

Licensing Sub Committee B - 19 July 2016

Minutes of the meeting of the Licensing Sub Committee B held at Committee Room 4, Town Hall, Upper Street, N1 2UD on 19 July 2016 at 6.30 pm.

Present: **Councillors:** Alex Diner, Robert Khan and Diarmaid Ward

Councillor Alex Diner in the Chair

120 INTRODUCTIONS AND PROCEDURE (Item A1)

Councillor Diner welcomed everyone to the meeting, asked members and officers to introduce themselves and outlined the procedure for the meeting.

121 APOLOGIES FOR ABSENCE (Item A2)

Apologies for absence were received from Councillor Erdogan and Khan.

122 DECLARATIONS OF SUBSTITUTE MEMBERS (Item A3)

Councillor Diarmaid Ward substituted for Councillor Erdogan.

123 DECLARATIONS OF INTEREST (Item A4)

None.

124 ORDER OF BUSINESS (Item A5)

The order of business was as the agenda.

125 MINUTES OF PREVIOUS MEETING (Item A6)

RESOLVED

That the minutes of the meeting on the 17 May 2016 be confirmed as a correct record of proceedings and the Chair be authorised to sign them.

126 HOLY PITTA YEEROS HOUSE, 74D UPPER STREET, N1 0NY - NEW PREMISES LICENCE APPLICATION (Item B1)

The licensing officer reported that the hours applied for late night refreshment were in excess of those permitted under planning permission.

The police reported that the applicant had accepted a CCTV condition but had refused to amend the hours applied for. The premises were in the Angel cumulative impact area which was significant regarding its late night economy. Matters had not improved and this area was a hotspot for anti-social behaviour. It had been necessary to employ late night patrols in the area. Another licence granted would exacerbate the problems that the police were trying to control.

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In response to questions, it was noted that this particular stretch of road was the busiest part in Upper Street for anti-social behaviour. The late night levy team patrolled this area because of the problems. The police considered that this would be another late night venue which would encourage customers to remain in the area rather than to go home.

The licensing authority was unable to attend the meeting. The licensing officer read out a statement from the licensing authority. He reported that their representation was on page 27 of the agenda. The licensing authority had received no further information to change their recommendation. Licensed premises paid a late night levy to minimise the impacts of premises and the licensing policy provided guidelines on how to frame applications. The applicant had not reported on the arrangements for customers not to cause nuisance. A late night venue would encourage more people to remain in the area. The recommendation of the licensing authority was to refuse the application unless the applicant could convince the Sub-Committee that there would be no impact and the authority requested that, should the licence be granted, the hours remain within the licensing policy guidelines.

The applicant's agent stated that the applicant had owned a neighbouring restaurant for seven years. Two other premises nearby were open until 2 am. The owner had invested in the premises and he had not known that the cumulative impact policy restricted the hours to midnight and 1am. The owner needed his business to be viable and on a similar footing to other premises. The applicant offered a condition for a door supervisor. His client was not serving alcohol. There were other premises that closed at 3am and his business would not hold people in the area. An SIA door supervisor would be on the premises from 11pm until close on Friday and Saturday. There had been no issues with the neighbouring premises that the applicant owned during the last seven years. He had assisted with police investigations with the use of his CCTV. He was flanked by bars and he was not able to control these customers, although a door supervisor would vet customers and would help move people on. Sufficient signage would be erected. The entrance to apartments would be roped off to prevent anti-social behaviour in the alley way. There had been five TENs until 3am and there had been no incidents, an indication that the premises were being run properly and by an experienced licensee. There was a CCTV condition even though alcohol was not being sold. There was a refusals book which covered incidents. The seating area would be closed off after 11pm. This was a Greek take away shop and customers would not come to the area for this premises but food would allow them to dissipate over the evening. The cumulative impact area referred to premises selling alcohol and not food. They would try to ensure that neighbours were not disturbed. They offered a reduction in the hours requested - Thursday to Saturday until 2am and Sunday to Wednesday 11:30. 50% of income was taken after 11pm. Examples of signage and the incident book were tabled for members information.

In response to questions it was stated that the SIA door supervisor would not allow customers in who appeared drunk and would ask them to move on. The applicant's agent stated that if customers were too drunk they would be asked to move on. If customers were slightly drunk then it might be good for them to eat. It was noted that, although need was not a consideration under the Licensing Act, a terminal hour of 2 am would allow the business to be viable. The applicant's agent did not consider that there was noise in the area late at night. Customers were given food and then walked away. He did not consider that the representations submitted gave an accurate description of the noise levels. The incident book for age restricted products, which had been tabled for members, was generic and was just used as an example. They were aware of the cumulative impact policy but did not consider that it applied to the premises as they were not selling alcohol. During the seven years he had owned the next door premises but had not attended residents groups. No residents had approached the applicant about the application. There had been temporary event notices used over five weekends until 3am. There had been no complaints about his premises.

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In summary the police stated that they receive approximately 20 temporary event notices each week for events that, if permanent, would be objected to. They had asked the applicant on the 16 June, to consider a restriction in hours to reflect those proposed in the licensing policy.

The applicant's agent stated that it would be necessary to have at least until 2am From Thursday to Saturday, although he was aware that the policy stated Friday and Saturday only. There was another premises within the cumulative impact area that had been recently granted a 2 am licence. There had been no incidents in his other premises next door. He asked for an extension of hours from Thursday – Saturday and core hours during the rest of the week and with an SIA condition he considered that there would be no negative impact.

RESOLVED

That the application for a new premises licence in respect of Holy Pitta, 74D Upper Street, London, N1 0NY be refused.

REASONS FOR DECISION

The Sub-Committee considered the written submissions of the two residents and Councillor as well as the written application and verbal submissions made by the Police and the Licensing Authority.

The premises were situated in a cumulative impact area. Licensing Policy 2 provides that the Cumulative Impact policy is not absolute and that the circumstances of each application will be considered on its merits.

Licensing Policy 8 provides that when dealing with new and variation applications, the Licensing Authority will give more favourable consideration to applications with closing times of 11pm Sunday to Thursday and midnight Friday and Saturday.

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 Sub-Committee noted the representations of the Police in relation to the crime and disorder and public nuisance objectives. The Sub-Committee noted that the police had attempted to get the applicant to agree to reduce the hours requested in the application and that this had not been successful.

The applicant, through his representative, confirmed to the Sub-Committee that they were not prepared to reduce the hours to earlier than 2am on Thursdays, Fridays and Saturdays. The submission was that the business would not be viable if they were to do so.

Although there were measures within the operating schedule to mitigate against possible crime, disorder and public nuisance, the Sub-Committee concluded that these were insufficient to ensure that the premises would not undermine the licensing objectives.

The cumulative impact area issue was not addressed at all in the written application and the applicant failed to address it his verbal submissions. The applicant was under the impression that this was not necessary as the licence being applied for was a late night refreshment licence. The applicant was wrong on this point and was given an opportunity to address this issue by the committee but failed to do so.

Under the circumstances, the Sub-Committee found that the applicant failed to demonstrate why the operation of the premises involved would not add to the cumulative impact or otherwise impact adversely on the promotion of the licensing objectives.

The Sub-Committee accordingly concluded that it was both reasonable and proportionate to refuse the application.

127 **DOLCE COFFEE, 48 ESSEX ROAD, N1 8LR - NEW PREMISES LICENCE APPLICATION (Item B2)**

The licensing officer reported that the representation from the Licensing Authority had been withdrawn after planning concerns had been satisfied. Conditions from the police had been tabled and these were agreed by the applicant. Further proposed conditions and photos of the outside area were tabled by the applicant. These papers would be interleaved with the agenda papers.

A local resident reported that there were two other bars in the area with outside areas. These created noise disturbance already and another bar would add to the noise and the applicant may ask to increase the hours at a later date. There was already a saturation of bars in the area, nine within 60 or 70 metres. Drinkers moved from one bar to another. The applicant had submitted vague proposals. The premises did not have a kitchen but the applicant stated it was a restaurant. There was no side entrance for the collection of bottles so would be collected via the front door. There was an internet café in the basement which those under 18 would use in a premises that sold alcohol. This was a residential area and customers would cause public nuisance moving from one bar to another.

The applicant's agent appreciated the difficulties the resident described but stated that his client could not be held responsible for other premises. Granting this licence was not going to add to the cumulative impact. This was not a bar but a restaurant. Tabled conditions were restaurant conditions and stated that the sale of alcohol would be ancillary to a substantial table meal. They had submitted an application for a certificate of lawfulness which the planning team accepted. The premises were moving from a café to a fully functioning restaurant. The representations referred to a bar. This would be a restaurant with restaurant conditions.

In response to questions it was noted that lasagne and salad were examples of meals that were sold at the moment. It was noted that it was an oversight not to submit a kitchen plan. The kitchen area would be downstairs. They did not cook food from fresh. The agent stated that the licence could be subject to the submission of a kitchen plan and alcohol would be served with a substantial meal e.g lasagne, spaghetti bolognaise. He applicant stated that there would be 18 tables inside and 12 outside. There would be two people at each table, making 36 people inside and 24 outside.

In summary, the police raised concerns regarding the number of personal licence holders on the premises as the hours requested indicated a long shift pattern. Additional conditions were received only recently and there would be a noise nuisance from people outside eating. The noise level increased when food was served with alcohol.

The agent stated that he appreciated that voices did carry but considered that 10.30pm was not too late. The terrace could be closed if it caused a nuisance. The premises would not be using the side alley. The licensing authority had withdrawn their objections and one resident was in attendance and the applicant could work with him. Other premises sold alcohol with food and these were not objected to. Interested parties who objected were further away and he was not sure that he knew exactly where Dolce Coffee was located.

RESOLVED

That the application for a new premises licence in respect of Dolce Coffee, 48 Essex Road, London, N1 8LR be refused.

REASONS FOR DECISION

The Sub-Committee considered the written submissions of the applicant and the residents.

The Sub-Committee also took into consideration the verbal representations made by the applicant and his representative.

The Licensing Authority had provided written representations but these were withdrawn before the hearing on the grounds that the concerns regarding planning approval had been satisfied.

The premises were located within a cumulative impact area.

It was the intention of the applicant to construct a kitchen within the premises to enable the business to cook food of the premises. This was not included on the plan of the premises.

The plan did not show the number and location of where the dining tables would be nor did the application state what the intended capacity would be.

The Sub-Committee questioned the applicant on this at the hearing. The Sub-Committee took into account the fact that the numbers given, 18 tables inside the premises and 12 tables outside the premises, were an approximation and the stated number of 2 people per table was also an approximation which had not been properly thought through before the application.

The Sub-Committee concluded that although the application was for a licence within the core hours (Licensing Policy 8), the applicant had failed to deal with the cumulative impact issue.

Clear and satisfactory information on the layout of the premises and the expected number of patrons was not provided to the Sub-Committee.

The Sub-Committee accordingly concluded that the applicant had failed to demonstrate why the operation of the premises involved would not add to the cumulative impact or otherwise impact adversely on the promotion of the licensing objectives.

The application was accordingly refused.

128 **NISA LOCAL, 69 HORNSEY ROAD, N7 6DG - NEW PREMISES LICENCE APPLICATION (Item B3)**

The licensing officer reported that a police representation had been withdrawn following conditions agreed with the applicant. The premises were not in a cumulative impact area.

It was noted that the incorrect plan of the premises had been included in the agenda and a correct plan had been circulated to members. This would be interleaved with the agenda papers. The applicant had been running the premises for 15 months and there had been no adverse incidents. The shop was now becoming a Nisa and if the sale went ahead there would be dedicated staff to the shop. This was a long term investment and was a local shop for local people. This was a high end one stop shop where customers would be able to purchase alcohol alongside bread and milk. Hours requested were within framework hours. The applicant had agreed an Emirates condition with the police. The applicant was determined to make the shop work and agreed to have additional conditions regarding the strength of alcohol if required. Staff undertook a comprehensive training programme. The applicant ran the shop opposite and had recently passed an underage test purchase. There had been no representation from the police. There was no evidence of litter outside the

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premises and the applicant did regularly sweep outside. There was a list of robust conditions, the application was in framework hours and the resident who had objected was not in attendance .Two residents spoke in support of the application. They stated that the applicant was very friendly, was focussed on organic food, was very convenient and provided a variety of services that were missing from the area.

RESOLVED

1) That the application for a new premises licence in respect of Caledonian Supermarket, 288 Caledonian Road, London, N1 1BA be granted:-

- a) To permit the sale of alcohol, off supplies, Monday to Sunday from 8am until 10.30 pm.
- b) Opening hours to be from 8am until 10.30 pm.

2) Conditions as on pages 111 and 112 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.

Conditions had been agreed with the Metropolitan Police. No other responsible authorities submitted any representations.

The premises were not located within a cumulative impact area.

Licensing Policy 8 provides that when dealing with new and variation applications, the Licensing Authority would give more favourable consideration to applications with terminal hours of 11pm Sunday to Thursday and midnight Friday and Saturday.

The application in question was for permission to sell alcohol in a grocery store between the hours of 8am to 22.30, Monday to Sunday.

The Sub-Committee was satisfied that the granting of the application with the agreed conditions would promote the four licensing objectives.

The Sub-Committee considered it proportionate and reasonable to grant the licence subject to the agreed conditions.

The meeting ended at 8.00 pm

CHAIR