise conditions had been breached resulting in an abatement notice being served on the licensee.

The Sub-Committee noted that the licensee initially failed to engage with licensing officers but subsequently did submit a variation application and conditions regarding CCTV and noise were attached to the licence in agreement with the responsible authorities. Visits made by officers to the licensed premises in June 2015 confirmed that improvements had taken place. The designated premises supervisor had produced copies of a training plan, fire and safety certificates and confirmed that CCTV was in good working order although it had not yet been checked by the police. As a result, the licensing authority revised the recommendation and suggested that a suspension of the licence for up to one month would be appropriate to allow for outstanding issues to be resolved and for inspections to take place.

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The Sub-Committee heard from the designated premises supervisor's representative that progress was now being made and it was recognised that a one month suspension would allow the measures required to be put in place. A training template and certificates had been provided and two members of staff would be taking the personal licence course at the end of July, CCTV had been upgraded and the noise limiter was now secured and boxed.

The Sub-Committee also noted that as a result of the recent variation of the premises licence, when additional conditions were attached, the duplicate conditions relating to CCTV and noise could be deleted.

Taking the above into consideration, the Sub-Committee decided that a suspension of the licence for a period of one month would enable the licensee to put all the outstanding measures in place and allow for inspections to be carried out by the responsible authorities. In reaching their decision, the Sub-Committee took into particular consideration licensing policy 30 regarding review of premises licences and considered the decision was appropriate and proportionate to the promotion of the licensing objectives.

The meeting ended at 10.00 pm

CHAIR