

Licensing Sub Committee A - 5 October 2015

Minutes of the meeting of the Licensing Sub Committee A held at Committee Room 4, Town Hall, Upper Street, N1 2UD on 5 October 2015 at 6.30 pm.

Present: Councillors: Raphael Andrews (Chair), Wayne (Vice-Chair) and Picknell
Also Present: Councillors: Tim Nicholls, Janet Burgess (Item B3)

Councillor Raphael Andrews in the Chair

80 INTRODUCTIONS AND PROCEDURE (Item A1)

Councillor Andrews welcomed everyone to the meeting and asked members and officers to introduce themselves.

81 APOLOGIES FOR ABSENCE (Item A2)

None.

82 DECLARATIONS OF SUBSTITUTE MEMBERS (Item A3)

None.

83 DECLARATIONS OF INTEREST (Item A4)

Councillor Andrews stated he was the ward councillor for Item B2 but had not discussed this item with either party.

84 ORDER OF BUSINESS (Item A5)

The order of business was as the agenda.

85 MINUTES OF PREVIOUS MEETING (Item A6)

That the minutes of the meeting held on the 27 August 2015 be confirmed as a correct record of proceedings and the Chair be authorised to sign them.

86 CITY SUPERMARKET, 190-194 GOSWELL ROAD, LONDON, EC1V 7DT - REVIEW OF PREMISES LICENCE (Item B1)

The licensing officer reported that the licensee's representative wished to introduce some photographs of the premises. There was no objection from trading standards or the police for the photographs to be shown. The pictures had been taken approximately two to three weeks after the knife sales. The photographs were passed to members of the Sub-Committee.

The police officer reported that this review had been brought following an underage sale of knives. This was the fourth review of this particular premises, reviews being held in 2006, 2011 and 2012. It was the duty of the retailer to show due diligence. A visit was made to the premises in June 2014 and it was noted that the refusals log was not signed by the designated premises supervisor and there was an issue with the CCTV. At a further visit in July 2015, Salman Capti was unable to produce his personal licence or the premises licence. There was CCTV but the police had not been consulted about its position. He reported that these could be considered minor breaches but they led to something greater.

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Gang members looked for a weakness in shopkeepers. An underage knife sale was made without challenge and in view of the seriousness he asked that the Sub-Committee consider revocation of the licence.

The licensing authority fully supported the police review. There was a history of poor management and conditions had been breached numerous times. The premises could not be managed without undermining the licensing objectives and the licensing authority considered that the licence should be revoked.

The trading standards officer reported that the premises had a chequered history. After an application was made for a review in 2012 the current licensee assumed responsibility and started positively so a recommendation was made at the review for a suspension of the licence rather than revocation. It was made clear to the licensee that a very high standard should be shown in the future. Two test purchases in 2013 had been refused and there had been no sale of illicit goods since 2011. The sale of knives had been made following a failure to follow advice. If advice had been followed the sale was less likely to have been made. There had been two further test purchases since the knife sale and these had been refused. Umat Capti had signed an undertaking that the shop would no longer sell knives. The CCTV had not been checked by the police. He considered that there was no realistic chance of a high standard of management in the future and asked the Sub-Committee to consider revocation or a lengthy suspension of the licence.

In response to a question from the Sub-Committee it was reported that the trading standards officer was not aware the premises was selling knives. An advice letter had been given to the Capti's other shop across the road and this had been responded to and places booked on a training course.

The licensee's representative reported that Salman Capti was 25 years of age and since he had been the designated premises supervisor in 2012 there had been significant engagement with the authorities. The premises had been visited several times since the 2012 review for test purchases and had passed on all occasions. The company running the business and Salman Capti had been prosecuted for the knife sale in June 2015, been convicted and received a £600 fine. The sentence carried a maximum of four years and the court choosing to fine rather than impose a sentence reflected the relative seriousness with which the offence had been viewed by the court. There had been no further instances of illicit alcohol being found on the premises. He stated that if the licence was revoked the licensee could still sell knives as this was not a licensable activity. A new camera had been installed and the licensee had tried to contact trading standards regarding its position. The CCTV was a good system and the spirit of the condition was being complied with. The police had seen the angle of the camera and had not commented that it was unsuitable. The licensee's representative stated that the trading standards representation had been positive and the trading standards officer had stated that posters had been in a prominent enough position to satisfy the condition. The sale of knives was not a licensable activity although it was accepted that this should have been treated seriously. He invited the Sub-Committee to consider home office guidance, paragraph 11.27 which had a comprehensive list of criminal activity that should be treated seriously, which did not include this particular offence. An undertaking had been given that knives would not be sold in the future and this would remove the risk. He submitted that for these reasons it was better for the premises to be regulated and considered revocation and/or a long suspension excessive. The licensees had been engaged with the authorities since 2012 and had given an undertaking that no knives would be sold in July 2015.

In response to questions it was noted that the licensee did not remember receiving a letter about knife advice. It was noted that the licensee had stated at the court hearing that the knives had been stolen but this had not been reported to the police. It was stated that they

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did not have any idea that the knives had been stolen until the police visited the premises and it was accepted that this was not an example of good management. It was stated that the court decision may be appealed. It was noted that since 2012 there had been no failed test purchases. It was noted that this was a family business run by the two brothers and this was the first issue since they had managed the business. It was noted that the refusal books were now being maintained, although they had not been brought to the meeting. The trading standards review in 2011 was prior to their management. It was stated that the sale of the knife was not deliberate. They had viewed the CCTV and were unable to say what had happened on that day. They had not been advised to put knives in a cabinet. The sale of a knife was a mistake and they were not aware of what had happened. It was noted that knives were on open shelves and guidance to lock them away behind the counter had not been followed. It was stated that two people from their other premises had booked a training course following the advice letter being left at their premises.

In summary, the police reported that this might have been a mistake but even in July 2015 the designated premises supervisor did not have his personal licence or premises licence available for inspection. This might be considered minor but minor contraventions build up. Gangs look for weaknesses in licensees and revocation of the licence would reduce the negative impact of this premises on the community.

The trading standards officer reported that if advice was disregarded then subsequent sales may not be prevented. Management improvement should be more permanent. He asked for revocation or a lengthy suspension.

The licensee's representative stated that the premises no longer sold knives so the likelihood that the mistake would be made again had disappeared. Despite repeated visits since 2012 all test purchases for underage sales and illicit alcohol had been passed. Correspondence regarding knife advice had not been sent to this premises and the licensee should therefore not be judged so harshly. There had been significant mitigation and the licensees had taken steps regarding their CCTV. He did not consider revocation or a lengthy suspension would be proportionate.

RESOLVED

That the premises licence for City Supermarket, 190-194 Goswell Road, EC1V 7DT be revoked.

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 the premises were run as a family business and the current licence holder had held the licence since 2012.

The Sub-Committee noted that this was a police review following the conviction of the licence holder for offences of the underage sale of two knives and breach of licence conditions. The Sub-Committee noted that this was the fourth review of the premises licence, the previous reviews held for underage sales and illicit alcohol being found on the premises. The Sub-Committee noted that the police visited the premises in June 2014 and July 2015 and noted that the refusals log had not been signed, the CCTV was not providing frontal identification of every person entering the premises (as stated in the condition) and there was no premises licence or personal licence available for viewing. The police had not been requested to agree the CCTV as stated in the condition.

The Sub-Committee heard evidence from trading standards that, since the previous review in 2012, the management of the premises had improved in terms of compliance of conditions and underage sales. However, following the sale of knives to a person under the age of 18, the licence holder was prosecuted and convicted for offences regarding the underage sale and breach of licence condition. This called into question the standards of management at the premises. The Sub-Committee noted that advice concerning the sale of knives had been sent to another shop, run by the family, which had not been followed.

The licensing authority supported the review application made by the police and considered that the management was not sufficiently robust to ensure 100% compliance with legal requirements and was undermining the licensing objectives.

The Sub-Committee heard evidence from the applicant's legal representative that there had been a significant improvement in the management of the premises since 2012 and that, although the licence holder had been convicted the Sub-Committee should take into account the sentence passed for the offences. Since June 2014, the licence holder had engaged with the licensing authority and the breaches cited were of a technical nature and that the licence holder had complied with the spirit of the CCTV condition. The Sub-Committee were invited to consider the home office guidance, paragraph 11.27, which did not include the offence regarding the underage sales of knives. The Sub-Committee noted that an undertaking had been signed that knives would no longer be sold at the premises thereby removing the mischief of the incident.

The Sub-Committee considered licensing policy 10 and took the view that the management of the premises fell short of the high standard of management which was expected in light of the past history. The Sub-Committee considered that, had the CCTV condition been complied with, the series of events that occurred on the day that the knives had been sold, would have been known. The Sub-Committee considered that the licence holder had failed to take advice offered by the local authority with regard to the sale of knives and in so doing failed to demonstrate a comprehensive knowledge of best practice in running his business lawfully and in accordance with good business practice. The Sub-Committee were satisfied that the crime and disorder objective had been seriously undermined.

Taking the above into consideration, the Sub-Committee decided that a revocation of the premises licence was the only proportionate response as the licensing objectives of preventing crime and disorder and public safety had been seriously undermined. In reaching their decision, the Sub-Committee also took into consideration licensing policy 30 regarding the review of premises licences and considered the decision to revoke was appropriate and proportionate.

87 **THEATRE DELICATESSEN, 119 FARRINGDON ROAD, LONDON, EC1R - APPLICATION FOR A PREMISES LICENCE VARIATION (Item B2)**

The licensing officer reported that the application had been amended. The licence was only required to the 19 December 2015 and hours were reduced on Wednesdays and Thursdays until midnight and Friday and Saturdays until 1 am. Representations on pages 61 and 68 of the agenda had been withdrawn.

The licensing authority stated that they were concerned regarding the contravention of licensing conditions. Noise from smokers had been reported at the rear of the premises which had disturbed residents. The TENs allowance for the year had been exceeded. Planning permission had been granted to 23:00 hours and it was considered that those hours had been granted for good reason.

The applicant reported that the arts charity worked with property developers where premises were empty to make a positive use of the space. The premises held ticketed

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events currently running a dining experience, a roadhouse bar and a cabaret performance. The sale of alcohol was ancillary. There was a maximum of 40 people each sitting and they wished to extend hours by half an hour to run an additional sitting on a Saturday to respond to the popularity of the event. They would be happy to apply for retrospective planning permission. It was reported that at a licensing inspection the licence had not been available. The Sub-Committee noted that the audience manager was sick and the staff covering were not aware of where the licence was kept. People had been outside the premises at the rear but they were from a party and not patrons. Issues had been quickly rectified. There were mainly two residents who complained about the noise, one had now withdrawn their objection and they were working hard to communicate with the second resident. Very few noise complaints were directly related to this premises.

In response to questions it was noted that the current event had commenced on the 28 August and was to run on the 21 November 2015. They had hoped to vary the licence but did not get the notice in the press so used temporary event notices. They had miscalculated and applied for too many. They wished to keep the licence until 19 December 2015 as they would like to extend the run if the tickets were selling well. They had not applied for planning permission. This was an administrative error. They would have to make refunds if they could not hold all performances. Improvisation training was held on the first floor which was close to some residents. They had tried to mitigate the noise and had blacked out the window. Staff passed through the fire exit at the rear and complaints were received. These staff had been dismissed. They received few complaints considering the amount of activity in the building and these were mainly from two residents. Piano works was open until 4am. The current event had not caused the previous issues. It was accepted that the licensing inspection was not their finest hour. The fire service had given an exemplary report. It was noted that an application had not been made for an extension of hours for regulated entertainment.

The licensing officer reported that, as a variation for regulated entertainment had not been applied for, proposed condition 7 could be removed and additional conditions added regarding new entry times and only ticket holder entry to regularise this position. These amendments were agreed by the applicant.

RESOLVED

- a) That the application for a premises licence variation in respect of Theatre Delicatessen, 119 Farringdon Road, EC1 be granted to permit, in the basement until 19 Dec 2015 only,
- i) The premises to sell alcohol on the premises only, from 12:00 to midnight Wednesdays and Thursdays and from 12:00 to 01:00 Fridays and Saturdays;
 - ii) The supply of late night refreshment from 23:00 to midnight Wednesdays and Thursdays and from 23:00 to 01:00 Fridays and Saturdays;
 - iii) Opening times of 09:00 to midnight Wednesdays and Thursdays and 09:00 to 01:00 Fridays and Saturdays.
- b) The following conditions shall be applied to the licence.
- Conditions of the current premises licence;
 - Conditions as outlined in appendix 3 as detailed on page 71 of the agenda with the following amendments.

Condition 7 be deleted.

Additional conditions.

- There be no new entry for customers after 10pm.

- Only bona fide ticket holders will be allowed on the premises.

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 1 and 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 amended the application to reduce the hours and limit the time period to the 19 December 2015.

The Sub-Committee also considered licensing policies 6, 7 and 8 regarding licensing hours and licensing policy 18 regarding noise control.

The Sub-Committee noted that there had been a recent inspection and licensing officers found some contraventions to the licence. The Sub-Committee noted the licence holder accepted responsibility for the issues that had shown up during the officer's inspection and noted the explanation given in this regard and the assurance that measures had been put in place. The Sub-Committee also noted that the application had been delayed due to a mistake with the advertising of the application and that the premises had been providing licensable activities at the premises through the use of TENs. It was also noted that the licence holders had engaged with local residents who had made representations and were working with them to resolve the issues of noise disturbance that residents had raised. The Sub-Committee noted the proposed event would be ticketed and the sale of alcohol would be ancillary. The licence holders agreed to additional conditions restricting entry to the premises.

The Sub-Committee considered that with the imposition of additional conditions and the nature of the event to be provided during the extended hours sought, the variation would not add to the cumulative impact.

88

FORKS AND CORKS, 2-3 ARCHWAY MALL, LONDON, N19 5RG - APPLICATION FOR A NEW PREMISES LICENCE (Item B3)

The licensing officer reported that the local authority had withdrawn their representations as conditions had been agreed with the applicant. Revised police conditions were tabled and would be interleaved with the agenda papers.

Councillor Nicholls, ward councillor, raised concerns regarding the on and off sales in the cumulative impact zone and the anti-social behaviour in the area. There was no evidence that this premises would not add to the cumulative impact. He raised concerns about the patrons drinking outside and the starting hours, which would allow 12 hours of drinking. He considered that, if the licence was granted, drinking be inside only, alcohol be ancillary to food and there be conditions applied regarding waste disposal.

The applicants stated they had been running a delicatessen in Camden and had received no complaints. They recognised that this area was different and was a saturation area. They had held extensive discussions with the police and as a result conditions had been agreed with them. They would be selling fine wines and craft beers and would not be

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selling cheap alcohol. The outside space had previously been used as a public lavatory. They had replanted the area and added lighting and the anti-social behaviour had disappeared in a month. They ran wine tastings and courses and sold artisan cheeses. The area was jet washed each day. This was an exciting place to be. The applicant had a petition in support of the shop with 300 signatures. It was hoped to attract other good businesses and they wished to remain in the area.

In response to questions it was noted that they needed the area outside to attract custom. They served food but were not a restaurant. Conditions had been agreed. There would be no vertical drinking. There was capacity for about 35/40 people inside and the same number outside. They did not envisage selling much alcohol before midday.

In summary, the ward councillor considered that off sales were not appropriate for the area and he was concerned about the number of customers outside the premises in an area where there was a high level of anti-social behaviour.

The applicants stated that they supported the principle behind the cumulative impact policy but did not have an outlet that offered cheap booze. They required the outside tables as the premises were not very visible and these would let people know that they were there.

RESOLVED

a) That the application for a new premises licence in respect of Forks and Corks, 2-3 Archway Mall, N19 5RG be granted to permit:-

- i) The exhibition of films from 18:00 to 21:00 on Mondays
- ii) Live music from 19:00 to 22:00 Thursday to Saturday.
- iii) The sale of alcohol, on and off supplies from 10:00 until 22:00 Monday to Sunday.
- iv) To allow opening hours from 07:30 until 23:00 Monday to Saturday from 08:00 until 22:00 on Sunday.

b) Conditions detailed below shall be applied to the licence.

1. The premises will not operate any irresponsible alcohol promotions.
2. The premises shall operate a zero tolerance to drugs.
3. The premises shall not admit into the premises or sell alcohol to any persons who appeared drunk or otherwise intoxicated.
4. There shall be a member of staff on duty at the premises who has been trained in giving first aid.
5. Children will only be allowed in the premises with a responsible adult.
6. A refusals log shall be maintained at the premises.
7. CCTV shall be installed, operated and maintained in agreement with the Police. Maintained means that the system will be regularly serviced (at least once a year) and checked every two weeks to ensure that it is storing images correctly and a log kept and signed by a Supervisor to this effect. The system will provide an identifiable full head and shoulder image of everyone entering the premises and will operate in any light conditions within the premises. The system will cover the full exterior of the premises and shall record in real time, date and time stamped and will operate whilst the premises is open for licensable activities. The recordings will be kept for a minimum of 31 days and copies will be made available to an Authorised Officer or a Police officer (subject to the Data Protection Act 1998) within 24hrs of any request free of charge. There will always be a member of

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staff on duty who can operate the system, to allow officers to view recordings and if required by a police officer, provide a copy of images immediately free of charge to assist in the immediate investigation of offences. If the system malfunctions and will not be operating for longer than one day of business then police must be informed.

8. An incident log shall be kept at the premises and made available on request to the police or an authorised officer which will record the following.

- All crimes reported to the venue
- Any complaints received
- Any incidents of disorder
- Any faults in the CCTV system
- Any visit by a relevant authority or emergency service
- All ejections of patrons
- All seizures of drugs or offensive weapons
- Any refusal of the sale of alcohol.

9. In the event that a serious assault is committed on the premises (or appears to have been committed) the management will immediately ensure that:

- a) The police (and where appropriate, the London Ambulance Service) are called without delay
- b) All measures that are reasonably practicable are taken to apprehend any suspects pending the arrival of the police
- c) The crime scene is preserved so as to enable a full forensic investigation to be carried out by the police; and
- d) Such other measures are taken (as appropriate) to fully protect the safety of all persons present on the premises.

10. The licensee will promote the designated public places order by displaying appropriate signage by the alcohol display for off-sales and by the exit doors of the premises.

11. There will be no vertical drinking within the premises save for a maximum at any one time of 8 persons.

12. Alcohol available for off-sales will not be displayed at the front of the premises.

13. Staff at the premises shall receive training. The training shall cover the sale of alcohol and shall be completed prior to the staff member serving at the premises. Staff training records shall be signed to confirm that they have understood the training. The training records shall be kept at the premises and provided of officers from the council and police upon reasonable request.

14. The licensee shall adopt the Challenge 25 and the BII National Standards Proof of Age Scheme.

15. The holder of the premises licence shall subscribe to and participate fully in the local pub/club/shop watch scheme.

16. Alcoholic and other drinks purchased from the premises may not be taken away from the immediate curtilage of the premises in open containers such as glasses or opened bottles.

17. Drinking of alcohol will only be consumed by customers seated at the tables outside and within the curtilage of the premises and will be served in polycarbonate containers.

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18. 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.

19. Doors and windows to the premises will be kept closed, so far as practicable, at all times when noise generating regulated entertainment is taking place ie live and recorded music.

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 1, 2 and 3. The premises fall under the 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 considered that, although the capacity of the premises exceeded fifty, the nature of the operation and the hours specified would not add to the cumulative impact. The Sub-Committee was satisfied that the premises would not be alcohol led and would operate well within the hours specified in licensing policy 8.

The Sub-Committee also considered licensing policy 4 regarding shops selling alcohol and licensing policy 5 regarding the designated outside drinking areas, licensing policy 7 and 8 regarding licensing hours and licensing policies 9 and 10 regarding high standards of management.

The Sub-Committee heard the representations of the ward councillor noting his concerns regarding the issues surrounding the redevelopment work that was being carried out in the area, his concerns regarding the provision of off sales and anti-social behaviour in the immediate vicinity of the premises.

The Sub-Committee noted that the police and the licensing authority had withdrawn their representations following a meeting with the applicant and the applicants having agreed to conditions suggested by the responsible authorities.

The Sub-Committee also noted that the applicants had experience of running similar premises and that the applicant had taken positive steps to enhance the immediate vicinity around the premises and wished to sell specialist wines and beers.

In accordance with licensing policy 2, the Sub-Committee was satisfied that the grant of the application with the conditions proposed would not undermine the licensing objectives and there would be no adverse impact on the cumulative impact area.

The meeting ended at 10.00 pm

CHAIR