

Licensing Sub Committee A - 27 August 2015

Minutes of the meeting of the Licensing Sub Committee A held at Committee Room 4, Town Hall, Upper Street, N1 2UD on 27 August 2015 at 6.30 pm.

Present: **Councillors:** Raphael Andrews (Chair), Nick Wayne (Vice-Chair) and Paul Smith (Substitute) (In place of Angela Picknell)
Also Present: **Councillors:** Rakhia Ismail and Diarmaid Ward

Councillor Raphael Andrews in the Chair

- 70 **INTRODUCTIONS AND PROCEDURE (Item A1)**
Councillor Andrews welcomed everyone to the meeting and asked members and officers to introduce themselves.
- 71 **APOLOGIES FOR ABSENCE (Item A2)**
Apologies were received from Councillor Picknell.
- 72 **DECLARATIONS OF SUBSTITUTE MEMBERS (Item A3)**
Councillor Smith substituted for Councillor Picknell.
- 73 **DECLARATIONS OF INTEREST (Item A4)**
Councillor Smith declared that he was a ward councillor in Holloway (the ward Item B1 was in) and also lived in this ward.
- 74 **ORDER OF BUSINESS (Item A5)**
The applicant for B3 requested that this item be adjourned until the outstanding issue related to planning hours had been resolved. The applicant for B4 requested that this item be adjourned until 10 September 2015. The order of business would be B2 and then B1.
- RESOLVED:**
That the requested adjournments for B3 and B4 be granted.
- 75 **MINUTES OF PREVIOUS MEETING (Item A6)**
- RESOLVED:**
That the minutes of the meeting held on 14 July 2015 be confirmed as a correct record of proceedings and the Chair be authorised to sign them.
- 76 **OKTOBERFEST, CALEDONIAN ROAD, MARKET ROAD, N7 - APPLICATION FOR A NEW PREMISES LICENCE (Item B1)**
The licensing officer stated that 5.2 (i) and 5.2 (ii) of the report should refer to appendix 4 and not appendix 3. The licensing officer stated that appendix 4 on page 201 of the agenda contained the suggested conditions of approval consistent with the operating schedule and the conditions the applicant had agreed with the council's Noise Team. The licensing officer stated that a letter from the council's Greenspace Team had been provided as had a plan of the park, showing the area that would be used for the event. These had been circulated to

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the sub-committee members and objectors and would be interleaved with the agenda papers.

Residents stated that the letter from Greenspace had not addressed their concerns. Residents reported that Lambeth Council had rejected a proposal to hold an Oktoberfest in Kennington Park and the Friends of Kennington Park had advised of problems including broken glass, toilets overflowing and residents being able to hear noise from the event when their homes were 600m from the stage. Concern was raised that regular park users would be unable to use and enjoy the park during the event.

A resident referred to the council's alcohol policy and suggested that in accordance with the policy, the council should not be promoting this event. Concern was also raised that this was a community park and the event had no community or family values, with it being restricted to over 18s apart from a few hours.

A resident raised concern over the long and short term environmental damage caused by the event. She added that she was not reassured by the letter from Greenspace that any damage would be charged to the organisers. She reported that an unrelated event in 2012 had caused damage to the park and Oktoberfest would be a larger event. The large tent and use of heavy vehicles would affect the grassed areas, particularly as the park had poor drainage and was currently sodden. The Friends of Kennington Park had reported an area of grass in the park which, after the event, had to be reseeded and fenced off which made it unusable for some time. The event was being held at a time when money and effort had been spent on improving Caledonian Park.

A resident raised concern about the decibel level of the music to be played. Reference was made to the council's duty to protect residents from noise. The resident urged the sub-committee to reject the application or restrict it by reducing the opening hours, monitoring noise and reducing the level to 40 or 45 decibels.

The legal officer asked the applicant whether he had agreed with the conditions on page 201 of the agenda. The applicant confirmed he had. However the licensing officer had not received a noise control plan. The legal officer advised that as the applicant had not submitted a noise control plan at least 15 working days before the event, the applicant had not complied with conditions 8b, 8c and 9. The applicant stated that he was not aware of the condition requiring a noise control plan to be submitted 15 working days prior to the event but could arrange for the noise control plan to be put in place the next day.

The Greenspace officer advised that there was an error in the letter that had been circulated in response to the representations received. The letter referred to a noise plan having been submitted and it now appeared this was not the case.

Councillor Diarmaid Ward raised concern about public nuisance and the protection of child. He raised concern about a four day event in a residential area until 10.30pm, particularly on the Thursday which was a school night. He considered this to be disproportionate and was of the view that if the event was to take place, it should be a two day event, on the Friday and Saturday, ending at 9.30pm and with a lower limit on noise.

Councillor Ismail raised concern about possible anti-social behaviour and substance misuse and the event not providing benefits to local people. Concern was also raised that the event had already been advertised in the Evening Standard.

The applicant advised that several Oktoberfest events had been held across London since 2011. There had been Oktoberfests in 32 cities across Europe with more than 300,000 visitors in total. The sub-committee was advised that Oktoberfest was a professional

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company, the police had never been called to an event and plastic glasses were used rather than glass. A noise consultant had been booked and a surround sound system would be used to help contain noise. There would be a minimum of 14 SIA security staff and the number would increase with capacity up to 28. The majority of visitors would be aged between 20 and 70 with the average age range 35-45 years old. Oktoberfest offered a cultural experience and with beer priced at £8.50 for a 1.5 pint, this did not promote excessive consumption. A four piece Bavarian band would be used rather than a traditional ten member band. The family day between 12pm and 2.30pm would provide an opportunity for young families to visit the festival together.

The applicant stated that Oktoberfest would be at four venues this year with one in Camden and one in Tower Hamlets. The company talked to residents prior to events taking place. In the first year of the event being held in Millwall Park, Tower Hamlets, there had been 27 complaints, last year this had reduced to 12 and this year, there had been no complaints.

The applicant advised that a noise consultant would be available and if residents had concern they could call the organisers and reasonable steps would be taken to minimise noise. The applicant would seek a parking suspension on Market Road so the larger vehicles could park there. Track mats would be used for the smaller vehicles to drive over so they did not damage the grass. The area would be fenced off with a 2metre high covered fence and patrons were not permitted to take food in with them. There would be daily cleaning plus a final cleaning session on the last day. The moveable toilets had 10,000 litre capacity. The applicant confirmed that the last call for drinks would be at 10pm and there would be no reason for any patrons to be on site after 10.45pm.

In response to a question as to the reason why another event would not be held in Kennington Park this year, the applicant stated that Lambeth Council had lost confidence in the event manager.

In response to a question about whether residents would be able to hear the band from their homes, the applicant stated that this would depend on the wind. There were large trees behind the stage and the speakers would be pointed towards Market Road. The applicant considered that with closed windows, the noise level would be acceptable.

In response to a question about crowd management, the applicant advised that there would be staff at the entrance, a clicker system would be use and a snaking system would be used for those queuing. If the tent was full, a system would be used whereby when two people left the tent, one person could enter. The number of security staff had been agreed with the police and in addition there would be security staff at the emergency exits. There would also be two first aiders and a closed off treatment area plus two park guard officers in attendance throughout the event. An approved anti-social behaviour plan was in place.

In summary, residents raised concerns about noise, anti-social behaviour, environmental impacts and a lack of consultation and community benefit.

In summary, the applicant advised that this would be a special event, the park was a public space, the event could raise the value of the park, up to 6,000 people would enjoy the event and the council would receive a £20,000 for holding the event. The Greenspace officer advised that there was a need for the council to increase income sources and therefore consideration was being given to holding events of this nature.

RESOLVED

That the application in respect of Oktoberfest, Caledonian Park, Market Road, N7 be refused.

REASON FOR DECISION

The Sub -committee considered all the written submissions provided by residents, the written application and supporting documentation.

In addition thereto, the sub-committee heard and considered the verbal representations from the applicant, a representative from Green Space, a representative of the Council's Noise Team, three residents and two councillors.

No other representations were received from the Responsible Authorities.

In arriving at its decision, the sub- committee applied the relevant provisions of the Council's Licensing Policy and the Home Office Guidance issued under section 182 of the Licensing Act 2003.

The decision was taken in the light of the licensing objectives, namely:-

- The prevention of crime and disorder
- Public safety
- The prevention of public nuisance
- The protection of children from harm.

The main concerns of residents as expressed in their written and verbal representations were:

- Noise nuisance and the fact that the park and venue were close to residents which would be affected by the noise for four days.
- That adequate controls were not in place for the proposed festival.
- The allegation that other similar festivals operated by the applicant, particularly one last year in the London Borough of Lambeth, had resulted in associated anti-social behaviour, noise, broken glass being left at the venue thereby potentially causing harm to subsequent visitors to the venue and that this was the reason behind the Lambeth Council refusing the applicant permission to hold another Oktoberfest in Lambeth in 2015.
- The park itself would be adversely affected from an environmental perspective.
- That other potential users of the park would have their enjoyment adversely interfered with.

The Applicant's main material representations were as follows;-

- That there was an effective management plan for the festival including an effective entrance and egress plan
- There was an approved Anti- Social Behaviour Plan.
- That the problems referred to as having taken place in Lambeth in 2014 did not take place
- That the reasons for the refusal of the application for a festival in Lambeth in 2015 was due to management issues experienced there in 2014.
- Reasonable steps would be taken to minimise noise nuisance but that one must bear in mind that the venue was in a public space in London and not in a private garden.

The representative from the Noise Team, verbally submitted during the hearing, that the agreed proposed conditions as set out on page 201 of the papers, had not been complied with. In particular condition 8(b),(c) and 9 .

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These conditions provided that in relation to the issue of Noise, the applicant was required to appoint a Noise Control Consultant to the approval of the Licensing Authority 20 working days before the event and that the Consultant shall submit a Noise Control Plan to the Council's Noise Team at least 15 days before the event. The conditions further provided that the appointed consultant shall liaise between all parties including the licensee, the promoter, sound system supplier, sound engineer and licensing authority on all matters relating to noise control prior to the event. The Noise Team representative stated that no such plan had been submitted and that the deadline for the submission was 19th August 2015 and that the consultation referred to above and management plan had been forthcoming.

The Noise Team representative stated that this was agreed in writing and verbally with the applicant.

The Applicant stated that he had read all of the document containing the "agreed conditions".

The sub-Committee was satisfied that the proposed plans of operation submitted by the applicant would not adversely impact on the first, second and fourth licensing objectives.

In relation to Noise Nuisance, it was in agreement that the area in question is a public space and that in principle functions of this nature, if properly planned and managed would be beneficial to the area and Council in general.

In this particular application it was concerned by the fact that the applicant acknowledged that he had not read the conditions that he agreed to and secondly that material conditions in relation to the noise issue had not been complied with.

The Agreement took place in July 2015 and the Noise Plan should have been submitted by the 19th August 2015 at the latest. This would have allowed the Noise Team to make representations to the sub-committee with regard to their satisfaction or dissatisfaction thereof and possible further recommendations on conditions. In addition thereto, no consultation had taken place between the appointed Noise Consultant and the Licensing Authority and due to the time constraints, it would be impossible for the licensee to comply with any noise control requirements within 10 working days of the event.

Due to the failure to comply with these conditions, the Noise Team would not have sufficient opportunity to consider the Plan and any possible further conditions to be complied with.

Both the Applicant and the Council require a degree of certainty before approval in the case of the Council and in relation to cost and inconvenience for the Applicant.

The Noise Team's concern is that it is unclear at this stage in light of the failure to comply with the conditions as to whether the public nuisance objective would be negatively impacted upon.

The Sub-committee accordingly decided that the appropriate and proportionate decision in this particular application was to refuse the application at this stage.

77

PASSENGERS, 19 GREEN LANES, N16 9BS - APPLICATION FOR A NEW PREMISES LICENCE (Item B2)

The licensing officer stated that the revised timings and conditions in the document entitled Amendment to the Application for a New Premises Licence circulated since the publication of the agenda had been agreed by the applicant with a subsequent amendment agreed by the applicant. These would be interleaved with the agenda papers.

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Residents raised concern about noise from live music, a vent and people using tables and chairs outside of the venue. A resident stated that noise reverberated through the building. Concern was raised that the door opened on to the street and it was suggested that having a lobby and or soundproofed door could reduce noise when customers were entering and leaving the premises. Concern was also raised about rubbish at the back of the premises which had been removed from the premises during refurbishment work. Concern was raised about loud music being played on 20 August.

The applicant reported that the premises had been bought two months ago and had been redecorated. Following consultation with residents, the applicant had decided to play acoustic music. The applicant's agent had been replaced following their incorrect submission of an application for a licence with music and dancing until 2am. This problem was then resolved and the applicant had agreed conditions with the police and noise team. A soft opening session had been held one evening between 7pm and 9pm and residents had said they were happy.

The applicant's partner stated that they were creating an arts space and were collaborating with charities and friends. Arts and comedy nights could be held and the premises would not be used as a nightclub nor for dancing.

In response to questions, the applicant and his partner confirmed that they had no connections with the previous owners or in the management of that business and would not be playing recorded music, just live music. The applicant confirmed that they had not consulted any of the residents present at the hearing.

In summary, the residents stated that their objections were based on noise from the premises and the vent and people in the street plus rubbish at the back of the premises. The licensing officer advised residents that Condition 1 of the Noise Team Conditions meant a noise consultant would have to prepare a scheme of sound insulation and noise control measures and this would have to be submitted for approval by the council and the approved scheme then fully implemented to the satisfaction of the council prior to the premises being used for licensable activities.

In response to a question from a resident about what would happen if the condition regarding smoking was not met, the legal officer advised that a breach of conditions could lead to a potential review of the licence.

In summary, the applicant stated that the premise was a café with day time arts. Acoustic music would be played and if there were any complaints from residents, these could be raised with the applicant, who would endeavour to address them.

RESOLVED

a) That the application for a new premises licence in respect of Passengers, 19 Green Lanes, N16 9BS be granted:-

- i. To permit the sale by retail of alcohol, on supplies only, Sundays to Thursdays from 4pm until 10 pm and Friday and Saturday from 4pm to 11pm.
- ii. To permit the performance of live music, Sundays to Thursdays from 8.30pm until 10pm and Fridays and Saturdays from 8.30pm until 11pm.
- iii. To permit the provision of late night refreshment, Fridays and Saturdays from 1pm until 11pm.

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iv. To permit the premises to be open to members of the public: Sundays to Thursdays from 4pm until 10.00pm and Fridays and Saturdays from 4pm until 11pm.

b) Conditions as outlined in appendix 3 as detailed on page 245-247 of the agenda as amended by the conditions set out in the document titled Amendments to the application for a new premises 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 considered the written application, the written representations provided by residents and the verbal submissions made by the applicant, his partner, the noise team representative and four residents.

No representations, written or verbal were made by the Responsible Authorities.

This was an application for a new licence. The address of the business was not in a cumulative impact zone.

The concern of all the residents who made submissions was that of noise, mainly from music emanating from the premises and accordingly Policy number 18 was of relevance.

The Noise Team representative stated that although he had prior to the hearing agreed conditions with the applicant, he since having read the submissions of the residents had thought it appropriate to amend the conditions slightly. The proposed amendment was agreed to by the applicant.

Taking the concerns of the residents and the applicant into consideration the sub-committee decided to grant the application subject to the agreed amended conditions. It granted the licence with earlier termination hours, so as to promote the objective of the prevention of public nuisance. It considered that the additional conditions were proportionate and reasonable and balanced the interests of all parties.

78 PIZZA TAKEAWAY, UNIT A, CHARLES MORTON COURT, 37 GREEN LANES, N16 9BS - APPLICATION FOR A NEW PREMISES LICENCE (Item B3)

This item was adjourned.

79 ADDIS ABABA, 192 SEVEN SISTERS ROAD, N4 3NX - PREMISES LICENCE REVIEW (Item B4)

This item was adjourned.

The meeting ended at 9.00 pm

CHAIR