

London Borough of Islington

**Licensing Sub Committee C - 9 June 2016**

Minutes of the meeting of the Licensing Sub Committee C held at Committee Room 4, Town Hall, Upper Street, N1 2UD on 9 June 2016 at 6.30 pm.

**Present:**           **Councillors:**       Gary Poole (Chair), Diarmaid Ward and Flora Williamson

**Councillor Gary Poole in the Chair**

**114        INTRODUCTIONS AND PROCEDURE (Item A1)**

Councillor Poole welcomed everyone to the meeting and informed those present that the procedure was as detailed in the agenda papers.

**115        APOLOGIES FOR ABSENCE (Item A2)**

Councillor Shaikh and Perry submitted apologies for absence.

**116        DECLARATIONS OF SUBSTITUTE MEMBERS (Item A3)**

Councillor Williamson substituted for Councillor Shaikh and Councillor Ward substituted for Councillor Perry.

**117        DECLARATIONS OF INTEREST (Item A4)**

None.

**118        ORDER OF BUSINESS (Item A5)**

The order of business would be as the agenda.

**119        MINUTES OF PREVIOUS MEETING (Item A6)**

**RESOLVED**

That the minutes of the meeting held on the 22 March 2016 be confirmed as a correct record of proceedings and the Chair be authorised to sign them.

**120        CALEDONIAN SUPERMARKET, 288 CALEDONIAN ROAD, N1 1BA - PREMISES LICENCE VARIATION (Item B1)**

The licensing officer stated that they had nothing further to add to the report.

The police reported that there had been a reduction in crime of 11% over the same period to the previous year, which they considered was due to the work carried out by the responsible authorities. They reported that there had been a large number of crimes in late night venues and increasing access to alcohol was not a risk that they wanted to take.

The Public Health department stated that the ambulance callouts in this geographical area was significantly higher than the borough average. This created a significant burden in

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terms of ambulance call outs, which peaked during the early hours. It was considered that all the responsible authorities needed to work in partnership to reduce these incidents.

The applicant stated that he struggled to pay his taxes. Many shops had closed and not re-opened. He considered that the increase in hours would be an improvement to help business owners and the local area. Bigger stores opening locally had affected trade. He had an oyster machine and pay point to improve the services he provided in his shop and wanted an extension in hours. He would work with the police. He said he was struggling to pay his workers but could pay them if the hours to trade were increased. He aimed to pay his taxes.

In response to a question regarding whether the premises would be an exception to the cumulative impact policy he stated that he had an oyster machine and would help people in the area. He could not afford representation. He stated that he did not sell alcohol to people when drunk and had a refusal book. He trained his staff well and asked for ID. He would require alcohol licensing hours to be the same as opening hours otherwise there might be trouble inside the store. If customers bought alcohol they might use other services.

In summary the police stated that their objection that the premises were in a cumulative impact area still remained.

### **RESOLVED**

That the application for a premises licence variation 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 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.

Representations had been made by the licensing authority, the police and public health. There were four local resident representations in support of the application.

The Sub-Committee noted that the hours sought were outside the framework hours specified in licensing policy 8.

The Sub-Committee heard evidence from the police that there were 23 licensed premises within a 250m radius of the venue. Seven of these were off licences, that alcohol sales were ancillary to food and the existing licence with short licensing hours made the operation of a successful food led operation difficult.

The Sub-Committee concluded that the increase in hours would add to the existing cumulative impact in the area.

In accordance with Licensing Policy 7, the Sub-Committee noted the cumulative impact that the proliferation of late night venues and retailers in the borough was having on the promotion of the licensing objectives. The Sub-Committee was of the view that the licensing objectives would be undermined if the variation to the premises licence was granted.

The Sub-Committee concluded that the increased hours applied for would add to the availability of alcohol in an area where there is already a large number of licensed premises with associated anti-social and criminal behaviour and would therefore have a cumulative impact on the licensing objectives.

In accordance with licensing policy 2, the Sub-Committee was satisfied that to grant the application would undermine the licensing objectives. The applicant 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.

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**SAINSBURYS, 211 BLACKSTOCK ROAD, N5 2LL - NEW PREMISES LICENCE (Item B2)**

The licensing officer stated that the opening hours had been amended from 07:00 to 23:00 and not 24 hours as stated in the application.

Further information regarding an additional police condition was circulated and would be interleaved with the agenda papers.

The Chair expressed concern that planning permission had not yet been determined as there was an expectation in the Council's licensing policy for this to be granted prior to a licensing application being made. The applicant stated that licensing and planning were two separate regimes and a policy statement would not override the Licensing Act.

During a short adjournment for members to consider how to proceed in this matter the applicant produced a grant of planning permission which he considered to include this premises. The Sub-Committee therefore agreed to proceed with the hearing.

The police reported that, although this premises was not in the cumulative impact zone, it fell with the Emirates Stadium Footprint which was very busy on event days. The event days were often more significant than the night-time economy. Local venues had been written to and agreements reached regarding conditions for event days. The goodwill of venues was required. The police had proposed a condition for event days which the applicant had not agreed. The police stated that they had agreed similarly worded conditions with other premises and considered that it was imperative that new licences were conditioned.

The applicant stated that on the police proposed condition dated 29 October 2015 they had not stated that the premises could not sell alcohol.

The licensing authority was concerned about the application and agreed that the police condition should be imposed. It was also stressed that this area was known for street drinkers, had several hostels in the area and asked that there be a 10:00 am start to alcohol sales rather than 8am.

The applicant stated that hours requested for alcohol sales were 8am to 11pm and that the premises were not in a cumulative impact area. He stated that there were only two premises in the area that were subject to event conditions on their licence. One of these was following a review of the licence when an additional 25 conditions were imposed. He considered that any condition regarding event days should be agreed through goodwill and not imposed on the licence. The proposed condition went further than the conditions on all of the other off licence conditions in the area. If this condition was imposed the premises would not be able to sell alcohol for 9 hours. This condition was considered

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disproportionate. The applicant stated that Sainsbury's would comply with any letter request from the licensing team. Sainsbury's already complied with police requests in other stores. They had not seen evidence that off licences created problems. Regarding the proposed 10:00 am start, the Sub-Committee was informed that the majority of off-licences in the area had licensing hours of 8am-11pm with a couple of 24 hour premises. Conditions had been agreed regarding the sale of single cans and high strength alcohol to respond to the problems of street drinking. An opening time of 8am would not make any difference to this issue. Of the four representations, two residents agreed with the hours of 7am to 11pm and the two remaining were concerns about the premises opening for 24 hours.

With reference to problems with serving alcohol in 2014 at the Stroud Green Road branch on a concert day following the receipt of a letter from the licensing team, the applicant stated that the branch had not received a letter from the licensing team and this had been accepted at licensing panel. The queues of people were the main issue and panel accepted that the store had not done anything wrong. Regarding CCTV issues at the Blackstock Road store, the Sub-Committee were informed that the manager had not been aware of any difficulties obtaining CCTV in the last 12 months. If there was an issue this should be reported to the Area Manager. The applicant would not expect management to be brought into question. This new licence would be the only one subject to this police condition. The applicant was happy to work with the police but this condition was disproportionately punishing the store.

In response to questions the applicant stated that he tried to reach agreement with the police but had not managed to do so. The response from the police had been a complete ban on alcohol on concert and match days. The conditions from the police had kept changing and they had not risk assessed the situation. They would prefer to work in partnership with the police and would abide by voluntary restrictions. The applicant was not sure of their pricing at these premises but there would be a similar pricing structure to the store in Holloway Road.

In summary, the police stated that their conditions had been chopped and changed and the final proposed condition was all encompassing in an effort to simplify the process. The licensing authority stated that a letter regarding the sale of alcohol at Stroud Green Road had been delivered by hand. The applicant stated that this should be emailed.

In summary, the applicant stated that the vast majority of premises selling high strength alcohol were open from 8am or earlier. There was no evidence to support a restriction for a later time for the sale of alcohol and the store was not in a cumulative impact area. He asked that there be trust between police and licensee, as for all the other 55 off licences nearby, rather than add a condition to this licence. There was a review procedure if Sainsbury's broke this trust.

### **RESOLVED**

1) That the application for a new premises licence in respect of Sainsbury's, 211 Blackstock Road, London, N5 2LL be granted:-

- a) To permit the premises to sell alcohol off supplies, Monday to Sunday from 10:00 until 23:00.
- b) To permit the opening hours, Monday to Sunday from 07:00 until 23:00.

2) Conditions as detailed on pages 61 and 62 of the agenda shall be applied to the licence with the deletion of condition 20.

### **REASONS FOR DECISION**

The Sub-Committee listened to all the evidence and submissions and read all the material. The Sub-Committee reached the decision having given consideration to the Licensing Act

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2003, as amended, and its regulations, the national guidance and the Council's Licensing Policy.

The Sub-Committee took into consideration Licensing Policy 1 and 2.

There had been objections from the licensing authority and the police. There were four resident objections.

The Sub-Committee noted that the submission from the Licensing Authority and that although the premises were not in a Cumulative Impact Area it was very close to the Finsbury Park cumulative impact area and the Emirates Stadium with a very busy footfall on match days. The area was also home to a hostel for the homeless and a wet centre and outreach centre for street drinkers.

The police submitted that the imposition of a ban on street drinking in 2009 had worked well for pubs, bars and restaurants, but not for off licences. Since 2013, the police licensing team had ensured that all new licences for off sales were conditioned accordingly within the Emirates Stadium footprint in terms of the risk assessment. The police considered it to be imperative to impose a condition to restrict the sale of alcohol before and after matches and events held at the Emirates stadium, rather than rely on the goodwill of businesses. The police cited two incidents that had occurred in other Sainsbury's stores in the borough which in their view reflected poor standards of management and reinforced their recommendation for a condition to be imposed rather than a promise of goodwill.

The Sub-Committee took into account licensing policy 4 regarding shops selling alcohol and the restriction of licensing hours and also licensing policies 7 and 8 regarding licensing hours. The Sub-Committee considered the home office guidance, specifically paragraph 9.12, which states that the police should be the licensing authority's main source of advice on matters relating to the promotion of the crime and disorder licensing objective.

The Sub-Committee considered that the imposition of the additional condition and the restriction to licensing hours was reasonable and proportionate and would promote the licensing objectives of the prevention of crime and disorder and public nuisance.

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### **ANGELO'S ITALIAN, 156A SEVEN SISTERS ROAD, N7 7PS - NEW PREMISES LICENCE (Item B3)**

The licensing officer reported that a response from a residents meeting had been tabled. The Chair stated they had all read the letter and it had been helpful. The letter would be interleaved with the agenda papers.

The applicant's agent stated that he had considered the licensing policy hours. He understood the concerns of the residents given the previous history of the premises. The applicant had been recommended and this would be a different type of premises to the previous one. This would be a top class Italian restaurant with no regulated entertainment. The residents meeting went well but he understood that not everyone present was convinced.

In response to questions, the applicant stated for thirty years he had been a sommelier and manager of premises. He would be the designated premises supervisor and would be on the premises about 4-6 hours each day. This business would be his main priority. About ten years ago he had run a restaurant as a manager but not as the owner. He planned to engage with the community and build confidence. He stated he was a qualified sommelier and had considered wine tastings at the premises. The previous occupier owned the building, rented out the flat upstairs and lived locally but would not have any day to day

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involvement with the business. This was not an application for an off licence. The applicant welcomed a condition that the previous owner would not have any involvement in the business.

### **RESOLVED**

- 1) That the application for a new premises licence in respect of Angelo's Italian, 156A Seven Sisters Road, N7 7PS be granted.
  - a) To permit the on sales of alcohol at the premises on Monday to Saturday from 11:00 until 23:00 and Sunday from 11:00 until 22:30.
  - b) The opening hours of the premises to be Monday to Saturday from 10:00 to 23:30 and from Sunday from 10:00 until 23:00.
  
- 2) Conditions as detailed on page 87 of the agenda shall be applied to the licence with the following additional condition:-
  - Mr Detar Hekuri will have no involvement in any licensable activity at 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 2. The premises fall under the Holloway and Finsbury Park cumulative impact area. Licensing policy 2 creates a rebuttable presumption that new applications for 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.

There were four local resident objections. The Sub-Committee were provided with a statement on behalf of the residents who were unable to attend.

The Sub-Committee noted that there had been a licence at the premises in the recent past that had been revoked following a history of problems with the previous management. The interested parties were concerned that this application was connected to the previous management. The applicant's representative stated that the previous licence holder was the freeholder so would continue to have some contact with the premises but agreed to a condition being imposed on the licence, if it was granted, that the previous licence holder would not have any involvement in licensable activities at the premises.

The Sub-Committee noted that the hours sought were within the hours specified in licensing policy 8 and considered that the application fell within the exception to licensing policy 2 in that it was a small premises operating within hours specified and the premises were not alcohol led. The Sub-Committee also considered licensing policy 9, regarding the operating schedule.

In granting the application, the Sub-Committee took the view that, with the conditions, the licensing objectives would be promoted.

### **Note of the Committee**

The Chair stated that this had been a troubled venue and there was an expectation that in granting a new premises licence, the applicant would build bridges with residents who had been adversely affected by the previous licence holder.

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**EMPARO PIZZA,1 STROUD GREEN ROAD, N4 2DQ - NEW PREMISES LICENCE (Item B4)**

The licensing officer reported that he had nothing further to add to the report.

The police stated that the hours requested fell outside the recommended hours contained within the licensing policy. The premises were situated in a very busy transport hub where 463 crimes had been reported over the past six months. The premises had been operating for five years without a licence and a warning letter sent in 2013 had been ignored. This reflected poor management standards. Four crimes had been linked to the venue and although they were not linked to poor management they were at times when the business should not have been operating. The applicant had been advised to operate within hours proposed by the policy but this had been rejected by the applicant.

In response to questions it was reported that the police had discussed the application with the applicant and would agree midnight during the week and 1am on Fridays and Saturdays. They agreed that deliveries could be made after this time. However, the applicant would not agree to this and requested 3 or 4 am for passing trade.

The applicant stated that the warning letter had not been sent to his address and was not in his name. It was addressed to another occupier who runs the basement premises and he did not pass the letter onto him. He wanted the opportunity to get ahead and had established his business. He stated that his business would not survive without a late night licence. Once he had received the letter about his hours he took action straight away. He stated that the business would be takeaway after 11pm. He would follow procedures and record incidents. He would ask customers to leave quietly and respect neighbours. This was not a licence for alcohol and music was not played on the premises. CCTV would be installed and shared with the police. He always called the police when necessary. He had made a mistake and needed a second chance. He was happy to agree to all the conditions.

In response to questions, the applicant stated that he had five years experience; he had handled the business with no problems and was happy to do what he instructed to do. He admitted that he had been operating without a licence for five years. He stated that Thursdays through to Saturdays was very busy. If he closed at 11pm he would only have four to five hours of business and he was very quiet before 11pm. He stated that other shops were trading in the area at 4am. The warning letter was sent to downstairs and he did not receive it. The applicant apologised but stated that he needed a second chance and if he had to operate only until 11pm he would lose too much business.

In summary, the police stated that they did not have an issue with the management of the business but stated that this was a cumulative impact area and they did not want people in the area late at night.

The applicant stated that he had already lost customers over the past few days. He had been using temporary event notices to operate. If hours were restricted until 11pm his business would operate for only five hours. His staff would also be working less hours. He stated he would like to carry on his business and would want to have 3 am at the earliest.

**RESOLVED**

That the application for a new premises licence in respect of Emparo Pizza, 1 Stroud Green Road, N4 2DQ 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 1 and 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.

Representations had been made by the police and the licensing authority. The Sub-Committee noted that the applicant had been operating the premises for about five years without a licence which in their view was a serious failure of the high standards of management expected of licence holders.

The Sub-Committee noted that the hours sought were outside the hours specified in licensing policy 8.

The Sub-Committee concluded that the increase in hours would add to the existing cumulative impact in the area.

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

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

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**JOKER OF PENTON STREET, 58 PENTON STREET, N1 9PZ - PREMISES LICENCE VARIATION (Item B5)**

The Sub-Committee noted that there was only one resident objection remaining to this application.

The application was to extend the licence to include the ground floor.

The resident stated that he did not want noise from customers and smokers outside until 3am making it difficult for residents to sleep.

The applicant's agent stated that the premises had been purchased two years ago. There had been an issue in July 2014 regarding noise but there had been no complaints since. Acoustic work at a cost of £10000 would be carried out. The application was for an extension for regulated entertainment so conditions regarding drinks outside were not within the scope of the application; however the applicant was happy to agree the additional conditions. There was currently no restriction on smokers outside. Drinks would not be allowed outside after 11pm.

In response to questions, the applicant agreed to a condition to restrict the number of smokers after 11pm. Staff had been good at managing the outside areas and no

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complaints had been received. The outside space was visible from inside the premises. Once furniture was removed from outside, customers did not stay outside for a long period.

In summary, the resident stated that he could hear music when customers entered or left the premises. He stated that 20 smokers would be difficult to manage after 11 pm. The applicant stated that he had engaged with the responsible authorities and interested parties. There had been no representation from the police and eight conditions had been agreed which were beyond the scope of the variation. The application had brought in very significant controls which would promote the licensing objectives. He agreed an amendment to condition 7 to restrict the number of smokers outside after 11pm.

### **RESOLVED**

1) That the application for a premises licence variation in respect of Joker of Penton Street, 58 Penton Street, London, N1 9BZ be granted:-

a) To amend the premises licence so as to allow all currently authorised activities and hours to be extended to include the ground floor.

b) Allow an additional hour to the standard and non-standard times on the day when British summertime commences.

c) Update the company's registered address to:-

Global House, High Street, Crawley, West Sussex, RH10 1DL

2) Conditions as on page 144 of the agenda shall be applied to the licence with the amendment of condition 7 to read.

- After 11pm, there shall be no more than 20 smokers at any one time outside and the smokers will be supervised.

### **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 Angel and Upper Street 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. However, the application did not require the applicant to rebut the presumption.

There was one local resident objection. He raised concerns in regard to customers smoking outside the licensed premises late at night.

There had been no representations made by the responsible authorities.

The Sub-Committee noted that the applicant wanted to extend the provision of regulated entertainment after 11pm to include the ground floor of the premises. The Sub-Committee noted that the applicant had held a premises licence for two years with extended hours which had not caused concerns in the past. The Sub-Committee noted that the applicant had worked with the Council's noise team and had agreed conditions which would promote the licensing objectives of prevention of public nuisance.

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The Sub-Committee considered licensing policy 9 and 10 regarding standards of management, licensing policy 18 relating to noise and licensing policy 20 relating to smoking, eating and drinking outside and were satisfied that the grant of the variation, with the conditions agreed with the noise team and the amended condition relating to smokers outside the premises, would promote the licensing objectives.

The meeting ended at 9.45 pm

**CHAIR**