

Licensing Sub Committee D - 22 May 2017

Minutes of the meeting of the Licensing Sub Committee D held at Committee Room 4, Town Hall, Upper Street, N1 2UD on 22 May 2017 at 6.30 pm.

Present: **Councillors:** Nick Wayne (Chair), Satnam Gill (Vice-Chair) and Marian Spall

Councillor Nick Wayne in the Chair

168 INTRODUCTIONS AND PROCEDURE (Item A1)

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

169 APOLOGIES FOR ABSENCE (Item A2)

There were no apologies for absence.

170 DECLARATIONS OF SUBSTITUTE MEMBERS (Item A3)

There were no declarations of substitute members.

171 DECLARATIONS OF INTEREST (Item A4)

None.

172 ORDER OF BUSINESS (Item A5)

The order of business would be B1, B4, B3 and B2.

173 MINUTES OF PREVIOUS MEETING (Item A6)

RESOLVED

That the minutes of the meeting held on the 31 January 2017 be confirmed as a correct record and the Chair be authorised to sign them.

174 HUMBLE GRAPE, 11-13 THEBERTON STREET, N1 0QY - NEW PREMISES LICENCE (Item B1)

The Sub-Committee noted that following receipt of late papers from the applicant, the residents had discussed the matter of an adjournment with the applicant. The applicant agreed that the matter be adjourned until the next meeting of the Licensing Sub-Committee.

RESOLVED

That this matter be adjourned until the next Licensing Sub-Committee, on the 1 June 2017.

175 **SOURCED MARKET. GROUND FLOOR, 7-12 GOSWELL ROAD, EC1M 7AH - NEW PREMISES LICENCE (Item B2)**

The Sub-Committee noted the advice from the planning officer that a change of use application would be required. The Sub-Committee noted the advice from the legal officer that licensing policy 6 set out that the licensing authority would only grant licences for premises without planning consent in exceptional circumstances.

The applicant stated that the proposed use would remain ancillary as the primary use for sales of alcohol would be to hotel residents. It had been set out in the certificate of lawfulness that there would be an amount of public use. He stated that he had a letter from the planning consultants that the use envisaged would fall within the certificate of lawfulness as issued.

In response to questions it was noted that the applicant considered that planning use had already been resolved. It was noted that customers would be aware that they were entering a hotel even when using the Goswell Road entrance. It was noted that the Certificate of Lawfulness gave a percentage figure for the split between hotel use and public use. The applicant stated that for breakfast and for the evening there would be greater use by hotel residents and at lunchtime it was expected there would be more public use.

The Sub-Committee adjourned the meeting to consider the Certificate of Lawfulness.

During the adjournment it was noted that, following discussions with residents, the applicant agreed to a revision of hours for the sale of alcohol from 11am until 10pm Monday to Sunday and a closing time of 10pm.

RESOLVED

That the application be deferred until the planning matter has been resolved to the satisfaction of the Planning Authority.

Note of the Sub-Committee

Before the Sub-Committee agreed to defer the application the applicant advised that the application had been revised as follows:-

- 1) To allow the supply of alcohol on the premises from 11am until 10pm Monday to Sunday.
- 2) Opening hours to be:- 7am to 10pm Monday to Sunday.

The applicant indicated that the revision to the application had been proposed following discussions with a local resident who was in attendance at the hearing.

176 **LOST RIVERS CAFE, 122 OLD STREET, EC1M 9RD - NEW PREMISES LICENCE (Item B3)**

The licensing officer reported that the conditions on page 137 were detailed in conditions 4-18 at appendix 3 of the report. There would be no use of the courtyard by the customers as this was for the exclusive use of the students. A condition could be applied to prevent drinking outside the premises. Off sales would be in sealed containers.

The licensing authority was concerned that the proposed hours were in excess of the licensing policy suggested hours for a bar. The cumulative impact policy had not been dealt with in the application and the nature of the business was not clear. The applicant confirmed that the capacity would be for a maximum of 150 people. Layout plans were tabled at the meeting and would be interleaved with the agenda papers. A fire risk assessment would also be required.

A local resident stated that the cumulative impact policy placed the burden of proof on the applicant that the premises would not add to the cumulative impact. The area was already saturated with licensed premises with intoxicated people and anti-social behaviour problems. He stated that this was not a café but was a bar that would operate seven days a week until 1am on Fridays and Saturdays. The applicant managed other late night venues. If the premises were a café why would the proposals be for a 1am licence, with more conditions than a restaurant licence and proposing extra security on Friday and Saturday. The applicant emphasised good links with public transport and as a late night venue would attract customers from outside the area. There was an emphasis on a considerable bar and music at the venue and it could not fail to add to the cumulative impact. If this was an application for a café or restaurant there would be no vertical drinking and hours proposed would be reasonable. He stated that this type of premises was the reason that the cumulative impact policy had been brought in to protect residents. He did not consider that the conditions would help. The grant of the licence would add a large number of people to the street and would impact considerably on the area.

The applicant stated that each site they had was different. This premises was to be a high end café which sold craft ales. The applicant reported that they would remove the live music element of the application. The ground floor would hold from 25 to 30 people vertically drinking. The food was good quality and was not cheap. The space was not appropriate for live music. Regarding the cumulative impact, customers would leave as the last trains departed and would filter out. Most customers would leave via the back door.

In response to questions it was noted that above the premises was high end student accommodation. Rents were high and this was a high end fit out. Late hours were requested in order to have the opportunity to fit in two food sittings on Friday and Saturday. There would be supervision of the smoking area and customers would be prevented from taking drinks outside. Drinks were priced at a level where it was not expected there would be problems from anti-social behaviour. It was noted from the Lost Rivers brewery website regarding Canto Court that it was advertised as having a reasonably priced take away menu, known for its craft beers and music and was an all day and evening destination which was looking to bring in custom from both locals and city workers. The applicant stated that trade at lunchtime would be from local customers but extra revenue was required. There were 162 student bedrooms and students would not always eat at the premises. Members raised concerns about the trade after 9pm and the applicant stated that the capacity was realistically expected to be in the region of 70 or 80 customers and not 150. Upstairs was a seated area while there could be 20 – 30 people vertically drinking downstairs. Safety of staff was a major concern and customers would not be served if they were likely to cause problems. There was a very tight lease on the premises. It was noted that snacks could be consumed on the ground floor, not necessarily a full table meal. Live music may be played prior to 11pm although there was no stage area.

In summary, the local resident stated that the hours did not need to be beyond 11pm. If hours were later the venue would attract customers who had left other places. He considered that the applicant could not say that they would not add to the cumulative impact even if the hours were decreased. He considered that if the licence was granted there should be no vertical drinking and it be granted until 11pm with usual restaurant conditions. However, he stated that the application should be refused. He was concerned that it was proposed that security guards be employed on the premises, which was in line with conditions in a late night venue. He considered that the premises should be in a more appropriate area where residents would not be disturbed.

The applicant stated that he considered that local people would be proud of this type of premises in the area. He was happy to reduce the hours by 30 minutes. They would lose

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the option of security guards if this would give the wrong visual image. There was accommodation for 162 people above the premises so he considered that there would not be an impact on the area.

RESOLVED

1) That the application for a new premises licence in respect of Lost Rivers Café, Ground Floor, 122 Old Street, EC1M 9RD be granted:-

- a) To supply alcohol for consumption on and off the premises from 11am until 11pm Sunday to Thursday and from 11am until midnight Friday and Saturday.
- b) That the provision of recorded music be refused.
- c) For the provision of late night refreshment 11pm to midnight on Friday and Saturday.
- d) Opening hours to be:- 8am to 11.30 pm Sunday to Thursday and from 8am to half past midnight Friday and Saturday.

2) Conditions detailed on pages 174 and 175 of the agenda shall be applied to the licence with the following condition.

- No vertical drinking in the premises except for on the ground floor and limited to 30 people.
- Condition 4 to read. Consumption of alcohol outside the premises shall be prohibited at all times.

REASONS FOR DECISION

The Sub-Committee listened to all the evidence and submissions and read all the material. The Sub-Committee reached the decision having given consideration to the Licensing Act 2003, as amended, and its regulations, the national guidance and the Council's Licensing Policy.

The Sub-Committee noted that the maximum capacity for the venue was 150 but that the applicant indicated that the premises would generally operate with a capacity of 70 to 80. The premises were situated on the ground floor with student accommodation above and with no access to the adjacent courtyard. The Sub-Committee noted that the premises would be providing quality craft beer with a food offer. The applicant stated that their business would be to provide a venue for the students and locals although it was acknowledged that there would be other customers. At the hearing the applicant offered to withdraw the part of the application seeking provision of live music after 11pm.

The Sub-Committee noted that residents in the locality of the premises had experienced problems with intoxicated people and anti-social behaviour in the area. The Sub-Committee noted that local residents were concerned that the premises would add to the Bunhill cumulative impact area. The Sub-Committee took into consideration Licensing Policy 2. The premises fall within 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 deliberated on whether the premises were likely to add to the cumulative impact. The Sub-Committee considered the impact of the application in the Bunhill area in light of the style and characteristics of the venue. The Sub-Committee noted that the venue was relatively small and that the specialist beer that would be on offer was

expensive and of interest to a particular demographic of clientele. The Sub-Committee was reassured by the relatively small proposed number of covers.

The Sub-Committee was not satisfied that the licensing objectives would be promoted if the premises provided the licensable activities as sought in their application. However, the Sub-Committee was satisfied that if the premises operated in accordance with the core hours set out in licensing policy 8 that the licensing objectives would be promoted. It was accepted by the Sub-Committee that the premises would bring increased footfall into the area but that by operating within the core hours and with the proposed conditions, the premises were unlikely to add to the cumulative impact on the licensing objectives.

The Sub-Committee considered that the conditions set out in Appendix 3, and the amended condition 4 and the additional condition restricting the numbers of vertical drinkers at any one time were appropriate and proportionate to the promotion of the licensing objectives.

The Sub-Committee also considered that it was appropriate and proportionate to refuse the application for the provision of recorded music from 11pm. The applicant had already withdrawn the application for live music and the Sub-Committee's decision was in line with this revised operational approach at the premises. Furthermore, as the licensable activities and the hours of operation were to be reduced it was appropriate for music to cease at the venue at 11pm.

177 FESTAC, 148 HOLLOWAY ROAD, N7 8DD - TEMPORARY EVENT NOTICE (Item C1)

The police reported that at the previous temporary event there had been a large fight in the street involving approximately 20 people. A claw hammer had been found at the scene with blood on it. The injured parties did not want to pursue the matter but the police had concerns due to this event. He stated that there had been problems at Festac three years ago and he was concerned that these problems would return.

In response to questions, it was noted that the previous temporary event had been a private party and the police had agreed the temporary event noticed based on this information. However, due to the problems at the last event they were concerned about the type of crowd they would get at this event. The police stated that the incident had occurred near closing time and conditions required that customers leave the area quietly. He stated that security should be proactive when customers were dispersing.

The licensee reported that the fight that took place was not directly opposite the premises but was about 30 yards down the road. There was security in place. Customers had started to leave but there were still customers on the premises when the fight started. The police were driving by and saw the fight. The licensee accepted that the people involved had been Festac customers. It was the submission of the police that he had not been co-operative. He considered that this was a misunderstanding. The shutters were already down and the police banged on the shutters. The licensee informed police that he had not slept for three days so would provide the CCTV the following morning. He considered that the police misunderstood and had stated that CCTV would not be provided for three days. The officer had not called back for the CCTV and the first he knew that it was still required was following the objection to this temporary event notice. He was happy to provide CCTV and had received letters of thanks for providing it in the past. He did not consider it would be workable to ask security to encourage customers to disperse as he would have to move more security from inside the premises to outside. He had about six or seven security personnel. He considered that this was a low risk even. He already had a licence until 2am on Sundays and just wanted an additional 2 ½ hrs. Security and the DJs had been booked for this event. He stated that there would be a different crowd to this event as the last event had under 21s. He stated that it would be difficult to change this event at this stage.

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In response to questions it was noted that security and DJs had been booked for this event. Customers had purchased tickets and had been informed of the end time for the event. It was noted that a promoted birthday party would occur when a birthday party was held but to cover costs friends would pay at the door. This was common practice. It was accepted by the licensee that he would have no control over ticket sales. The licensee informed the Sub-Committee that he had told the police officer at the time of the previous incident that he had not slept for three days, he gave the officer his telephone number and informed him that the CCTV would be ready for him. The officer did not call him back. He provided CCTV after the objection to the temporary event notice. The police officer informed the Sub-Committee that there had not been a formal request for the CCTV as the injured parties did not wish to pursue the matter. The licensing officer had subsequently requested the CCTV and it had been provided to him. The licensee did not think it was possible for someone to take a claw hammer into the premises as all patrons were searched. He thought that they would have obtained the weapon away from the premises.

In summary, the police officer stated that they had worked closely with the licensee but considered that rules had been relaxed and perhaps previous problems were starting to come back. He was concerned that security did not deal with the fight even though it was only 30 yards away. If there were six security officers at the premises he considered that three could have dealt with the fight. Patrons were the responsibility of the premises until they had left the area. If the party had been planned for three months then a temporary event application could have been made earlier and then matters could have been discussed. He did not consider that anything could be put in place at this stage.

The licensee considered that the best he could do was to send one or two security personnel to the incident. If there was an incident customers might want to see the fight and cause problems inside the premises. He was always happy to provide CCTV and had provided CCTV in this case. There were few under 21s at this event. Often the over 21s caused more problems.

RESOLVED

That the application for a temporary event notice in respect of Festac, 148 Holloway Road, N7 8DD for the period 21:00 hours on Sunday 28 May 2017 until 04:30 hours on Monday 29 May be refused and a counter notice be issued under Part 5, Section 105.

REASONS FOR DECISION

The Sub-Committee listened to all the evidence and submissions and read all the material. The Sub-Committee reached the decision having given consideration to the Licensing Act 2003, as amended, and its regulations, the national guidance and the Council's Licensing Policy.

The Sub-Committee noted that the licensee accepted that the people involved in the fight were customers of Festac. The Sub-Committee also noted that the licensee had adequate security at the premises although this had not been deployed to deal with the incident in question. The police had raised this in their submissions and had also had discussions with the licensee but he did not have an operation plan in place to prevent any similar violent incident

The Sub-Committee noted the police's submissions regarding relaxation of conditions at the premises and their concern that this may be leading to a return of customers that could cause problems in and around the venue. A risk assessment had not been provided for the TEN event which led to the fight as required and on receipt of the current TEN application the police were able to consider the risk posed by the proposed event more carefully and in light of what happened previously.

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The Sub-Committee heard evidence that the event had been planned for three months and DJs had been booked. However the police only received the application for the TEN on the 12 May 2017. The event was a ticketed event and the sale of tickets was not under the control of the licensee.

The Sub-Committee was guided by paragraph 9.12 of the Home Office guidance which provides that the licensing authority should accept all reasonable and proportionate representations made by the police unless the authority has evidence that to do so would not be appropriate for the promotion of the licensing objectives. The Sub-Committee concluded that the licensee was only seeking 2 ½ additional hours and that it would be proportionate and appropriate for the police objection to be accepted in order to promote the licensing objective on crime and disorder.

The Sub-Committee noted licensing policy 27 which states that applicants are encouraged to submit TEN notifications at least four weeks prior to the event. The licensee failed to follow the licensing policy in this regard. The Sub-Committee also noted licensing policy 28 and considered the circumstances of the police objection which focussed on a serious violent incident amongst customers from the venue and involving a claw hammer where the indication is that the customers involved were already armed with this weapon.

In deciding to direct the licensing authority to issue a counter notice, the Sub-Committee were satisfied that it was reasonable and proportion for the promotion of the licensing objectives.

The meeting ended at 8.40 pm

CHAIR