

Licensing Sub Committee A - 15 December 2015

Minutes of the meeting of the Licensing Sub Committee A held at Committee Room 4, Town Hall, Upper Street, N1 2UD on 15 December 2015 at 6.30 pm.

Present: **Councillors:** Raphael Andrews (Chair), Nick Wayne (Vice-Chair) and Angela Picknell

Councillor Raphael Andrews in the Chair

89 INTRODUCTIONS AND PROCEDURE (Item A1)

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

90 APOLOGIES FOR ABSENCE (Item A2)

None.

91 DECLARATIONS OF SUBSTITUTE MEMBERS (Item A3)

None.

92 DECLARATIONS OF INTEREST (Item A4)

None.

93 ORDER OF BUSINESS (Item A5)

The business was as the agenda. The Sub-Committee noted that item B2 had been withdrawn.

94 MINUTES OF PREVIOUS MEETING (Item A6)

RESOLVED

That the minutes of the meeting on the 5 October 2015 be confirmed as a correct record of proceedings and the Chair be authorised to sign them subject to noting that Councillor Picknell attended the meeting and should not be noted in apologies for absence.

95 PRINCE OF WALES, 1A SUDELEY STREET, N1 8HP - APPLICATION FOR A PREMISES LICENCE VARIATION (Item B1)

An adjournment of ten minutes was requested by the applicant's solicitor in order to address residents present. Residents agreed that this was acceptable although they expressed concern that this discussion was being held at a very late stage.

The Sub-Committee adjourned for ten minutes to allow for the applicant's solicitor to address residents.

On return the licensing officer stated that papers had been circulated separately from the applicant. These would be interleaved with the agenda papers. She stated that there were changes to the application which the applicant's solicitor would outline.

The applicant's solicitor stated the following regarding the variation application:-

- a) That there was no objection regarding the plans submitted;

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- b) The hours for late night refreshment were amended to be Friday and Saturday evenings only.
- c) The application for New Year's Eve was withdrawn as this was already included in the licence.
- d) The change in opening hours would not be applicable as changes were for non-licensable activities.
- e) Condition 1, Annex 3 was requested to be removed.
- f) Conditions 2-6, Annex 3 were to be removed and this was not contested.

The licensing authority reported that the recommendation to reduce alcohol hours as stated in their representation was withdrawn. She informed the Sub-Committee that the applicant had agreed the removal of tables and chairs by 10pm and the limiting of drinks outside after 10pm. This was a designated drinking zone in any event. The licensing authority would like to see a limit to the number of smokers and asked how these would be managed. The licensing authority asked the applicant to clarify the capacity. She stated she would request that safety certificates would be provided. The applicant stated that the 8am opening would be for breakfasts only.

Residents considered that the authority did have the power to reduce the hours and this should not be withdrawn. The legal advisor stated that the Sub-Committee were limited to the subject matter of the variation and hours for the sale of alcohol were not included in this variation.

The interested parties welcomed the re-opening of the public house. Although the premises were licensed until midnight, alcohol was only served until 11pm and it was considered that this practice should continue. Residents did not consider that the public house should increase in size and serve more people. All local premises served food until 10pm and alcohol until 11pm which, it was considered, were more appropriate hours. People should be brought in from outside from 9pm and pavements should not be blocked with customers. A local resident stated that they had no complaint with the previous public house but this would be altogether a different establishment. This was a 100% residential area and the applicant had no case for having later hours and the hours should be reduced if possible. A third local resident stated that the reopening of the premises was welcomed but she had concerns regarding the location and the number of people using the public house. This should be capped at 60 persons. The premises were small and close to houses with young families. Walls were very thin and the road was narrow. The dispersal policy was important and she did not consider that this had been adequately addressed. There was potential disruption from taxis late at night and noise would travel in a dense residential area with terraced housing and very thin walls. It was expected originally that there would be more dining area than pub but the plans included did not give clarity and detail was requested about the use of the areas. The premises would draw people from other areas. There was a planning application outstanding for the extension in hours from 08:00 to 11:00 am. The premises would be much larger and noisier than previously thought. The hours should be brought into line with other premises in the area.

The applicant's solicitor stated that any comments regarding the early opening and New Year's Eve should be disregarded. It was proposed that the premises would be food led and the intentions of the licensee were set out at pages 18-21 in the circulated papers. The premises already had hours until midnight for the sale of alcohol. In regard to concerns about the increase in capacity, a condition was offered in relation to the minimum number of covers used for dining. He stated that condition 1, Annex 3, was not enforceable; to be enforceable it should read 'must not' rather than 'should not'. The conditions on the licence were from the converted premises licence and were in relation to health and safety and not public nuisance. The new fire risk assessment gave a limit of numbers of 110. A condition requiring a minimum of 30 covers would allow the licensee to set out the premises as he

wished to do so. He referred the Sub-Committee to licensing policy 11 which encouraged mixed used premises with alcohol being offered alongside food. Premises with dining generally would create less noise and a calmer manner. There had been no objection to the plans so these must be approved. The conditions regarding 30 covers would bring the premises in line with policy. A condition bringing capacity in line with fire risk assessments could be added or a limit of 110 if minded. The extension of drinking hours was not a matter for consideration. The late night refreshments hours, as modified, brought the hours in line with licensing policy 8. He highlighted home office guidance, paragraph 3.15, which stated that the provision of late night refreshment as a secondary activity was not expected to give rise to significant additional conditions. There had been no objection from the police or the interested parties regarding crime and disorder. He highlighted paragraph 9.11 which stated that it was the responsibility of each responsible authority to determine when they had appropriate grounds to do so and paragraph 9.15 which expected the local authority exercising environmental health functions to make representations where there were concerns about noise nuisance. The licensing authority no longer sought a reduction in hours as this was not appropriate. Conditions regarding table and chairs would be dealt with under powers elsewhere as this was subject to a separate licensing regime. The concerns of residents were perceived and there was no real evidence that nuisance would occur. Each application should be decided on its own merits.

In response to questions, it was reported that management would be responsible for dealing with late orders of food. A good manager would need to consider working arrangements. The licensee was reviving a failing licensed premises and police had no concerns. Concerns raised were perceived and there was no evidence of actual nuisance from the premises. The fire assessment had been based on the number of fire exits and not on the basis of the proposed floor layout. It was noted that the toilet block had been taken downstairs. A dining room had been added for about 30 covers and the remainder of the premises remained unchanged. There could be as many as 60 vertical drinkers but this was an estimate and some would be seated at stools and eating. There was no application for tables and chairs pending and an area for smokers could be marked. A 30 minute drinking up or eating up period had been built into the application. This was established practice and how this was delivered was a management issue. In response to concerns about additional numbers and how this would be managed, the applicant's solicitor stated that 30 covers would be set aside, the capacity for 60 persons arose from public safety concerns and not public nuisance, the noise team had not objected and the Sub-Committee should consider home office guidance when considering an application for late night refreshment. Concerns were raised by the Sub-Committee regarding the arrival and departure of patrons.

In summary, the Licensing Authority stated that with a fire risk assessment allowing 110 customers, this would leave 80 people crowding into a very small space. If the premises were crowded customers would stand outside the premises. The licensee stated that he did not envisage 110 customers in the premises.

The residents stated they had concerns about the noise from dispersal and clients smoking outside and considered that the numbers outside needed to be restricted. The premises were very close to the Angel saturation zone. The numbers in the premises would be higher than they thought. The dispersal policy had been insufficiently thought through.

The applicant stated this was an application for a late night refreshment licence for Fridays and Saturdays. The responsible authorities were content. The tables and chairs conditions would be dealt with through a tables and chairs licence. Conditions previously placed on the licence had not been made because of public nuisance concerns. The dispersal policy had been written by the manager. He would be working with residents and living above the premises with his family. He would not want to risk the licence being reviewed. He offered

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a condition that capacity could be set in terms of a fire risk assessment when completed to include the area set aside for tables and chairs outside.

The Sub-Committee adjourned to deliberate at 8pm and following deliberation the Chair read out the decision of the Sub-Committee at 8.35pm.

Following the reading of the decision the applicant's representative asked that reasons for the decision regarding the non-removal of Condition 1, Annex 3, be supplied. The legal advisor stated that the Sub-Committee had concerns about the capacity in relation to public nuisance. The Sub-Committee was minded to retire for legal advice, however the applicant's representative considered that the Sub-Committee had made their decision and the reasons for it during deliberation and he would not wish for reasons to be given during a second deliberation. The Chair of the Sub-Committee stated that it was the normal practice of the Sub-Committee to provide the written reasons within five working days and the Sub-Committee was not prepared to move from normal practice. The applicant's representative stated that he wished it to be recorded that he was not satisfied with the response given.

RESOLVED that

1) the new premises licence in respect of The Prince of Wales, 1a Sudeley Street, N1 8HP be granted:-

- a) To vary the design and layout of the premises in accordance with the submitted plan, ref: dNA JKR 01 100 and dNA JKR 01 101
- b) To add the provision of late night refreshment, Fridays and Saturdays from 23:00 until midnight.
- c) That condition 1, Annex 3, in accordance with the variation to the ground floor layout of the premises **be not** removed – 'The maximum number of person that can be accommodated on the ground floor should not exceed 60.'
- d) To remove conditions 2, 3, 4, 5 and 6 from Annex 3.

2) Conditions as outlined in appendix 5 as detailed on page 71 of the agenda with the following amendments/additions be applied to the licence.

- Condition 4 to read. The premises licence holder shall operate Challenge 25 Proof of Age Scheme.
 - A minimum number of 30 covers be maintained for diners at all times the premises are open to the public.
 - There be a limit of 10 smokers outside the premises at any one time.
 - There shall be no drinks outside after 10pm each day.
 - The dispersal policy at numbered paragraphs 1, 3, 4 and 6, as circulated by the applicant, shall be included as conditions as follows:-
- 1) Notices will be displayed at all exits (main and emergency doors) requesting patrons to leave quietly and to have consideration for neighbours.
 - 3) The premises licence holder will enter into an agreement with a local minicab/private hire company;
 - a) Such company and its drivers to be appropriately licensed;
 - b) Drivers to be prohibited from sounding their horns outside the premises. Instead they will be given a dedicated trade-only 'hotline' phone number linked to the bar at the premises.
 - 4) A noise limiter will be installed and set in accordance with the recommendation of an acoustic consultant.

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- a) The music will cut out completely and automatically when the ambient noise in the pub comes close to the pre-determined levels as specified by the planning department/acoustic consultant.
 - b) The premises licence holder will ensure that by reducing the volume inside the premises, patrons will be able to converse at reasonable levels and will therefore be less likely to talk at loud volumes when leaving.
- 6) Immediate neighbours will be given the trade hotline number and contact details for the general manager so that they can report any concerns directly to the premises.

REASONS FOR DECISION

Following the determination being announced, the Sub-Committee noted a request made by the Applicant's representative, for summary reasons in relation to the Sub-Committee's refusal to remove the condition limiting the capacity of the premises. The Sub-Committee had given its determination as required under the Hearings Regulations. The Applicant's representative is aware that it is the practice of the Sub-Committee to provide written reasons for the determination within 5 working days, yet did not alert the Sub-Committee to his request for summary reasons before they went into their deliberations. The Sub-Committee volunteered to retire to obtain further legal advice and in relation to summary reasons. This offer was declined by the Applicant's representatives.

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 hours sought for late night refreshment were amended to be Friday and Saturday evenings only. The Sub-Committee noted that the premises are already licensed to sell alcohol during these hours. The Sub-Committee noted that the application for a variation in relation to New Year's Eve was withdrawn and that the application in relation to a change in opening hours was not applicable as this was for a non-licensable activity.

The Sub-Committee heard evidence from local residents that the premises were in a 100% residential area in which noise travelled. Residents expressed concerns that the applicant was seeking to put a high street establishment in a residential area. Residents were concerned that they could not tell from the application the detail of what was going to happen inside the premises and the potential numbers in the premises were going to be higher than previously suggested. The Sub-Committee heard evidence of residents' concerns in relation to noise nuisance, the dispersal of patrons, the control of smokers and the numbers of patrons outside the premises.

The Sub-Committee heard evidence from the applicant and his representative that the premises were not going to become a vertical drinking venue. A condition was offered that the applicant would maintain a minimum number of 30 covers. The applicant's representative stated that the existing condition limiting the maximum capacity of the premises to 60 was guidance only and not a mandatory requirement and that a fire risk assessment had been carried out which stated that the maximum capacity was 110. In response to questions the applicant confirmed that the fire risk assessment was on the basis of the number of fire escapes and available floor space and that the planned table layout was not taken into account. The Sub-Committee heard evidence that it was a matter of management as to how patrons ordering late night refreshment would be dealt with and that there was nothing within the applicant's history to suggest that there was anything other than good management.

The Sub-Committee was concerned that on the evidence before it, it appeared that the applicant was unsure of how many vertical drinkers were likely to be in the premises. The applicant put forward 110 as being a reasonable capacity limit but did not explain how this figure would be affected by the proposed requirement to maintain a minimum number of 30 covers maintained at all times. The Sub-Committee noted the applicant's comments that it was not envisaged that numbers in the premises would ever reach 110. The Sub-Committee noted the dispersal policy operated by the applicant but also noted the residents' concerns regarding the residential nature of the area and the narrowness of the streets and proximity of houses. The Sub-Committee was concerned that the applicant had not provided sufficient evidence as to how the increase in numbers would be managed, even when given the opportunity in questioning. The Sub-Committee was not persuaded that the removal of the condition in relation to capacity would promote the licensing objectives, particularly the prevention of public nuisance.

The Sub-Committee noted that there was no specific objection to the proposed new plans. The Sub-Committee was of the view that granting the licence for late night refreshment with conditions controlling capacity, patrons outside and dispersal would promote the licensing objectives. The Sub-Committee noted the outstanding planning application, the applicant's comments in relation to a tables and chairs licence and that the premises will need to comply with building regulations.

The Sub-Committee took into account licensing policy 8 in relation to opening hours, licensing policies 9 and 10 in relation to high standards of management, licensing policy 11 in relation to mixed use premises, licensing policy 18 relating to the protection of the amenity of residents and licensing policy 20 in relation to smoking, drinking and eating outside.

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OLD FRIEND, 277 CALEDONIAN ROAD, N1 1ET - APPLICATION FOR A NEW PREMISES LICENCE (Item B2)

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

The meeting ended at 8.50 pm

CHAIR