

Licensing Sub Committee D - 13 October 2016

Minutes of the meeting of the Licensing Sub Committee D held at Committee Room 4, Town Hall, Upper Street, N1 2UD on 13 October 2016 at 6.30 pm.

Present: **Councillors:** Nick Wayne, Satnam Gill and Marian Spall

Councillor Nick Wayne in the Chair

142 INTRODUCTIONS AND PROCEDURE (Item A1)

Councillor Nick Wayne welcomed everyone to the meeting and officers and members introduced themselves. The procedure for the conduct of the meeting was outlined.

143 APOLOGIES FOR ABSENCE (Item A2)

There were no apologies for absence.

144 DECLARATIONS OF SUBSTITUTE MEMBERS (Item A3)

There were no declarations of substitute members.

145 DECLARATIONS OF INTEREST (Item A4)

There were no declarations of interest.

146 ORDER OF BUSINESS (Item A5)

The order of business would be B2, B3, B1 and B4. This was to allow interested parties and the applicant for Item B1 to discuss the revised application.

147 MINUTES OF PREVIOUS MEETING (Item A6)

RESOLVED

That the minutes of the meeting held on the 16 August 2016 be confirmed as a correct record and the Chair be authorised to sign them.

148 FORA SPACE, GROUND FLOOR, 71 CENTRAL STREET, EC1V 8BU - APPLICATION FOR NEW PREMISES LICENCE (Item B1)

The licensing officer reported that this application was in the Bunhill cumulative impact area and was currently licensed as Clerkenwell Conference Centre. A revised application had been made for reduced hours; 10:00 until 22:00 hours seven days a week. It was noted that the opening hours would also be 10:00 until 22:00 seven days a week.

The licensing authority advised that they had made no representation as they did not consider that the application would add to the cumulative impact area.

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The local residents were concerned about the volume of business the premises would attract. The restaurant was open to the public and would cause noise and they did not understand the need for a licence for an office. This was a highly built up residential area. They stated that the restaurant would seat 70 people and in the bar, 50 people who would not be members of the office premises. There was one revolving door which would need to accommodate 500/600 people. This door was two meters away from their own building and there had been no investigation into noise levels, the amount of people leaving the building and people smoking near the premises.

The local residents did not consider that the applicant had put forward any measures to prevent crime and disorder, public safety and children from harm. They'd been no assurances that there would not be future applications and they did not understand why the application was necessary. There had been a large number of public representations.

The licensing officer reported that a letter had been sent to all interested parties on the 22 September advising of the revised application.

The applicant's representative advised that efforts had been made to contact residents groups but they had been advised that there were none. The hours were from 10:00 to 22:00 hours only. Music would be background only. Patrons would access the premises via a revolving door and a concierge. A plan of the premises was tabled. It was noted that Area A, was conditioned that alcohol would only be sold to those seated and having a table meal. Area B was a community/cafe area. There were three further limited off sales areas marked on the plan, Areas C, D and E. The applicant stated that there would be a maximum of 400 people in the building. They wanted to encourage people to stay in the building with ideas such as yoga, virtual PAs. Members could have a business meeting, go to the restaurant and have a glass of wine. On another day staff could invite their spouses/partners to the premises to meet colleagues. The restaurant was to be run by a restaurateur and was not a chain. If the licence was granted then if the previous licence was transferred it could then be surrendered. There were no objections from the responsible authorities. It was hoped that residents would use the restaurant. They had spent a year looking for the right operator of the restaurant. His other restaurants were also in residential areas. This was a business in the style of the future in which much had been invested.

In response to questions, the applicant's representative stated that Area B was not a bar but had a bar in it. This was an area where people would only 50 people would be seated. Patrons would have to walk by an office lobby. They could come for a talk and could share ideas. This would be service driven. People would not be allowed to continuously drink as it was in the lobby area of the business. It was proposed that Areas A and B would also be open to the public. There would be a relaxed work vibe. Members of the public could attend the restaurant/bar areas. The restaurateur wanted to bring a great restaurant to the space. He had four restaurants. The Chair stated that this type of restaurant would be a sought after venue. The restaurateur stated that all his restaurants were different. The quality would be the same but the environment different. It was expected that lunches in the bar would cost approximately £6 - £10. Meals in the restaurant would be in the region of £30-£50. There would be 1½ hour sittings. The bar was seated and there could be a condition regarding table service. There were no pints. The café area was not alcohol led but workspace led. The applicant would just like the facility to sell alcohol. The lobby would need to be kept clear. There would be desks in the middle of the area. The main door would be covered for 24 hours with a night porter when the restaurant was closed. Alcohol would be ancillary to food in the restaurant. In the café, the applicant would want people to come in and just to have a drink after work. In Area A, patrons would have to be seated and eating a table meal. It was agreed to have waitress/waiter service if required. The Sub-Committee were asked to consider Area B on a basis of 50 people and not alcohol led. The applicant stated that they had considered whether or not the bar area should only be used

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for members and their guests. It was stated that the area did not look like a bar. They wished the local community to be able to use the space. They were confident that the bar would have no impact. The applicant considered that it would be unfair if non-members could not be served a drink just because they were unable to afford the membership fee.

The Chair noted that the Licensing Authority had not made a representation but asked if they had altered their view of the application after hearing the evidence. The licensing authority stated that the bar area was limited in number, was also not alcohol led and was within hours detailed in the policy. It was also noted that the film aspect of the original application was incidental and would not require a licence.

The local residents reported that the bar area would hold 50 people and the restaurant would hold 70 which allowed over 150 people and members to have access to office areas up until 2am. It was stated that the applicant had not mentioned anything about their events. They had not talked about public nuisance. There was no separate exit door and the entrance of the main building was 2 metres away from their own building. Smoking would be outside premises and there had been no consideration of the sound impact. They believed that there would be public nuisance. There was a small café across the road that patrons could use. The residents asked that there be no future applications and were concerned that there would be public access to the building when there was a community centre opposite.

The applicant's representative stated he was unable to give an assurance for future applications but if there were any applications, residents would be able to comment in the normal manner. The premises were to be serviced offices with ancillary use for a restaurant and bar which they would like local people to use. There had been no objections from the responsible authorities. The proposed hours were well within core hours and it was considered that the application was an exception to policy as this was a small premises with 50 people or less and was not alcohol led. They agreed to a condition regarding waiter/waitress service if required. The applicant's representative considered that, with the type of premises and conditions the Sub-Committee could grant the licence in its entirety. However, if the Sub-Committee was considering refusal of the licence, he asked that they consider the individual areas separately ie Areas C, D and E, Area A and Area B.

RESOLVED

- 1) That the amended application for a new premises licence, in respect of For a Space, Ground Floor, 71 Central Street EC1V 8BU, be granted to allow:-
 - a) The supply of alcohol, for consumption on and off the premises from 10:00 until 22:00 hours Monday to Sunday.
 - b) The premises to be open to the public from 10:00 until 22:00 Monday to Sunday.
- 2) That conditions detailed on pages 110 and 111 of the agenda be applied to the licence with the following additions:-
 - There will be table service in the area marked A.
 - Alcohol sales in the area marked B shall only be to members of Fora and their guests.

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, particularly paragraph 13.30, and the Council's Licensing Policy.

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The Sub-Committee took into consideration Licensing Policy 2. The premises fall under the Bunhill 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 also noted policy 18 for the protection of amenity for residents.

The Sub-Committee was invited to consider the application in three parts, C D and E, B and A by the applicant's representative rather than reject the whole application.

The Sub-Committee was satisfied that granting a licence for areas C D and E, the internal meeting rooms, would be unlikely to add to the existing cumulative impact on the area on any of the licensing objectives.

The Sub-Committee noted that Area A, the restaurant, was to be a highly professional enterprise. The applicant suggested an additional condition of table service in Area A and the Sub-Committee was satisfied that the operating schedule, with the addition of the condition, demonstrated that there would be no negative impact on any of the licensing objectives if Area A was granted.

For Area B, the Sub-Committee considered that this area bore more resemblance to a bar than a café and noted the representation of residents that effectively the public would be entering both Area A and B by a single door. The Sub-Committee was concerned about the negative impact on the licensing objectives of noise and public nuisance given the close proximity of residential premises with children. However, the Sub-Committee was satisfied that the conditions in the operating schedule, with the additional restriction that alcohol should only be sold to members and guests, demonstrated that there would be no negative cumulative impact on any of the licensing objectives.

The Sub-Committee considered that the presumption of a special policy had been rebutted with the addition of conditions for Areas A and B.

149

SIXTH FLOOR, KINGS PLACE, 90 YORK WAY, N1P 2AP - APPLICATION FOR NEW PREMISES LICENCE (Item B2)

The licensing officer informed the Sub-Committee that there were other licensed premises in the building.

No interested parties were present at the meeting. The applicant's representative said that he had emailed the residents in response to their representations but had received no reply.

The applicant reported that the balcony detailed in many of the representations was not their balcony. The applicant tabled a plan and showed the balcony position which was away from the edge. No licensable activities were intended on the balcony. The application was made to facilitate client hospitality. The sale of alcohol would take place between Boots and the caterer. There were no bars and no walk in for members of the public. Alcohol would be for employees only and their clients. Staff would mainly pay only at charity events. Lunch would be brought in. Champagne breakfasts were not yet needed but it was not something that they wanted to rule out. The sale of alcohol would be ancillary to the use of the premises as offices and they would agree for this to be conditioned. The terraces did not overlook the canal. There would be no entry for general public. They could operate without a licence but considered it better that the alcohol be licensed and under the control of a contract caterer. The caterer would charge Boots and that would be where the sale occurred.

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The licensing officer reported that there were a number of premises that had the same arrangement. There were four licences in the building, one of which allowed the public in. It was considered that because of the style of the operation and the number of attendees, the premises would not add to the cumulative impact.

In summary, the applicant stated that there had been no objection from planning officers. He stated that planning had advised that A3/A4 use was for an operation from 08:00 and this operation did not fit into this type of use. It would be neater that the hours ran from 07:00 as this would fall in line with other Boots premises, however, he stated that, if this was a sticking point for the Sub-Committee he would accept 08:00 as a start time.

RESOLVED

- 1) That the application for a new premises licence, in respect of Sixth floor, Kings Place 90 York Way, N1 9AG, be granted to allow:-
 - a) The sale of alcohol, for consumption on and off the premises from 08:00 until 22:00 hours Monday to Sunday.
 - b) Opening hours to be 24 hours Monday to Sunday.
- 2) That conditions detailed on page 163 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.

There had been no representations made by the responsible authorities. No residents attended the meeting and the Sub-Committee heard the application in their absence, taking their representations into account.

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

The Sub-Committee noted that it appeared from the applicant's presentation that there may have been a misunderstanding about the area it was proposed to licence. The applicant's balcony did not overlook Battlebridge basin but was set back. There were no licensable activities intended on their balcony. No general public were allowed in the premises. The licence was necessary for the sale of alcohol between Boots and the contract caterer. The applicant's representative said that he had emailed the residents in response to their representations but had received no reply.

The Sub-Committee considered, for the avoidance of doubt given the planning situation and at the invitation of the applicant's representative, the starting hour was changed to 8am.

150

E MONO, 13 STROUD GREEN ROAD, N4 2AL - APPLICATION FOR NEW PREMISES LICENCE (Item B3)

The licensing officer reported that the premises were in a cumulative impact zone and there was a history of non-compliance.

The police informed the Sub-Committee that their position had changed since their representation had been submitted. As the area was busy they had wished to meet with the applicants who had also operated at 16 Station Place. It appeared that the premises at Station Place did not have a late night refreshment licence for three years. The applicant was informed by the police that a licence was required. The police visited the premises after 1am on the 1 October and found the premises in operation without a licence. He asked to speak to the manager. As soon as the manager arrived the police officer stated that there was a strong smell of an illegal substance. The staff continued operating until ordered not to do so by the police. He had no faith that they would adhere to the law and asked that the licence be refused.

The licensing authority agreed with the police. It was stated that licensing officers had met with the applicant and had discussed an end time of 01:00 am. The applicant was informed that he would need to close at 11pm until he obtained a licence. The premises had been found open at 1am even though they had been told to close at 11pm a few days before. They did not have faith in the applicant as he had a history of non-compliance. It was noted that they would be entitled to trade up until 11pm without a licence.

The applicant stated that his uncle owned the other premises at Station Place so he should not be blamed for not having a licence. The premises at Kentish Town were owned by his father's partner. He denied having any illegal substances on the 1 October as he was strongly against this. He was surprised the police did not speak to him about it at the time. The applicant had applied for a 3am licence but had negotiated with officers. Officers warned the applicant that they had no licence until the meeting. They had thought that they would get their licence. They did not want to sell after hours or to do anything illegal. They asked the Sub-Committee to give them a chance. They had been closing since the 1 October at 11pm. This was a very busy area where people wanted hot food. They would give people food to eat and then they would go home. From 8pm to 10pm it was quiet. For their business to thrive they needed later hours. It had been difficult with hours only up until 11pm.

In response to questions, the applicant stated that there was a dark spot behind the van where people could take illegal substances. He could not be responsible for this area and the police had not mentioned it at the time. He said that when he stayed open late he did not think it was licensed but it was a mistake on his behalf. The police stated that he was still serving despite them being there and the police officer had to call over to them to get them to stop. He knew the license had not been granted but thought as the application had been made it was ok. The applicant responded to a question about the licensing objectives. He stated that he did not have anything to do with the Station Place premises. His dad was his partner with these premises. His uncle ran Station Place. He had no knowledge of licensing law at the Kentish Town premises. He just dealt with cash and paying bills. The Kentish Town premises closed at 11pm.

In summary the police officer stated that when he arrived at the premises on the 1 October he told the applicant when he appeared that it smelt of cannabis. He stated he had evidence that the applicant had been involved at Station Place which had operated illegally up until 03:00am for three years. The applicant stated that this was a small take away. They were trying to stick to the rules. They had no complaints about crime. They were just trying to build a business and feed people.

RESOLVED

That the application for a new premises licence, in respect of E Mono, 13 Stroud Green Road, N4 2AL 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 Licensing Policy 2 and that the premises fall within the Finsbury Park and Holloway Road 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 licensing authority. The Sub-Committee noted that the responsible authorities had visited the premises on the 1 October after 1am. They found the premises operating after hours when the licence had not yet been granted and the police had to ask the applicant to stop serving.

The Sub-Committee took into account licensing policy 10 regarding the applicant's commitment to high standards of management. The applicant had been given advice from the licensing authority and the police that he was acting illegally by operating after 11pm. He had failed to implement the advice that had been given and the Sub-Committee did not find convincing his explanation that he believed that the premises were licensed or that he had made a simple mistake about the hours. The policy states that the licensee should be able to understand verbal and written advice and legal requirements. The Sub-Committee noted that he had experience in the business of selling hot food and should have been aware of the requirements. He had not run his business lawfully to date and had failed to demonstrate a track record of compliance with legal requirements although the applicant emphasised repeatedly that he was not selling alcohol or encouraging anti-social behaviour. The Sub-Committee had no confidence that he would keep to whatever hours were granted bearing in mind his track record.

151

STROUD FOOD, 73 STROUD GREEN ROAD, N4 3EG - APPLICATION FOR NEW PREMISES LICENCE (Item B4)

The licensing officer reported that application was in a cumulative impact area. The premises had been described as an organic food store in the application.

The licensing authority reported that the premises were in a cumulative impact area with a number of similar premises in the locality. They raised concerns as to what would make this premises different to the others. They asked that the start time of the licence be moved to 9 or 10 am. They considered that as it was an organic store this should include alcoholic goods and the range of alcohol limited to organic craft beers, artisan spirits etc. They considered that the licence should run from 10am to 9pm.

The legal officer reported that the test of cumulative impact was that the saturation of premises in an area was such that any other premises were likely to impact on the area. There was a rebuttable presumption that applications would normally be refused or made subject to additional conditions unless the applicant could demonstrate in the operating schedule that the premises would not add to the cumulative impact.

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The applicant's representative reported that these premises were a supermarket that sold organic products. Opening hours would be from 8am to 11pm. There was a detailed operating schedule and there had been no resident objections. The police had withdrawn their representation. 15% of the sales area was for alcohol and there would be no super strength beers sold as they would not be targeting street drinkers. The crime and disorder objective had been satisfied, the noise team were satisfied regarding public nuisance. With the conditions, they would not contribute to any problems. Regarding what the policy stated about a high level of alcohol related ambulance call outs between 11pm and 4am in that area, they were not applying to be licensed between those hours. The applicant agreed to a start time of 9am and considered that the licence should be granted.

In response to questions it was noted that the shop offered a wide range of products, not just organic but allowed other grocery types. Alcohol was not the mainstream of business and would only be stocked in 15% of the premises area. To restrict alcohol to organic only did not offer flexibility. Other premises would not have all of the conditions. This was the applicant's first application for a personal licence. He had worked in an off licence previously. His business partner would help him who had ten years experience. They would wish to sell organic wines and craft beers. Alcohol for sale would be limited and selected. This was not an off licence but a grocery store and was not alcohol led.

In summary, the licensing authority stated that it was pleased that a revised start time was agreed and asked that organic wine beer be conditioned to be a percentage of the alcohol stock. The applicant stated he would be willing to accept organic beers and wines as a percentage of stock. The licensing authority reported that this premises was similar to many others in the area. They asked that there be a later start time for the sale of alcohol and also considered that organic wines and beers should be offered to customers. The applicant, when it was explained to him in his own language, was agreeable to this.

RESOLVED

- 1) That the application for a new premises licence, in respect of Stroud Food, 73 Stroud Green Road N4 3EG be granted to allow:-
 - a) The supply of alcohol, off sales only, from 10:00 until 21:00 hours Monday to Sunday.
- 2) That conditions detailed on page 209/210 of the agenda be applied to the licence with the following addition.
 - That no less than 50 % of wines, beers or spirits offered for sale shall be labelled and/or described by the producer as bio dynamic, artisan or organic.

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 Finsbury Park and Holloway Road 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.

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The licensing authority reported that this premises was similar to many others in the area. They asked that there be a later start time for the sale of alcohol and also considered that organic wines and beers should be offered to customers. The applicant, when it was explained to him in his own language, was agreeable to this.

In accordance with licensing policy 2 and home office guidance 13.30, it appeared likely that the sale of alcohol could potentially impact negatively on the cumulative effect on the licensing objectives, given the proliferation of licensed premises, particularly off licences in the area. The Sub-Committee took into account that the premises were an organic fruit and vegetable store with a section of 15% display area for alcohol. The only representation received was from the licensing authority and the applicant was willing to accept the additional condition proposed. With that condition and a reduction in hours from those requested, the Sub-Committee concluded that there would be no negative impact on the licensing objectives.

The meeting ended at 9.30 pm

CHAIR