

London Borough of Islington

**Licensing Sub Committee A - 5 June 2018**

Minutes of the meeting of the Licensing Sub Committee A held at Committee Room 4, Town Hall, Upper Street, N1 2UD on 5 June 2018 at 6.30 pm.

**Present:**           **Councillors:**       Poole (Chair), Ngongo (Vice-Chair) and Mackmurdie  
**Also**           **Councillors:**       Convery  
**Present:**

**Councillor Gary Poole in the Chair**

- 1       **INTRODUCTIONS AND PROCEDURE (Item A1)**  
Councillor Gary Poole welcomed everyone to the meeting and officers and members introduced themselves. It was noted that the procedure for the conduct of the meeting was detailed in the agenda papers.
- 2       **APOLOGIES FOR ABSENCE (Item A2)**  
None.
- 3       **DECLARATIONS OF SUBSTITUTE MEMBERS (Item A3)**  
None.
- 4       **DECLARATIONS OF INTEREST (Item A4)**  
There were no declarations of interest.
- 5       **ORDER OF BUSINESS (Item A5)**  
The order of business would be as the agenda.
- 6       **MINUTES OF PREVIOUS MEETING (Item A6)**  
**RESOLVED:**  
That the minutes of the meeting held on 13 March 2018 be confirmed as a correct record and the Chair be authorised to sign them.
- 7       **ESSEX ALTERNATIVE SUPERMARKET, 360 ESSEX ROAD, LONDON, N1 3PD - NEW LICENCE APPLICATION (Item B1)**  
The Licensing Officer requested that the applicant confirm his relationship to the previous licence holder. The applicant stated that the previous licence holder was his son.  
  
The Police advised that the applicant was the owner when the previous licence was revoked. Concern was raised that he had an awareness of how his son was running the premises and that there had been breaches to the crime and disorder and public safety licensing objectives. The Police therefore had a lack of confidence in the applicant.  
  
Public Health raised concerns about the relationship between the owner and the previous licence holder. There had been breaches in relation to underage sales and high strength alcohol. There were also concerns about the management of the premises. Licensing policy 29 stated that where there was a history of problems, any new application should demonstrate significant signs of improvement and this was not the case.

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The Licensing Authority stated that at appeal the court had decided the committee decision to revoke the previous licence was fair. Six days after this, the new application had been submitted. It was suggested that this application contained fewer conditions than the previous one which had contained conditions requested by Trading Standards officers. The officer stated that on a visit, the applicant had stated he did not know the previous licence holder, when he was now saying he was his son. There was a lack of confidence that the licensing objectives would be promoted.

The applicant, through his daughter, who was interpreting, advised that his son had made mistakes and if the applicant was given a licence, the son would not be in the premises or have any involvement in the running of the business. The applicant would employ staff who knew about alcohol licences. He understood if the committee did not wish to grant the licence due to the way the premises had previously been managed, however if that was the case, he would prefer to be given a licence so that he could sell the business. Someone had shown interest in buying the premises, but he was waiting for the applicant to receive a licence. The applicant would prefer though to be given a licence to run the business and make improvements.

The Chair asked the applicant what he understood by 'Framework Hours'. The applicant's daughter stated she did not understand the term so could not interpret.

In response to a question from the Chair as to why the hours in the application were outside those set out in policy, the applicant stated that the hours requested were the same as the previous ones.

The Chair asked the applicant how he would challenge those attempting to make underage purchases and whether he could do this in English. The applicant advised, in English, that he could ask for ID if customers looked under 25 years old.

In response to a question from the Chair about which external agency would be used to conduct test purchases at the premises every 6 months and submit the results to Trading Standards and the Licensing team as stated in the application, the applicant's daughter explained that she was unable to interpret this.

In response to a member's question, the applicant stated that at the time breaches were taking place, he was unaware of the problems. His son did not tell him until he was waiting for a court hearing.

In response to a question about how the applicant would avoid problems recurring, he advised that he was now aware of the mistakes of his son and he would make sure new members of staff were experienced and received training.

Trading Standards advised that the applicant's son had been given a licence in August 2016. Officers visited in October 2016 and offered the licensee training that was offered to all new licensees. He had said he was too busy to attend. On 8 December 2016 a test purchases was undertaken and alcohol was sold to an underage person. Training was offered again. In January 2017 another test purchase was undertaken and alcohol was sold to an underage person. The officer therefore had concerns that Challenge 25 had not been followed.

The applicant responded that he was told about training once and he had attended. He was aware of his son's mistakes and assured the committee that these would not happen again. He would make sure to get advice from officers.

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In the summing up, the police representative stated that he did not have confidence before the hearing and from what had been said during the hearing, he now had even less confidence in the applicant's ability to manage the premises. Concern was raised that the applicant did not understand what the framework hours were and that he wanted a licence so he could sell the premises.

In his summing up the Licensing Authority representative stated that in the six months between the previous licence being revoked and the ceasing of trading following the appeal, the licensee could have demonstrated improvements were being made but he had not.

In his summary, the application stated that he understood the comments made and could not change the past but if the licence was granted he would change the way the premises was run in the future.

### **RESOLVED**

That the application for a new premises licence, in respect of Essex Alternative Supermarket, 360 Essex Road, London, N1 3PD 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 29, paragraph 150 which provided that where a licence was revoked, any new application for the premises would be considered against the policy – there would be a full consideration of the applicant and the operating schedule with no assumption that a licensed premises can continue in that location.

Therefore the Sub-Committee considered Licensing Policies 4,6, 7 and 8.

The Council had adopted a special policy relating to cumulative impact in relation to shops and other premises selling alcohol for consumption off the premises. Licensing policy 4 created a rebuttable presumption that applications for the grant or variation of premises licences which were likely to add to the existing cumulative impact would normally be refused or subject to certain limitations, following the receipt of representations, unless the applicant could demonstrate in the operation schedule that there would be no negative cumulative impact on one or more of the licensing objectives.

The Licensing Sub-Committee noted the evidence of the responsible authorities regarding the impact of the premises on the licensing objectives:

- The police submitted that the application should be refused because the premises would negatively impact on the crime and disorder and public safety objectives. The applicant was the owner of the premises throughout the history of reviews and breaches of conditions. The police submitted that the applicant would have had full knowledge of the issues of concern but failed to deal with these. The application before the Sub-Committee was unchanged in its terms only substituting Mr Kurt as the applicant rather than his son.
- Public Health submitted that the history of non-compliance associated with the management of the premise raised concerns regarding access to alcohol for children and young people and the potential availability of cheap, high strength alcohol. Public Health raised concern that the premises would continue to be managed by the same owners whose licence was revoked on 6 March 2018. Public Health were also concerned that the proposed hours for the sale of alcohol were

outside the framework hours for off licences and that extended hours of sale could increase alcohol related harms. In summary, public health submitted that the granting of the licence to the premises would negatively impact on the promotion of the licensing objectives preventing public nuisance and crime and disorder.

- The Licensing Authority submitted that the previous licence was revoked as a result of significant management failures linked to repeat breaches of licence conditions and underage test purchase failures. The Licensing Authority submitted that the applicant had failed to provide any additional controls to mitigate against crime and disorder or public nuisance that might be linked to the extended hours.

The Sub-Committee noted that the applicant submitted that he was not aware of the problems at the premises at the time, he only became aware of them when they were waiting for the court hearing. The applicant submitted that he would employ new people who were experienced and who he would provide training for. However, the Sub-Committee concluded that the applicant was closely linked to the previous management of the premises and the applicant failed to demonstrate that he was aware of or understood some of the proposals set out in the operating schedule, in particular arrangements to employ an external agency to conduct training for all new staff. Additionally, the applicant when questioned, did not evidence knowledge of the authority's licensing policy and importantly in relation to this application, he was not aware of the policy's framework hours (Licensing Policy 6).

Licensing Policy 7 set out that the Licensing Authority expected the highest standards of management to be demonstrated through the operating schedule. The applicant's operating schedule did not include previous conditions suggested by Trading Standards and the applicant did not appear to be familiar with the operating schedule and did not understand some of the proposed conditions. The Licensing Sub-Committee therefore concluded that the applicant would not be able to demonstrate the high standards of management required under Licensing Policy 8.

The Licensing Sub-Committee concluded that the applicant had failed to rebut the presumption under the special policy relating to off sales of alcohol from shops. The applicant failed to demonstrate that with the granting of the premises licence there would be no negative cumulative impact on the licensing objectives to prevent crime and disorder, the protection of children from harm and public safety.

The Sub-Committee also considered the application in the context of the authority's other licensing policies. The Sub-Committee concluded that the application was also refused because the proposed hours of operation were beyond framework hours and the applicant failed to demonstrate a commitment to best practice and high standards of management and therefore the licensing objectives would not be promoted.

## **8 QUALITY CHOP HOUSE, 88-90 FARRINGDON ROAD, LONDON, EC1R 3EA - PREMISES LICENCE VARIATION (Item B2)**

The licensing officer stated there had been one representation from a resident who said she was representing a Tenants and Residents' Association (TRA). The resident provided minutes from a TRA meeting which confirmed this. She was accompanied by the TRA secretary.

The licensing officer stated that two lists of timings had been received. The correct ones were as follows:

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To extend the provision of on and off sales of alcohol from 11:00 until 22:00 Monday to Friday and from 09:00 until 22:00 on Saturday and from 11:00 to 17:00 on Sunday;

To extend the opening hours from 09:00 until 22:00 on Monday to Saturday and from 10:00 until 17:00 on Sundays.

The resident explained her objection letter raised concerns about the effects on residents of cooking smells and noise issues. She had complained to staff at the premises. The TRA secretary stated that by removing Annex 2, Condition 1 and replacing it with "Consumption of alcohol on the premises shall be limited to the ground floor café area and limited to a maximum of 16 persons", the licensee was seeking to replace the cultural activity of wine tastings, with drinking. The secretary also stated that the premises was in a Cumulative Impact Zone and raised concerns about the public health impacts that would arise from increased hours. He outlined Islington and London statistics in relation to alcohol consumption and raised concern about how expanding the hours would increase the harmful effect of alcohol consumption. He suggested that there should be no licensing past 9pm.

The resident proposed that if the licence variation was granted, no supply of alcohol should be made when the Designated Premises Supervisor (DPS) was not present or where the DPS did not hold a personal licence.

The resident raised concern about bottles being put out between midnight and 2am. The licensing officer suggested that this could be from other premises which closed much later than the Quality Chophouse.

In response to a question from a member about the residents objections when the written and verbal objections focused on different points, the licensing officer reminded the committee that they should use the representation in front of them and not any new information presented to them.

The applicant explained that the Quality Chophouse business was 150 years old. There was a commitment to meeting the licensing objectives e.g. Challenge 25 was implemented, log books were kept and there was a large pool of colleagues with personal licences. The application related to the butchers/wine shop/café and not the restaurant. The applicant stated that the application had been put in following customers saying they would like the premises to serve wine in the evenings with snacks. It would not be an all night bar, alcohol would only be served with food and would not be served after 10pm. There would be 10-15 covers. Wine would cost between £4 and £10 and it was anticipated that most guests would have one or two glasses of wine each.

The applicant stated he was upset to hear about behaviour of customers in the objection but it was possible this related to other premises rather than the Quality Chophouse, particularly as some of the issues e.g. taking bottles out, seemed to be at times when the premises was closed. He considered that the level of intoxication described would not relate to the café/shop.

The applicant stated that he had tried to arrange a meeting with the resident. He added that the extractor at the restaurant was upgraded last year to the highest specification but he was happy to look at it again if there was a noise issue. He advised that the residents above the premises had not objected to the application.

The resident stated that a complaint about noise and smells had been made to the restaurant. The applicant stated that he was unaware of a formal complaint having been made. Wine tastings were currently held until 9pm and there were no problems with

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customers leaving the premises. If the licence was granted, high quality drinks would be served, customers would usually just have one or two glasses and therefore inebriation would not be a problem.

### **RESOLVED**

- 1) That the application for a premises licence variation in respect of Quality Chop House, 88-90 Farringdon Road, London, EC1R 3EA be granted to permit -
  - a) The provision of on and off sales of alcohol from 11am until 10pm Monday to Friday and from 9am until 10pm on Saturday and from 11am until 5pm on Sunday.
  - b) The premises to be open to the public from 9am until 10pm on Monday to Saturday and from 10am until 5pm on Sundays
- 2) Annex 2, Condition 1 as detailed on page 52 of the agenda be replaced with the following
  - Consumption of alcohol on the premises shall be limited to the ground floor café area and limited to a maximum of 16 persons.
- 3) Conditions as outlined in Appendix 5 as detailed on pages 56 and 57 of the agenda shall be applied to the licence with the amendment to Condition 17 to read – “On sales of alcohol shall be served ancillary to food”.

### **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 Policies 2 & 3. The premises fell within the Clerkenwell cumulative impact area. Licensing policy 3 created a rebuttable presumption that applications for the grant or variation of premises licences which were likely to add to the existing cumulative impact would normally be refused following the receipt of representations, unless the applicant could demonstrate in the operation schedule that there would be no negative cumulative impact on one or more of the licensing objectives.

Under Licensing Policy 3, specifically in relation to the Clerkenwell Cumulative Impact Area, possible exceptions were set out at Paragraph 24 for applications with comprehensive operating schedules that demonstrate that there would be no negative cumulative impact on the licensing objectives; where the premises encourage people to stay in the area after work, premises were not alcohol led, proposed hours of operation consistent with framework hours and arrangements to prevent vertical drinking.

The Licensing Sub-Committee noted that the applicant acknowledged that the interested parties had raised serious matters. The applicant had taken steps to try to meet with the interested parties and had sent a letter to them via the licensing team. The Licensing Sub-Committee noted the applicant's submissions that his proposal to serve only up to 10pm and all alcohol to be served with food would address the interested parties' concerns.

The Licensing Sub-Committee concluded that the applicant would ensure the high standards of management set out under Licensing Policy 8 would be maintained and the proposal was within the framework hours set out under Licensing Policy 6. The Licensing

Sub-Committee noted that the premises was small in nature with no more than 10-15 patrons at any one time.

The Licensing Sub-Committee was satisfied that the applicant had rebutted the presumption in Licensing Policy 3 and was satisfied that there would be no negative cumulative impact on one or more of the licensing objectives.

The Licensing Sub-Committee amended Condition 17 to allow for off sales from the premises without being accompanied by the purchase of food.

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**BEST TASTE CARIBBEAN TAKE AWAY, 335 CALEDONIAN ROAD, LONDON, N1 1DW**  
**- TEMPORARY EVENT NOTICE (Item B3)**

The licensing officer advised that two additional papers had been received; one from the Cally Festival team and one from the applicant who had outlined his role in the festival.

The noise officer advised that the premises was just outside the roadblock for the festival. She had visited the applicant last year with an officer from the Cally Festival team and a licensing officer. They had discussed the importance of noise control. The music system had been disrupting parts of the festival because it was so loud. The licensing officer had tried to moderate the volume but this had been unsuccessful. The noise officer was unable to put controls on the volume as there was no premises licence. The officer raised concern that there would be more disruption this year if the volume was not moderated.

The licensing officer stated that she and the applicant had controlled the noise level at first but then the noise level had risen throughout the festival even with ongoing dialogue.

Councillor Convery attended the meeting to act as a witness to the account given by the noise officer as he was there. He explained that the applicant was just outside the festival. He sold charcoal barbecued foods, soft drinks and had a sound system. There was a Caribbean flavour and his set up added to the festival atmosphere. This was the first year that a TEN application had been submitted to serve alcohol. This would mean the sound could be regulated. Councillor Convery said he wanted the Cally Festival to go well. He was happy to support the application but the volume had to be at a level which would not disrupt proceedings.

The applicant stated that he was looking forward to the festival. He provided diversity in his music and had families and friends attending. He stated that he would keep the volume low.

In response to a question from the Chair, the applicant stated that he only wanted the alcohol licence in order to sell Jamaican lager which would be poured out into cups. He said there was no link between the alcohol and noise.

In response to a question from the Chair, the applicant explained that he had a friend who had turned up the music but this year he would tell him this was the last chance for Best Taste and he would not be in control of the music.

In her summary, the noise officer said she wanted the applicant to participate but the noise had to be kept under control.

Councillor Convery suggested that a condition be added to check and set an appropriate noise level prior to the commencement of the event that would be retained throughout the event. The licensing officer advised that it was not possible to condition a TEN but the applicant could give an undertaking.

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The applicant stated that he was willing to limit the noise to a level advised by the noise team and was prepared to do his utmost to maintain.

### **RESOLVED**

That the application for a temporary event notice in respect of Best Taste Caribbean Take Away, 335 Caledonian Road, London, N1 1DW be granted.

The applicant gave an undertaking to keep the music emanating from the premises and/or the vicinity of the premises at the level agreed by the noise team throughout the period of the TEN.

### **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 Licensing Sub-Committee noted that the applicant had provided regulated entertainment at the previous Cally Festival. The applicant had received advice regarding managing the noise from the sound system at his shop but the applicant failed to comply with requests to moderate the volume.

The applicant acknowledged that there were issues with the level of noise generated from his premises last year during the festival and that he would take steps this year to keep the noise levels under control.

The Licensing Sub-Committee noted that as the applicant does not hold a premises licence, the licensing authority were unable to impose conditions on the proposed TEN. However, the applicant indicated that he was willing to give an undertaking to keep the noise under control and that he acknowledged the responsibility was down to him.

The Licensing Sub-Committee noted Licensing Policy 12, paragraph 102, which stated that anyone submitting a TEN should implement appropriate measures to mitigate against the risk of the event undermining the licensing objectives. In view of the undertaking from the applicant and the submissions from the responsible authority and Councillor Convery, the Licensing Sub-Committee decided to grant the TEN.

The meeting ended at 8.30 pm

**CHAIR**