

Licensing Sub Committee C - 25 August 2015

Minutes of the meeting of the Licensing Sub Committee C held at Committee Room 4, Town Hall, Upper Street, N1 2UD on 25 August 2015 at 6.30 pm.

Present: **Councillors:** Michelline Ngongo, Angela Picknell and Gary Poole.
Also **Councillors:** Raphael Andrews
Present:

Councillor Gary Poole in the Chair

73 INTRODUCTIONS AND PROCEDURE (Item A1)

Councillor Poole welcomed everyone to the meeting and informed those present that the procedure was as detailed in the agenda papers.

74 APOLOGIES FOR ABSENCE (Item A2)

Councillor Doolan.

75 DECLARATIONS OF SUBSTITUTE MEMBERS (Item A3)

Councillor Picknell substituted for Councillor Doolan.

76 DECLARATIONS OF INTEREST (Item A4)

None.

77 ORDER OF BUSINESS (Item A5)

The order of business was as the agenda.

78 MINUTES OF PREVIOUS MEETING (Item A6)

RESOLVED:

That the minutes of the meeting held on the 16 June 2015 be confirmed as a correct record of proceedings and the Chair be authorised to sign them.

79 GRANGER AND CO, 50 SEKFORDE STREET, EC1R 0EB - APPLICATION FOR A PREMISES LICENCE VARIATION (Item B1)

The licensing officer reported that a statement of case had been circulated by the applicant. This would be interleaved with the agenda papers.

A local resident, reported that the applicant failed to adhere to the current conditions of the licence. The previous application approved in 2013, offered reduced hours following resident concerns with stringent conditions, including the offering of alcohol only with a meal. Without these, the application would have been refused. There were 27 representations against this application and just one in support and the strength of feeling was reflected in the number of residents attending the meeting. This application was for longer hours than the first application, refused in July 2013. It was stated that there was clear evidence that longer hours would produce more rubbish to further obstruct the footpath, the proposal to relax a standard restaurant condition due to demand was not a relevant consideration and no management plan detailing how the proposed 15 people drinking without food would be policed. The licence would not have been granted with these extended hours, the application undermined the licensing process and should be rejected.

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Another local resident reported that the applicant had appealed the first refused application and had in the meantime submitted a second application with shorter hours than the current application. He had discussed the previous approved application with the owner and the hours and conditions were negotiated between them and agreed. He considered that this variation application was the thin end of the wedge and if it was agreed the applicant would be back for more.

The solicitor for the applicant reported that this application was a variation to extend opening hours only and not licensable hours, to tighten a condition regarding rubbish and to allow a maximum of 15 persons to consume alcohol without food. It was considered that this would not add to the cumulative impact. There had been no objections from the responsible authorities. The early morning opening was to provide coffee/breakfast for people travelling to and from work. The later closing time was not to allow the sale of alcohol but to allow time for patrons to spend drinking coffee and wine and not drive customers out of the restaurant. The later hour would not be advertised. The 15 persons drinking alcohol would be monitored by staff and would allow for patrons who wanted to drink a glass of wine or beer at a meeting. Staff would keep note of the numbers and remind patrons that they would need to have a table meal past 9pm. This was a restaurant and would not be attractive to those who just wished to be served alcohol. There was a public house opposite and patrons who wanted an alcoholic drink only would be more likely to go there. The amendment of the condition regarding rubbish was to tighten this condition but if this was a concern the applicant would be happy to withdraw it.

A cumulative impact zone was not a bar to obtaining a licence. In *Brewdog v Leeds* it was stated that patrons were not 'get it down your neck' drinkers and would be unlikely to have an impact. This was only a variation, they had engaged with residents and disagreed with the comments regarding the failure to adhere to conditions. They considered that they were a good operator and would reduce the impact due to a longer dispersal period. They tried to address residents concerns.

In response to questions, the applicant submitted that they had proved they were a responsible operator over the past 15 months and had seen what was required for regular clientele before applying for a variation. They had held a meeting with residents whom they considered had been largely neutral. It was not intended to change the business but offer a maximum of 15 persons, all seating, alcohol without food until 9pm. Applicants were entitled to vary their licence but there were no further plans to do so again in the future. These hours would bring it in line with the other two restaurants in London. It was rare for applications in cumulative impact zones not to attract representations. The patrons allowed to drink alcohol only would be limited by numbers and time. This would not be advertised. There were numerous restaurants in London that could offer this. To change the restaurant to a bar would require a further variation. Customers were frequently disappointed as they were not able to drink alcohol only. Staff would be trained to keep a log. They did not believe it would be 15 patrons at any one time but would be more in the region of 7 or 8. It was not proposed to change the terminal hour for the sale of alcohol but the food in the restaurant was not cheap and they were concerned about the number of times that patrons had to be rushed at the end of the evening.

In summary, the local residents stated that when they had complained about the rubbish a member of staff had informed them that it was not a condition of the licence. Residents at the meeting mentioned by the applicant had remained quiet but this did not necessarily mean they were neutral. The previous Sub-Committee meeting had considered that the grant of the licence would not add to the cumulative impact with the restricted hours and conditions and a licence would not have been granted without these restrictions. Conditions had been discussed with the owner and after 15 months of trading they had applied for amendment to these conditions. The condition regarding rubbish had frequently been broken and rubbish left in excess of 10 hours. They had previously stated that this was not

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an alcohol led operation. The 15 patrons to be allowed alcohol would be near impossible to police. In the previous application they had accepted that the weekends were special. If terms had not been agreed previously they would not have been granted the licence.

The applicant's solicitor stated that they were seeking to tighten the condition regarding rubbish and to slightly extend the opening hours. In reality the business would look the same. They rejected the accusation that they were not responsible operators. Every operation was made for a commercial reason. There were powers of review open to residents.

RESOLVED

That the application for a premises licence variation for Granger and Co, 50 Sekforde 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 premises licence variations 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 was satisfied that the proposed variation would add to the existing cumulative impact. The Sub-Committee noted that the Sub-Committee B that met on the 11 November 2013 decided to grant the premises licence because the applicant had offered stringent conditions and put forward reduced hours of operation. The Sub-Committee considered that the licence that had been granted achieved the requisite balance such that it did not add to the existing cumulative impact. The variation proposals, extending the hours of operation and the provision for patrons to consume alcohol without food would have an adverse impact on the promotion of the licensing objectives in the saturation area.

The Sub-Committee noted that the extended hours of operation were not licensable activities per se, but that the effect of the premises being open for longer would increase the potential for public nuisance. This would also extend the period of time for which alcohol could be consumed into the evening and therefore the Sub-Committee was satisfied that the variation would adversely affect the promotion of the licensing objectives.

The Sub-Committee noted that the applicant proposed that staff would keep a note of patrons that were consuming alcohol without food to ensure that they would comply with the proposed variation. However the Sub-Committee was not satisfied that the high standards of management that would be required to ensure compliance with the proposed variation had been put forward by the applicant as required by licensing policy 9. In addition, the Sub-Committee considered that allowing the proposed variation to condition 8, annex 2, of the restaurant licence would increase the sales of alcohol and would therefore add to the existing cumulative impact.

The Sub-Committee noted resident's concerns about the positioning of rubbish outside the premises and their concerns about the applicant's compliance with the licence conditions in relation to this. The Sub-Committee noted that the applicant was looking at taking steps to deal with the resident's complaints. The Sub-Committee also noted that the applicant

suggested removal of the variation proposal relating to condition 10 of Annex 2 if it was considered that the proposal would not assist with dealing with the issue.

The Sub-Committee decided that the applicant had not rebutted the presumption set out in licensing policy 2 and had not demonstrated that the variation would not add to the cumulative impact area.

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COIN LAUNDRY, 70 EXMOUTH MARKET, EC1R 4QP - APPLICATION FOR A PREMISES LICENCE VARIATION (Item B2)

The Sub-Committee noted the menu and acoustic report circulated separately. The licensing officer tabled an additional building control condition and extra conditions following dialogue with the noise team and residents. These would be interleaved with the agenda papers.

It was noted that 6 residents had withdrawn their representations following the reinstatement of the lobby. Two representations on pages 130 and 138 of the agenda had not been withdrawn.

Counsel for the applicant reported that the application was to change the layout of the premises. There would be a larger kitchen and one sound lobby would be removed. Other premises were operated by the applicant in London which had not had review or enforcement proceedings against them. In order to keep good relations with residents the ground floor sound lobby would remain and acoustic baffling was to be installed. A dispersal policy had been agreed with Environmental Health relating to the disturbance outside, even though this did not relate to the variation applied for.

In response to questions, it was noted that the basement would not operate separately to the ground floor premises. They had set up good relations with residents with consultation before the launch and the Sub-Committee noted that it was a condition of the current licence to hold regular meetings with residents.

RESOLVED

- 1) That the application for a premises licence variation in respect of Coin Laundry, 70 Exmouth Market, EC1R 4QP be granted to vary the layout of the premises in accordance with the revised layout drawings attached to the application.
- 2) That the following conditions shall be applied to the licence.
 - a. Conditions of the current premises licence.
 - b. Conditions as outlined in appendix 3 as detailed on page 139 of the agenda with the addition of conditions as tabled at the meeting as follows:-
 - The premises may not be used under this licence until all the items referred to in Islington's Building Control Service Principal Surveyor's email dated 11 August 2015 have been completed to his satisfaction and confirmed in writing by Islington's Licensing Service.
 - The reinstatement of the ground floor main corner entrance lobby as shown on the revised drawings distributed on 31 July.
 - All doors and windows will be kept closed, except for access and egress, during times that regulated entertainment is taking place.
 - That there be no access or egress to the premises from the entrance leading to the basement, save for emergencies only.

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 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 Sub-Committee noted that the applicant had agreed an additional condition with health and safety. The Sub-Committee also noted that additional conditions had been agreed with noise and that the responsible authorities had therefore withdrawn their representations.

The Sub-Committee noted that the applicant had been in dialogue with residents and that the acoustic lobby had been reinstated to promote good relations with the premises neighbours. Six residents had withdrawn their representations. The Sub-Committee also noted that acoustic baffling was to be provided within the premises so that the first floor flat would not experience noise nuisance. The Sub-Committee noted that the premises would be food led and that the basement would not be operated separately.

The Sub-Committee was satisfied that the proposed variation would not add to the cumulative impact and that the licensing objectives would be promoted.

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ZING ZING, 142 BLACKSTOCK ROAD, N4 2DX - APPLICATION FOR A NEW PREMISES LICENCE (Item B3)

The licensing officer reported that these premises were not in a cumulative impact zone. A revised set of conditions were tabled to avoid duplications. These would be interleaved with the agenda papers. The Sub-Committee noted that there were three resident objections to the application.

The applicant's solicitor reported that this was not the usual Chinese takeaway. There was no application for 'on' sales or late night refreshment. The interested parties had been written to and allegations detailed in their representations were refuted. This operation was a valuable local asset and had been involved in fund raising.

In response to questions it was noted that full training was given to drivers. There was a feature on the website when ordering to check for over 21s. Minors generally did not order full meals and so could therefore not order alcohol. There was a mystery customer check for drivers about two or three times a month. Drivers received more than the minimum wage. Over 21s would deliver the alcohol. It was agreed that condition 1 of the tabled conditions should read substantial meal.

RESOLVED

- 1) That the application for a new premises licence in respect of Zing Zing, 142 Blackstock Road, N4 2DX be granted to allow:-

The sale of alcohol for consumption off the premises: 12:00 to 23:00 hours on Mondays to Sundays.

The following opening hours: 10:00 to 23:00 on Mondays to Sundays.

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- 2) Conditions as tabled at the meeting shall be applied to the licence with the following amendment.

Condition 1 to read. The sale of alcohol shall be ancillary to the purchase of a substantial 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 noted that a set of conditions had been agreed with the police, the licensing authority and the applicant and the responsible authorities had therefore withdrawn their representations.

The Sub-Committee noted the representations from residents and was satisfied that, with the agreed conditions the licensing objectives would be promoted.

The application operating hours were in line with the core hours as set out in licensing policy 8. The Sub-Committee was also satisfied that the operating schedule would provide high standards of management in accordance with licensing policy 9.

The Sub-Committee considered that the applicant had proposed adequate steps to promote the protection of children from harm and would implement Challenge 25 in accordance with licensing policy 25.

82 RESTAURANT, 88 Highbury Park, N5 2XE - Application for a new premises licence (Item B4)

The applicant did not attend the meeting.

RESOLVED that this item be adjourned for further enquiries to be made of the applicants as to whether or not they wished to proceed with the application.

83 DRAFT HOUSE, MEWS UNIT, THE WAREHOUSE, 211 Old Street, EC1 - Application for a new premises licence (Item B5)

The Sub-Committee noted that this item was withdrawn by the applicant prior to the meeting.

The meeting ended at 8.10 pm

CHAIR