

**Licensing Sub Committee B - 26 March 2018**

Minutes of the meeting of the Licensing Sub Committee B held at Committee Room 4, Town Hall, Upper Street, N1 2UD on 26 March 2018 at 6.30 pm.

**Present:**           **Councillors:**           Alex Diner (Chair), Aysegul Erdogan and Diarmaid Ward

**Councillor Alex Diner in the Chair**

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

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

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

There were no apologies for absence.

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

There were no declarations of substitute members.

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

There were no declarations of interest.

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

The order of business would be as the agenda.

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

**RESOLVED:**

That the minutes of the meeting held on 29 January 2018 be confirmed as an accurate record of proceedings and the Chair be authorised to sign them.

**198        AFASIKA BAR AND RESTAURANT, 152 SEVEN SISTERS ROAD, N7 7PL - PREMISES LICENCE REVIEW (Item B1)**

The licensing officer reported that an acoustic report had been circulated. This would be interleaved with the agenda papers. It was also noted that there was a rear smoking area indicated on the plan submitted with the acoustic report but on a recent visit by licensing officers this did not exist.

The noise officer reported that there had been many intervention attempts made with the licensee which had been unsuccessful. A noise abatement notice was served in November 2017 and a contravention of this notice was witnessed on the 29 January 2018. This was also after the review had been served. A warrant to seize equipment was applied for on the 1 February but this was defective. It had also been necessary to attend on the 11 February and 25 March following noise complaints. The limiter had been found to be on the floor and not locked away. Mr Kidane had an interest in the premises as early as June 2015, was present at the officer panel in February 2016 prior to the transfer in January 2017. The noise officer had not changed the recommendation and she considered that the hours should be in line with the cumulative policy hours for bars and restaurants. She did not believe the situation would improve unless the hours were cut back. The acoustic

## **Licensing Sub Committee B - 26 March 2018**

consultant had made recommendations but the work would need to be costed and it would need to be carried out. The anti-social behaviour team reported that the noise service had been called on Sunday 25 March at 2.14am. They noted that they could hear loud music in the communal area which was lowered before they reached the complainants flat. It was believed that the doorman saw the noise team arrive and lowered the music. There were a group of people outside who were rowdy and trying to gain entry into the venue. They spent about 10/15 minutes shouting at the doorman. On numerous occasions the noise team had advised the licensee about the noise issues. Music was lowered for a short time but then the noise increased. It was noted that music would need to be limited to 90dB. The music was not controlled by the licensee, even after the review application.

In response to questions, the noise officer stated that a revocation had not been recommended as it was considered that a reduction in hours would reduce the nuisance as the consumption of alcohol would be reduced.

The police spoke in support of the review. He stated that the level of intoxication was the main reason for the violent crime associated with the venue. At an incident in January 2018, the victim had been drinking. In February there were five breaches identified. At a visit in March, 3 further breaches were witnessed. On the 11 March there were 20/30 males congregating outside the venue who were observed to be highly intoxicated. In the early hours of the 25 March there had been a call to the control room as three males were highly intoxicated and were trying to gain entry. He considered that if the premises had restaurant hours this would minimise the issues.

The Licensing Authority reported that after many discussions with the licensee and an officer panel issues had not improved. The hours should be reduced to restaurant hours and noise measures undertaken. A minor variation had not yet been made to amend the premises layout. In response to a question it was noted that the kitchen had been reduced in size to create room for a pool table at the rear of the ground floor.

The licensee reported that he had spoken to a builder about the works recommended in the noise survey and was going to meet him this evening. He did not accept that his customers were drunk. He would have three security officers and was happy to work with the police. He tried to keep music low. He did not accept under 25s or customers who were drunk. He reported incidents to the police and would have an ID scanner in place after 10pm. The licensee's representative stated that the customers dispersed when they left the premises. Intoxicated customers were not served. The premises had a capacity of 60 persons and there was no vertical drinking. An ID scanner had been installed so that it would be known if the people outside were customers from the premises. They had consulted with the acoustic engineer and were working with the police and the council. He said that if the hours were reduced this would break his business. He considered that he should be given six months to implement the works and engage with the police and then review if necessary. They would be fully compliant with the sound limiter.

The acoustic engineer reported that he had been calibrating the sound limiter regularly. There had been recent noise complaints and access had been obtained to local resident property. The limiter would need to be set at 91dB in order to be inaudible to local residents. Sound proofing was poor and the noise from the snooker room affected the resident at the rear of the property. A fire alarm system had been recently installed. Sound proofing work could be carried out if the licensee had the inclination or the money to do so. The noise in the premises could be prevented if the works were carried out and the noise outside could be prevented with additional security.

In response to questions, the licensee stated that they did not serve customers when they were drunk and with the ID scanner they would be able to confirm if customers outside were

from the premises. He stated that customers were not drunk when leaving premises. The licensee stated that it was a club and the security officer stated it was a bar. The acoustic consultant stated that when he had been to the premises, people had been eating food in the evening. The licensee stated that they served food until the morning. The licensee's representative stated that when people were denied entry they stayed outside trying to get in. They were not customers. The licensee was doing his best and was planning to spend over £20000 on the premises.

In summary, the noise officer reported that the problem had not yet been resolved despite repeated interventions. The music volume increased at 2am at the same time the anti-social behaviour phone lines closed. The premises were still exceeding noise levels set. The speakers were not protected and had the volume controls set at the rear. She had no confidence that the licensee would be able to run the premises properly. The people outside were his responsibility. In August 2017 customers were drinking and smoking outside the entrance door, and this was still happening.

The police officer stated that an officer panel was held in December 2016 to try and resolve the issues and yet they were still ongoing. At the police licensing visit in February, customers had been hostile to the police. A police call on the 11 March noted that patrons were intoxicated and hostile. The premises closed late and was still causing issues.

The licensing authority reported that there had been no improvement during the last couple of years and customers were still causing problems. Even on the 11 March there were customers fighting outside the premises. She asked that the hours be reduced to restaurant hours.

The security officer reported that incidents were from customers from neighbouring bars who come over to the premises and tried to enter. Security required body cams and one more steward. This was not a nightclub or bar and alcohol was mostly sold with food. Customers could talk loudly and it was stated that one more chance should be given.

### **RESOLVED**

That the premises licence, in respect of Afasika Bar and Restaurant, 152 Seven Sisters Road, N7 7PL be modified as follows:-

- a) To remove the deregulation of live and recorded music from the premises licence in order to enforce the relevant condition in relation to the playing of music on the ground floor.
- b) To reduce the hours for the sale of alcohol, the provision of live music, the playing of recorded music, the performance of dance and the provision of late night refreshment to 8 am to 11pm Sunday to Thursday and 8am to midnight on Friday and Saturday.

### **REASONS FOR DECISION**

The Licensing Sub-Committee reached the decision having considered the Licensing Act 2003 as amended, the regulations, the Home Office Guidance and the Council's Licensing Policy.

The application for review of the licence was brought by the Pollution Team. Written representations were received from Anne Brothers (Noise Team), the Licensing Authority, the Metropolitan Police and two local residents.

## **Licensing Sub Committee B - 26 March 2018**

The Licensing Sub-Committee considered the written representation as well as the verbal submissions made by the Licensing Authority, the Noise Team, the Police and the Anti-Social Behaviour Team, the respondent, his solicitor and his sound expert.

It was agreed by all parties that the Licensing Authority had engaged with the licensee on various occasions since 2016. Complaints had been received from residents since then and breaches of the licence conditions had occurred around the use of the equipment to limit noise levels at the premises.

The Licensing Authority and Noise Team had tried to work with the premises. This included inviting the licensee to a Licensing Officer panel in December 2016.

Licensing officers had visited the premises on many occasions, the main cause of these visits being the noise issues and irresponsible management.

The Licensing Authority expressed their concern about the premises operating as a late night music venue right next to blocks of flats and recommended the measures as set out by the Pollution Team.

The Licensing Sub-Committee noted that the Pollution Team had been aware of noise calls in relation to the premises in question since September 2016 which continued throughout 2017 and in to 2018. The details of the levels of noise and the various complaints and incidents were documented in the written submissions of the Pollution Team. This had extended so far as to the Council obtaining a Noise Abatement Notice against the premises and to obtain a warrant to seize noise equipment from the premises.

The Licensing Sub-Committee carefully considered the representations made by the respondent and his representatives.

There appeared to be an inability and or unwillingness on the part of management to control the level of noise emanating from the premises especially late at night and in the very early morning. The Licensing Sub-Committee seriously considered revocation of the licence but decided that the proportionate decision at this stage to promote the licensing objectives would not be to revoke the licence but to instead reduce the hours of trading as per the recommendations of the Noise Team and the Licensing Authority.

The Licensing Sub-Committee accordingly decided to reduce the hours and to remove the deregulation of live and recorded music from the premises licence. This was considered a reasonable and proportionate response to the application at this stage.

**199**

### **GROUND CONTROL CAFE, 61 AMWELL STREET, EC1R 1UR - NEW PREMISES LICENCE (Item B2)**

The applicant stated that she had some customers that had asked if they could have alcohol with their lunch and had suggested to her that an alcohol licence would be a good idea. The shop was in a residential area and the landlord, who lived above the shop was concerned about noise so she had agreed with him that initially the alcohol would be sold until 3pm for a trial period. She had been running the premises for six years and alcohol served would not be cheap. Alcohol sold would be wine and perhaps a craft beer or cocktail. She wanted to keep good relations with neighbours. It was a small premises and only 10 people could sit outside and six at the most on the terrace.

### **RESOLVED**

- 1) That the application for a new premises licence, in respect of Ground Control Café, 61 Amwell Street, EC1R 1UR be granted to allow:-

## **Licensing Sub Committee B - 26 March 2018**

- a) The supply of alcohol, for consumption on the premises from 12:00 noon until 8:30 pm Monday to Sunday.
  - b) Opening hours to be:- from 12:00 noon until 8.30pm Monday to Sunday.
- 2) That conditions outlined in appendix 3 and detailed on page 103 of the agenda 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 3. The premises fall within the Clerkenwell cumulative impact area. Licensing policy 3 creates a rebuttable presumption that applications for new premises licences that are likely to add to the existing cumulative impact will normally be refused following the receipt of representations, unless the applicant can demonstrate in the operation schedule that there will be no negative cumulative impact on one or more of the licensing objectives.

The Sub-Committee noted that the applicant had accepted conditions from the Police and the Noise Team and as a result had no objections from any responsible authority. There had been objections from two local residents and a local business owner. They were not present at the meeting.

The Sub-Committee noted that the hours sought were within the framework hours specified, the premises were not alcohol led and there would be no vertical drinking and as a result fell within the exceptions set out in the Clerkenwell Cumulative Impact Policy. The Sub-Committee was satisfied that, with the hours of operation and the proposed conditions, the grant of the premises licence would not add to the existing cumulative impact and the licensing objectives would be promoted.

The meeting ended at 7.45 pm

**CHAIR**