

Licensing Sub Committee D - 17 September 2015

Minutes of the meeting of the Licensing Sub Committee D held at Committee Room 4, Town Hall, Upper Street, N1 2UD on 17 September 2015 at 6.30 pm.

Present: **Councillors:** Flora Williamson (Chair), Satnam Gill (Vice-Chair) and Aysegul Erdogan

Councillor Flora Williamson in the Chair

80 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.

81 APOLOGIES FOR ABSENCE (Item A2)

None.

82 DECLARATIONS OF SUBSTITUTE MEMBERS (Item A3)

None.

83 DECLARATIONS OF INTEREST (Item A4)

None.

84 ORDER OF BUSINESS (Item A5)

The order of business was as the agenda.

85 MINUTES OF PREVIOUS MEETING (Item A6)

RESOLVED

That the minutes of the meeting on the 23 June 2015 be confirmed as an accurate record of proceedings and the Chair be authorised to sign them.

That the minutes of the meeting on the 30 June 2015 be confirmed as an accurate record of proceedings, subject to the following amendment, and the Chair be authorised to sign them.

That the words 'They would do everything to maintain the residents' privacy.' be inserted after the word 'overlooking on page 40, paragraph 2.

86 SAINSBURYS, 28-30 JUNCTION ROAD, LONDON, N19 5RE (Item B1)

The licensing officer reported that conditions had been agreed with the noise team and their representation had been withdrawn.

The metropolitan police stated that they had received an acknowledgement to their email sent on 8 August 2015 but had no further response after this. The hours applied for were a concern to the police and they suggested that the sale of alcohol, if a licence was granted, should commence at 9am at the earliest. They had policed this area and were well aware of the problems and did not want temptation for schoolchildren or for their parents. They required one SIA door staff for two months at the least. The applicant had accepted the

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CCTV condition. The area was saturated with off licences and the applicant had not put forward any security proposals. The police stated that their objection still remained.

The health authority reported that this area was probably the worst in Islington for the number of ambulance related call outs. They were significantly higher than Islington as whole and 37 call outs in the area were directly related to alcohol in the past 12 months. This area already had a large number of licensed premises. There were street drinking concerns in the area.

The licensing authority reported that there was a high density of licensed premises in the area. In a 250m radius there were 12 off licences. The feedback from residents was that crime was a concern. The licensing authority did not consider that there was any real evidence that had been provided that showed how the premises would not impact on the area.

Councillor Janet Burgess, ward councillor, reported that the area was improving through regeneration. The police had increased resources in the area to improve problems related to street drinking. The cumulative impact policy had been brought in partly due to the large number of off licences in the Archway area and had been used to good effect in the Clerkenwell area. The start time of 6am was too early and the police were concerned with the crime issues in the Borough.

The applicant's lawyer reported that this was an application for a new premises licence. The instructions he had were for a licence from 6am until midnight. The conditions put forward were not standard conditions and did have regard to the Licensing Policy. Conditions had been included regarding no sale of single cans, no high abv and alcohol behind shutters to reduce the likelihood of street drinkers purchasing alcohol. Street drinkers could go to other stores. It was accepted that the security condition was vague but would prefer that this not be changed. There were other premises operating in the area which did not have these restrictive conditions. He stated that with these conditions the premises would not add to the street drinking problems and were therefore unlikely to add to the cumulative impact. The noise condition and police CCTV condition had been agreed. He considered that underage and street drinking concerns were dealt with by condition. Public health was not a licensing objective and he did not consider that this premises would make a difference to the number of ambulance call outs. That Sainsbury's was part of the regeneration area should not stop an approval of the licence and he asked the Committee to agree the licence.

In response to questions it was noted that Sainsbury's preference was for alcohol hours to be the same as the opening hours. Sainsbury's considered that alcohol was already available and was therefore unlikely to add to the cumulative impact. Instructions had been given to apply for the hours 6am – midnight which were outside the core hours detailed in the licensing policy. The lawyer representing Sainsbury's did not have the authority to agree the proposed police condition regarding the security guard however, he stated that this condition could be imposed by the Committee. The applicant had not consulted the licensing team or the police prior to making the application.

In summary, the police considered that the proposed security condition was essential. Public health reported that evidence indicated that an increase in the hours increased public harm. The licensing authority stated that it was not only street drinkers that caused problems in the area but also non street drinkers. The ward councillor stated that this was yet another off licence in the area and it did not matter who managed the premises it was still a cause of concern for residents.

The applicant's representative had nothing to add to his submission.

RESOLVED

That the application for a new premises licence at Sainsbury's, 28-30 Junction Road, N19 5RE 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 Policies 2 and 3. The premises fall under the Junction area of Archway 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 noted that the objection from the noise team had been withdrawn as the applicant had agreed the condition proposed.

The Sub-Committee heard evidence from the police that there was a mistake in the police representation in that the applicant had acknowledged the email sent. However, the police confirmed that there had been no other communication. The police expressed concerns about the hours sought and the security condition offered by the applicant.

The Sub-Committee heard evidence from Public Health that there was evidence that both an increase in the number of premises in an area selling alcohol, and the increased hours that alcohol is available for sale does make a difference to acute public harm. There had been 37 alcohol related ambulance callouts in the last 12 months in 100 metres radius of the premises. This was significantly higher than the rest of the borough. Other alcohol related concerns in the area included street drinking.

The Sub-Committee heard evidence from the licensing authority that there was a high density of licensed premises in Junction ward. There were 12 off licences in a 250m radius of the premises.

The Sub-Committee heard evidence from the ward councillor, speaking against the application, who expressed concern as to the hours sought and confirmed that local people were concerned about street drinking, begging and the current number of licensed premises in the area.

The Sub-Committee heard evidence from the applicant's representative that the conditions put forward by the applicant were not Sainsbury's standard conditions. In particular, the conditions regarding shutters, spirits behind the counter, the selling of single cans and no selling of beer, lager and cider over 6.5% abv were not standard conditions. The condition regarding security showed the applicant's intent for a dialogue with the police. The applicant regarded these conditions as designed to stop street drinkers being attracted to the premises. The Sub-Committee noted that the applicant would prefer not to be conditioned regarding specific times when security officers must be at the premises. The applicant accepted that the condition offered regarding security was a little vague. The applicant commented that the other licensed premises in the area did not have such restrictive conditions. Alcohol was already easily available. The applicant stated that the premises would operate Challenge 25 and that all staff would be trained. The applicant

acknowledged that the area was being regenerated and stated that the company would be part of that regeneration as a responsible retailer operating to high standards.

The Sub-Committee noted that the applicant had agreed to change their proposed condition about beer, lager and cider from 6.5 to 6% abv but were not prepared to reduce the hours sought nor agree the police condition regarding security staff. The Sub-Committee further noted that the applicant accepted that they did not consult with the licensing authority or other responsible authorities prior to making the application, although the applicant did maintain that they had regard to the licensing policy.

The Sub-Committee was concerned regarding the hours sought in the application which were outside the core hours set out in licensing policies 7 and 8. The Sub-Committee noted the concerns of public health and local residents in relation to the hours sought and noted that the applicant had not entered into any dialogue in this regard.

The Sub-Committee was not satisfied with the applicant's submission as to why the premises would not add to the cumulative impact. The Sub-Committee was concerned about the applicant's lack of dialogue with police and licensing officers. The Sub-Committee noted the number of licensed premises in the area and the high level of alcohol related ambulance call outs. The Sub-Committee was not satisfied with the applicant's assertion that the grant of another licence would not add to the cumulative impact because there were so many licensed premises already. Even with the addition of the proposed conditions, the Sub-Committee was not satisfied that the concerns raised by local residents and the responsible authorities had been addressed.

The Sub-Committee was concerned that the granting of the new licence would undermine the licensing objectives. The Sub-Committee concluded that the granting of another licence would add to the availability of alcohol in an area where there is already a large number of licensed premises with associated anti-social and criminal behaviour and therefore have a cumulative impact on the licensing objectives. In accordance with licensing policy 2, the Sub-Committee was satisfied that the grant of the application would undermine the licensing objectives. The applicant failed to rebut the presumption that the application if granted, would add to the cumulative impact area. The applicant did not show any exceptional circumstances as to why the Sub-Committee should grant the application.

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TAS FIRIN, 277 CITY ROAD, LONDON, EC1V 1LA - APPLICATION FOR A NEW PREMISES LICENCE (Item B2)

The licensing officer reported that this was a variation of a licence to allow for the sale of alcohol, live music and late night refreshment from midnight to 2am on Fridays and Saturdays. Conditions had been agreed with the noise team.

The police reported that there had been 536 reported crimes in the ward in the past 12 weeks. It was admitted that these were not necessarily alcohol related. The premises did have issues previously but was now better managed. There was a concern that, with the additional hours and additional alcohol, the previous problems would return.

The licensing authority raised concerns regarding noise breakout and the impact of the activities of patrons at the premises on residents after midnight.

In response to questions it was noted that there was no condition on the licence for alcohol to be ancillary to food. The restaurant was on the ground floor and patrons could drink in the basement.

Interested parties spoke against the application. One local resident raised concerns regarding the noise nuisance from patrons smoking outside and leaving the premises.

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There were no tables in the basement. This was a very residential area with Kestrel House opposite and new developments close by. They did not consider that the premises were designed to be able to limit noise escape as it was an old Victorian property. Another local resident stated that the licence had been previously revoked and local people had concerns regarding the past history, the noise escape from the premises, noise from patrons leaving, the noise from bottling up and putting the rubbish out which already was a problem, the already dense residential area and the general view that the current arrangements should remain. It was also stated that a 2am licence would give only a 2 to 3 hour sleeping period as a local supermarket opened at 5am.

In response to questions a local resident reported that she had spoken to three residents in the block behind the premises who had informed her of their concerns.

The applicant's representative informed the Sub-Committee that this application was for a variation on Friday and Saturdays only for licensable activities up until 2am. The customers would have food until 11pm on the ground floor and move to the basement to continue until 2am. Four temporary events had been held and the concerns of the police and the licensing authority had been met. There had been no issues with these TENs. There was a sound limiter. Not many people gathered outside the premises. They should not be penalised for problems under the previous licence holder. The licence would be used for private functions. They stated that they could have recorded music only. Staff left at midnight so any noise after this time should not be from this premises.

In response to questions it was noted that customers could have a drink downstairs and disperse gradually. There were signs asking customers to leave quietly and be considerate to neighbours. There had been no complaints when the temporary events had been held. There would be a complaint procedure. Rubbish is collected at 9pm. The premises closed at midnight and staff left by 12.15. There was a large pavement area and customers were kept behind barriers. The security officer would ensure that there was no noise from smokers.

In summary, the police stated that they had concerns that the licensee had stated that he would keep drunk customers inside and considered that customers should not be drunk. Temporary event notices do not compare with full variations of licences and stated that he was against the issuing of this licence. Local residents stated that the assurances of the applicant were not convincing. There was a language issue when complaints needed to be made. The doorman would be ineffective. There had been problems with the noise from the pavement before and this cannot be resolved by security. The pavement was opposite a large number of residential premises.

The applicant's representative stated that if a customer was drunk at least the customer was kept inside the premises until a taxi was called and not on the street. There had been no complaints regarding the temporary events which demonstrated good practice. The language issue was not a strong argument and any complaints had been addressed. If there were complaints, residents could write in. There had been no complaints with the patrons outside when the temporary events had been held.

RESOLVED

That the application for a premises licence variation for Tas Firin, 277 City Road, EC1V 1LA 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

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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 the conditions proposed by the noise team.

The Sub-Committee heard evidence from the police that during a recent visit to the premises it was apparent that the premises were much better run now than under the previous licensee. However, the police were concerned that the extra hours sought and the extra alcohol sold may bring back the previous problems.

The Sub-Committee heard evidence from the licensing authority that there were concerns regarding the impact on residents if the premises were licensed after midnight. The problem was the activities of patrons when leaving the premises or when smoking outside the premises and the licensing authority considered the application to be weak in that area. The Sub-Committee noted that the sale of alcohol was not currently ancillary to the sale of food.

The Sub-Committee heard evidence from a representative from the Angel Association that their main concerns were noise nuisance and anti-social behaviour. The association emphasised the residential nature of the area and expressed concerns that the nature of the building meant that it was unsuitable for live music. The association also expressed concerns about the noise patrons made when leaving and that staff made when clearing up.

The Sub-Committee heard evidence from a local resident that residents were disturbed by the noise made by patrons leaving the premises and smokers outside the premises. The previous licence was conditioned to try to tackle these problems but it did not work.

The Sub-Committee heard evidence from the applicant's representative that the idea for the premises was to have food upstairs until 11pm and then people would go down to the basement until 2am and then disperse. The applicant stated that the premises have operated later hours under four separate TENs and that there had been no complaints. The applicant confirmed that a sound limiter was in place and that security guards were employed outside to control patrons smoking or leaving the premises. The Sub-Committee noted that the applicant was prepared to have only recorded music and not live music to 2am. The Sub-Committee heard evidence that there were signs in the premises asking patrons to disperse quietly and that anyone leaving the premises by taxi was asked to wait inside the premises. The applicant confirmed that rubbish must be put out by 9pm as this was when it was collected, but the premises had no formal policy on bottling out.

The Sub-Committee was concerned with the hours sought by the applicant. The applicant had no dispersal policy to illustrate how he proposed to control noise nuisance when patrons were leaving at 2am. The Sub-Committee was not satisfied that the applicant had shown how noise from smokers outside the premises would be controlled. The Sub-Committee considered that the concerns of the residents in relation to noise were very genuine and the application, even with the conditions proposed, did not address these.

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The Sub-Committee noted the applicant's assertion that the premises operate as a restaurant but were concerned that the hours sought were outside the core hours for restaurants in licensing policies 7 and 8. Whilst it was noted that the premises had taken steps to tackle problems of noise from music outbreak, the application did not satisfactorily address the other noise issues raised.

The Sub-Committee was concerned that the granting of the new licence would undermine the licensing objectives. In accordance with Licensing Policy 7, the Sub-Committee noted the cumulative impact that the proliferation of late night venues and retailers in the borough was having on the promotion of the licensing objectives.

The Sub-Committee concluded that the increased hours would add to the availability of alcohol in an area where there was already a large number of licensed premises with associated anti-social and criminal behaviour and therefore have a cumulative impact on the licensing objectives. In accordance with licensing policy 2, the Sub-Committee was satisfied that the grant of the application would undermine the licensing objectives. The applicant failed to rebut the presumption that the application if granted, would add to the cumulative impact area. The applicant did not show any exceptional circumstances as to why the Sub-Committee should grant the application.

88 **7 DAYS FOOD AND WINE, 93A STROUD GREEN ROAD, LONDON, N4 3PX -
PREMISES LICENCE VARIATION (Item B3)**

The Sub-Committee noted that this application had been withdrawn by the applicant.

The meeting ended at 8.15 pm

CHAIR