

**Licensing Sub Committee B - 12 January 2016**

Minutes of the meeting of the Licensing Sub Committee B held at Committee Room 4, Town Hall, Upper Street, N1 2UD on 12 January 2016 at 6.30 pm.

**Present:**           **Councillors:**           Alex Diner, Satnam Gill and Robert Khan

**Councillor Alex Diner in the Chair**

- 86**           **INTRODUCTIONS AND PROCEDURE (Item A1)**  
Councillor Diner welcomed everyone to the meeting, asked members and officers to introduce themselves and outlined the procedures for the meeting.
- 87**           **APOLOGIES FOR ABSENCE (Item A2)**  
Apologies for absence were received from Councillor Spall.
- 88**           **DECLARATIONS OF SUBSTITUTE MEMBERS (Item A3)**  
Councillor Gill substituted for Councillor Spall.
- 89**           **DECLARATIONS OF INTEREST (Item A4)**  
Councillor Diner declared a non-pecuniary interest as the ward councillor for Item B6 – Palmera Oasis, 332 Essex Road.
- 90**           **ORDER OF BUSINESS (Item A5)**  
The order of business was B1, B3, B2, B4, B5, B6 and B7.
- 91**           **MINUTES OF PREVIOUS MEETING (Item A6)**  
**RESOLVED**  
That the minutes of the meeting held on the 8 December 2015 be confirmed as an accurate record of proceedings and the Chair be authorised to sign them.
- 92**           **292 CALEDONIAN ROAD, N1 1BA - PREMISES LICENCE VARIATION (Item B1)**  
Three local residents were present at the meeting. They raised concerns that the business would operate until 4am and stated that the extractor fan was faulty and too loud. They had concerns regarding the shutter operating between 1 and 4 in the morning. They stated that this was a quiet stretch of road between 1am and 4am and that the extractor fan would also need to be used for a longer period of time. The operators were already in breach of their planning permission hours. In response to questions, they did not consider the general area or the noise levels in the area had improved over the last few years.
- The applicant stated that the fan problem had been resolved about four months ago and he had not had complaints since then. There was a 24 hour off-licence and garage a few doors away. The neighbour upstairs was not disturbed by the premises. The shutter was electric and was quiet. The shutter stopped half way down. Motorbikes were used for deliveries and drivers would switch their engine off on the main road. The applicant had a contract with the student residence nearby. He considered that the fan problem was resolved but an engineer was visiting on Thursday 14 January 2016. A neighbour spoke in support of the application. He stated that he did not hear anything from the shop. He heard police sirens from the road. His bedroom was above the kitchen and he would have no problems with the extension of hours until 4am.

## **Licensing Sub Committee B - 12 January 2016**

In response to questions it was noted that the shutters would remain half way down in order that the delivery drivers had access. The door to the premises would remain closed. He considered that the problems with the fan were now resolved. There would be two bikes with two drivers. Deliveries would stop at 3am. They expected the hours of 1am to 4am to be busier than the afternoon trade and this trade would make a huge impact on the business.

In summary, the residents stated that the extractor fan was not used for the same amount of time in the colder weather. The fan was fixed up to the top of the building. It had been inherited from the previous occupier and still had the same problems. One resident stated that his bedroom was at the rear and sound travelled differently over different floors.

The applicant stated that he kept having engineers to look at the fan and they had said there was nothing wrong with it. There was an engineer booked for Thursday. The fan did not make noise at the moment. There had been a bearing problem which had been fixed. The fan would be inspected every three months.

### **RESOLVED**

That the premises licence variation in respect of 292 Caledonian Road, N1 1BA 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 Kings Cross 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 took into consideration the framework hours detailed at licensing policy 8 and policy 18 relating to noise outbreak.

The Sub-Committee heard evidence from three local residents that they had concerns about the opening hours past 1am. They stated that the extractor fan was faulty and kept them awake as it was too loud. It was also noted that this was a quiet area between 1am and 4am.

The Sub-Committee heard from the applicant that it was expected that he would have a greater number of customers between the hours of 1am and 4am than during the afternoon. He stated that there would be two motorbikes with drivers delivering. The shutters would remain shut. It was expected that they would have business from the nearby student accommodation.

The Sub-Committee concluded that the licensing objective of the prevention of public nuisance would be undermined if the variation was granted. 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.

93

**FINANCIAL TRAINING COMPANY, 10-14 WHITE LION STREET, N1 9PD - NEW LICENCE APPLICATION (Item B2)**

The licensing officer reported that of the four residents objecting, there had been no response from three residents and one did not wish to withdraw their representation. There were no residents present at the meeting. The premises were in a cumulative impact area.

The applicant tabled photos indicating the inside of the building. The applicant's representative stated that the application was to sell alcohol after educational training had finished. Alcohol would be ancillary to the training. Planning permission was in existence. There had been no response to the letters sent to residents. There would be a very limited sale of alcohol on the first floor of the premises. Clients would have to negotiate six sets of doors and several flights of stairs to the training centre. Pre-registration took place so clients would be known. The premises were within the Kings Cross cumulative impact zone. The Sub-Committee may consider this an exception as hours were restricted and premises would not be alcohol led. The premises fell within licensing policy 11 regarding mixed use. Noise disturbance and crime would not be issues that would arise from these premises. There would be no impact from these premises, hours were limited and there was tight control over clients.

In response to questions it was noted that drinks would be supplied at the end of training. Workshops were held for community or charity groups and as part of the package alcohol would be included. There was no pay bar in the premises. There would be relatively low numbers of people involved and drinks were likely to be limited to two or three before departure. Clients would not be inebriated when they left the premises and if clients went to other premises this would be no different to pre-loading. If clients were inebriated, action could be taken through the companies who had made the booking. Customers would need to register at reception and walk upstairs and through six doors so it was unlikely that they would come off the street. There was a sale of alcohol as part of the package purchased which required a licence. If alcohol was not charged for there would be no restrictions as there would be no licence.

In summary, the applicant stated that there had been no objection from the responsible authorities. The applicant had adequately engaged with residents and had received no counter response. He considered that the application would be an exception to the saturation policy.

**RESOLVED**

- 1) That a new premises licence in respect of The Financial Trading Company, 10-14 White Lion Street, N1 9PD be granted to sell alcohol, on supplies only, Mondays to Sundays from 12:00 until 23:00 hours.
- 2) Conditions as outlined in appendix 4 as detailed on page 72 of the agenda shall be applied to 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 took into consideration Licensing Policy 2. The premises fall under the Kings Cross 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 premises would be used primarily for training purposes and workshops. There would be a very limited sale of alcohol following training which was restricted to a defined area on the first floor of the premises. All those attending the training would be required to register at reception. The sale of alcohol would be ancillary to the core activity of team building and training.

The applicant had agreed conditions with the police.

The Sub-Committee concluded that the premises fell within the exceptions to licensing policy 2. These were small premises which operated within the hours specified in licensing policy 8 and they were not alcohol led. The grant of the application, with the conditions agreed, would not undermine the licensing objectives.

**94**

**THE JUNCTION CAFE, 95 JUNCTION ROAD, N19 5QX - NEW PREMISES LICENCE (Item B3)**

The licensing officer tabled a revised representation from the licensing authority to replace page 93 of the agenda which would be interleaved with the agenda papers. It was advised that proposed conditions 14 and 18 be deleted as these were covered by condition 13.

The local resident was concerned about the noise and disturbance and crime and disorder. She raised concerns about the cumulative impact of customers eating and drinking outside. There were at least 50 flats that faced the rear of the café into the horseshoe shape. She was already able to hear the noise from another pub which held less than 20 customers outside and the noise was unbearable in the summer. She asked how the noise would be limited to 9pm. She stated that the applicant was not observing the building regulations and so she was not confident that they would be able to observe these any conditions imposed if the licence was granted. She asked that the application be refused as there were already high noise levels in the surrounding area and the noise would be unbearable at the weekends, particularly in the summer months.

The applicant's representative stated that this was an established café in current ownership since 2010. It was in the Junction cumulative impact area. Concerns in the policy for this area were mainly regarding off licences and street drinking. With the conditions proposed, street drinking and off sales would not be possible. The hours proposed fitted well within the licensing policy hours. This was an established café with very different clientele from a public house with hours until midnight and 1am. It was noted that Sainsbury's had an application refused in the area but it was stated that concerns were regarding off sales which did not relate to this application. The resident had mentioned a local event, however TENs were dealt with under separate regulations. He was not aware that building work hours had been exceeded but would look into this if it was a problem.

In response to questions it was noted that the applicant had been unable to attend the meeting. The use of the outside area was to cease at 9pm which would be a benefit to residents. Alcohol would be ancillary to meals. Numbers outside were restricted to 20. This number could be enforced by notices and staff would be briefed to prevent customers from standing outside.

In summary the local resident stated that she was not sure why the granting of this licence would be of benefit to neighbours. She had concerns about all day events. Flats were overlooking and noise travelled. The grant would add alcohol to a cumulative impact area. There would be 35 people outside. She had not been advised of the temporary event notice. She would not wish to police the premises.

## Licensing Sub Committee B - 12 January 2016

The licensing officer advised that residents did not need to be advised of a temporary event notice. These were agreed by the police and the noise officers would object if there was a history of noise problems.

The applicant's representative stated that the TEN had its own process where the police or noise team could object if they considered necessary. He felt conditions and restrictions on numbers would be favourable to residents. The hours fell within licensing policy 8.

In response to questions it was noted that the applicant was also the designated premises supervisor. The licensing authority stated that engagement had been made through the agent.

### **RESOLVED**

That the application for a new premises licence in respect of The Junction Café, 95 Junction Road, N19 5QX 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 1 and 2. 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 noted that the applicant was not present although he was represented. The local resident stated that there were at least 50 flats that overlooked the rear garden and there was a concern that if customers were served alcohol with their meals, increased noise levels would result. Noise levels were already high, particularly in the summer months.

The Sub-Committee considered Licensing Policy 18 to protect the amenity of residents and licensing policy 20 regarding smoking, eating and drinking outside.

The Sub-Committee noted that the applicant had agreed conditions proposed by all the responsible authorities who had made representations and the hours were within the core hours detailed in licensing policy 8 however, the Sub-Committee took the view that granting this licence would not promote the licensing objective, the prevention of public nuisance.

The Sub-Committee concluded that the applicant had failed to rebut the presumption that the application if granted, would not add to the cumulative impact area. The applicant did not show any exceptional circumstances as to why the Sub-Committee should grant the application.

95

### **GROLAND FOOD AND WINE, 52 SEVEN SISTERS ROAD, N7 - NEW LICENCE APPLICATION (Item B4)**

The police officer reported that this premises was in the Finsbury Park cumulative impact zone. There were 33 other licensed premises within a 250 metre radius of the premises, 14 of which had off sales. This was a large number in such a small area and a grant of the licence would add to the cumulative impact. The premises were situated just west of an

## **Licensing Sub Committee B - 12 January 2016**

area which was a street drinking hotspot outside Clarke's shoes shop and they could not see how the grant would not impact on the area.

The applicant's representative stated that the shop had existed for 30 years. The new owner bought the premises on the 2 December 2015 and had a personal licence with 8 years' experience. He would be robustly promoting the four licensing objectives. Posters would be erected and he would operate Challenge 25. He would not be selling alcohol to street drinkers and all staff would be trained thoroughly. He reported paragraph 10.15 of the guidance which stated the hours for the sale of alcohol should be the same as opening hours unless there was good reason. It was not a new premises. A licence would be granted with conditions and the applicant would be happy to agree a 9am start time and to limit the area in the shop for alcohol to 15%. He would not sell to street drinkers and there would be robust promotion of the four licensing objectives.

In response to questions it was stated that they would tell street drinkers that they would not be served and erect posters. The applicant stated the four licensing objectives. The applicant had spoken to the police half an hour before the meeting had commenced. The police were objecting on the basis of need but this was not a criteria.

In summary, the police stated that street drinkers may not necessarily look as expected and would not be easy to identify. The conditions were used as a safeguard if the licence was granted but they recommended refusal. The premises were in a cumulative impact area and whilst good signage and good management was better than a poorly run premises this would still be another shop to buy alcohol in an area where there were already a large number of premises.

The applicant's representative stated that they would work with responsible authorities. The applicant had full training and the premises would be well run. He would know the street drinkers that kept returning. The area for alcohol would only be 15% and the police could review the premises if they were not properly run.

### **RESOLVED**

That the application for a new premises licence in respect of Groland Food and Wine, 52 Seven Sisters Road, N7 6AA 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 Holloway and Finsbury Park 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 the police representations that there were 33 other licensed premises within a 250 metre radius of the premises. The proposed venue was situated in area which was a street drinking hotspot. The Sub-Committee noted that the police had put forward conditions should the Sub-Committee be minded to grant the application, although he recommended refusal.

The applicant had recently taken over the ownership of the shop which had been operating as a newsagent for some 30 years. The Sub-Committee noted that he had a personal licence and had eight years' experience. The applicant had submitted a full operating schedule which addressed the concerns that the police representation had raised however, the Sub-Committee noted that the police still objected to the application as the premises were in a cumulative impact zone.

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.

**96**      **CHICKEN EXPRESS, 57 NEWINGTON GREEN, N16 9PX - PREMISES LICENCE VARIATION (Item B5)**

The licensing officer reported that after the applicant had spoken to the police the hours were reduced so a representation from the police had not been submitted. The resident had not withdrawn their representation.

The applicant's representative stated that this premises had been in the same family for 20 years. There had been one incident ten years ago involving teenagers and no other incidents since. This was a late night community and there were a lack of customers during the day. There was only one objection.

In response to questions it was stated that the applicant was not present as she thought that the representative could respond to all questions. He said that it was regrettable but the application could be adjourned for her to be present. The late hours were for the late night community. The use of CCTV was a very visible presence. Staff would be trained and badly behaved customers would not be served. No crime issues had affected the shop and since the square had been landscaped there had been an improvement with problems associated with anti-social behaviour. This was a good family business, loved within the community and would make a good financial difference to the owner in a competitive market.

**RESOLVED**

That the application for a premises licence variation for Chicken Express, 57 Newington Green Road, N16 9PX be adjourned in order that the applicant can attend to respond to questions from the Sub-Committee.

**97**      **PALMERA OASIS, 332 ESSEX ROAD, N1 3PB - NEW LICENCE APPLICATION (Item B6)**

The licensing officer reported that the applicant had not responded to the representations made by the responsible authorities.

The licensing authority reported that the premises had been visited at midnight on 15 November 2015 and it had been found operating outside the licensing hours. The licensing authority had made it clear to the applicant what needed to be improved but no contact had been made by the applicant. There were concerns regarding the standards of management as the only time that licensing officers had visited during the application process, the applicant had been in breach of operating hours. There were concerns that the applicant would not abide with licensing conditions and it was recommended for refusal.

The police raised concerns regarding the standards of management. It was stated that there had been a number of crimes at the venue. On the 13 June 2015 police were called to the venue after midnight when the premises should not have been open. The police were called again on the 17 October 2015 at 11.54. On this occasion a female had grabbed food from the spit and caused a disturbance. The CCTV was not working on the 13 June

## Licensing Sub Committee B - 12 January 2016

2015 and although this was not a breach it reflected the standards of management. The police stated that they did not consider the applicant could run the premises lawfully.

The applicant stated that he did not sell alcohol and was a takeaway kebab shop. In 2011 he had contacted the council and no one had forwarded him to the licensing team. He had been opening late since 2011. He was not aware that he needed a licence to sell food after 11pm until two months before. He had, on two separate occasions called the police. Once as a man had broken into the local furniture shop and on the 13 June 2015 as a man in the shop had a knife. The report for this incident was taken from the CCTV. The premises had closed after 11pm but orders were taken over the telephone. The applicant stated he was not aware that he should stop trading. The licensing officer stated that this would have been made clear to him when he applied for the licence.

The applicant stated he would keep the CCTV and he had called the police rather than the police being called to him. He was part of the local community.

### **RESOLVED**

That the application for a new premises licence in respect of Palmera Oasis, 332 Essex Road, N1 3PB 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 noted that the applicant had been operating outside the licensing hours for some time and had not engaged with the responsible authorities until recently.

The Sub-Committee considered licensing policy 8 regarding hours, licensing policy 9 regarding the lack of information in the operating schedule and failure to engage with the licensing authority in this regard and licensing policy 10 regarding a history of non-compliance.

The Sub-Committee concluded that the grant of the licence would undermine the licensing objectives.

98

### **BRIKI, 67 EXMOUTH MARKET, EC1R 4QL - NEW PREMISES LICENCE (Item B7)**

The applicant stated that the premises were for a small coffee shop which was intending to sell some wine, a small beer or greek coffee with a liqueur. The hours were up until 8.30 pm. The planning position was in the process of being clarified.

In response to questions it was noted that the premises held 8-10 people. It was in the Clerkenwell cumulative impact area. Alcohol would only be served with food. It was not intended to sell hard alcohol.

### **RESOLVED**

1) The Sub-Committee have decided to grant the application for a new premises licence in respect of **Briki, 67 Exmouth Market, EC1R 4QL**

- i) The sale by retail of alcohol, on supplies only, Monday to Sunday 12:00 until 20:30.
- ii) Opening hours between 07:00 and 21:30 Monday to Friday, 08:00 and 21:30 Saturday to Sunday.

2) Conditions as outlined in appendix 3 as detailed on page 199 of the agenda shall be applied to 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 took into consideration Licensing Policy 2. The premises fall under the Clerkenwell 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 applicant that the premises was a small café with limited seating for 8-10 people. The sale of alcohol would be ancillary to food.

The Sub-Committee concluded that the premises was an exception to licensing policy 2 as it was a small premises operating well within the hours specified in licensing policy 8 and were not alcohol led. The grant of the application with the conditions agreed with the police, would not undermine any of the licensing objectives.

The meeting ended at 9.15 pm

**CHAIR**