

Licensing Sub Committee A - 5 February 2018

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

Present: **Councillors:** Gary Poole (Chair), Rakhia Ismail and Nick Wayne.

Councillor Gary Poole in the Chair

211 INTRODUCTIONS AND PROCEDURE (Item A1)

Councillor Poole welcomed everyone to the meeting and officers and members introduced themselves.

212 APOLOGIES FOR ABSENCE (Item A2)

Apologies for absence were received from Councillor Ngongo.

213 DECLARATIONS OF SUBSTITUTE MEMBERS (Item A3)

Councillor Wayne for Councillor Ngongo.

214 DECLARATIONS OF INTEREST (Item A4)

There were no declarations of interest.

215 THE WINCHESTER, 2 ESSEX ROAD, N1 8LN - PREMISES LICENCE REVIEW (Item B1)

The Chair set out the procedures for the meeting as detailed in the agenda papers. The Chair advised that the applicant and interested parties' representative, the responsible authorities, and the licensee's representative would each be permitted to address the Sub-Committee for 20 minutes.

The Licensing Officer reported that an acoustic consultant report, an additional independent licensing report, and a Parkguard report dated 27 January 2018 had been circulated to the Sub-Committee.

The applicant and interested parties' representative summarised the key points of the application. These included (i) 'private nuisance' (the transfer of noise directly from the premises into an adjoining property) and (ii) the noise and disorder associated with the premises. The applicant's representative proposed that limiting the premises' trading hours to midnight would be appropriate and reasonable. The Sub-Committee was advised that the applicant and interested parties supported the conditions proposed by the Noise Team, and in addition suggested that the premises should not be permitted to hold regulated

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entertainment until matters of noise nuisance were addressed to the satisfaction of the Noise Team.

An interested party addressed the Sub-Committee, he was a resident living in a property adjoining the premises. The interested party advised that he had been in contact with the premises about noise disturbance since late 2016. He had commissioned an acoustic report for the premises which had concluded that the premises was operating in excess of its noise limits. It was advised that the premises had since commissioned its own acoustic report, which corroborated the view that insulation and a noise limiter were required.

A second interested party addressed the Sub-Committee, he was a resident living in a property near to the premises. He advised that noise nuisance was affecting the sleep of his young son. It was advised that door staff did nothing to stop loud singing in the street, and there had been instances of violent behaviour, drug related crime and car damage near to the premises. It was commented that patrons urinated in the street and when the premises had been asked to clear this up they had not taken action.

A member asked for further detail of how the noise nuisance affected local residents' sleep. In response, an interested party advised that every Friday and Saturday night they were kept awake until 4:00am due to shouting and raised voices.

The Licensing Authority advised that the premises was in the Angel and Upper Street cumulative impact area. The view of the Licensing Authority was that the licensee was not demonstrating the high standards of management required by Licensing Policy 8. The Sub-Committee was advised that officers had visited the premises and had spoken to the manager about groups of males congregating outside of the premises, who had advised that he was worried about reprisals if he called the Police. It was noted that the premises had ignored Police advice on the sale of alcohol related to the Arsenal v Tottenham football match, and Tottenham supporters drinking at the premises had later been associated with disorder issues. Visits to the premises found that the premises did not keep a refusal log or training records for inspection, and officers had witnessed patrons consuming wine in a glass bottle after 12am, in contravention of the premises licence conditions. Parkguard had witnessed patrons being admitted to the premises without challenge by the bar staff after 03:30am, and had witnessed an intoxicated patron vomiting on Essex Road.

In response to a question, the Licensing Authority confirmed that officers had not witnessed the Designated Premises Supervisor at the premises.

The Noise Team commented that the premises had been advised on closing down procedures six years ago, however the Noise Team had received few complaints from local residents in recent years. The Noise Team had concerns about the structure of the premises and this view was supported in the reports from the acoustic consultants.

A member asked about the effectiveness of the mitigating measures proposed, and if there would always be a level of noise transferred to adjoining properties if the premises was hosting a DJ or playing loud music. In response, it was advised that substantial insulation was required, but the effectiveness could only be measured by further testing.

The Police advised that there had been 10 incidents inside or in close proximity to the venue, which included assault and theft. These tended to occur in the early hours of the morning. The Police considered that the premises was not being managed in a way that was conducive to the licensing objectives. The Police had made five recommendations which were detailed in the agenda papers. The Police considered that these recommendations were proportionate to achieve the licensing objectives.

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In response to a question, the Police advised that they had specific concerns about the quality of door staff, and commented that the DPS and management company should be held accountable for this.

Public Health summarised their representation, noting concerns about crime and disorder and public safety, particularly after 01:00. It was commented that the Lower Super Output Area in which The Winchester is located had a significantly high number of alcohol-related ambulance callouts, and 50% of those occurred between 23:00 and 05:00.

The Licensee's representative contested that it was difficult to establish a causal link between the representations and the premises, commenting that issues of noise and disorder were attributable to the cumulative impact, and that the premises could not be held responsible for these issues if they were not directly tied to the premises. It was commented that the responsible authorities had not raised complaints about the premises until the review had been brought.

The Licensee's representative commented that matters of private nuisance were a private matter and were not relevant to the licensing review, however advised that the premises was taking measures to mitigate the transfer of noise to adjoining properties, including setting their noise limiter to 80dBA, and carrying out other works.

In relation to the supposed noise and disorder related to dispersal from the premises, the Licensee's representative stated that the responsible authorities had not raised material concerns prior to the review, however, the premises was now making changes and a dispersal plan was in place. It was commented that the DPS had been on the premises every Friday and Saturday since mid-November to ensure that the plan was being followed, and the previous manager had been dismissed.

The Licensee's licensing consultant commented that the premises was in a busy area and it was difficult to attribute noise and disorder to the premises. It was commented that window seats outside the premises were to be removed, and the consultant considered that issues raised by responsible authorities were being addressed to a good standard.

A member questioned the use of clickers by door staff, and asked why door staff were unable to accurately inform police of the number of patrons in the premises, as set out on page 23 of the agenda pack. In response, it was advised that the door staff provided an estimate during a quiet period and the premises was under its capacity limit.

In response to a question, the Licensee's representative did not accept that the premises was a burden on local services, noting that few complaints had been received from responsible authorities in recent years, and that representations made by Public Health on ambulance callouts in the local area did not establish a direct causal link to the premises.

In response to a question, it was clarified that the premises did not have a written dispersal policy document, however a policy was in place, and a written document would be produced following the hearing, to incorporate any relevant actions directed by the Sub-Committee.

In response to a question, it was clarified that the door supervision team had been replaced two months prior to the hearing, however the premises had asked the new door supervision company to engage the previous door team for four weeks to provide a transition period, this would provide continuity and ensure that the new door team were aware of barred customers and other specific local issues.

The applicant and interested parties' representative summarised their concerns. It was stated that the licensee had a history of not acting on the complaints raised by residents. It

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was commented that the noise limiter did not seem to be working, as noise continued to be transferred into an adjoining property.

The Licensing Authority stated that door staff had failed to prevent non-customers from congregating outside of the premises, and it was hard for the licensing authority to have faith in a dispersal policy that was not in a written format, commenting that this could not be clearly communicated to staff. It was stated that the DPS had not been present when officers attended at key times between 02:00 and 04:00, and that the licensee had not engaged with responsible authorities at an informal Licensing Panel meeting.

The Noise Team advised that private nuisance matters could be dealt with through the Environmental Protection Act. It was commented that the Noise Team had recommended that the premises implement a closing down plan in 2013, and it was regrettable that the premises had not implemented such a plan at that time.

The Police commented that incidents related to the premises had resulted in hospital admission, and that the premises did not actively participate in the local Pubwatch scheme as required by its licence. The Police representative was concerned that an incident log was not maintained, and suggested that continuing licensable activities until 04:00 was not consistent with the licensing objectives.

Public Health advised that there was a pattern of incidents related to the premises which resulted in serious injury and considered that these placed a burden on health services.

The Licensee's representative summarised the licensee's position, commenting that private nuisance was a private matter, and it was not possible to establish a causal link between noise and disorder and the premises. It was commented that the responsible authorities had received few complaints from members of the public until recently, and previous noise-related complaints made in 2012-13 had been resolved at the time. It was commented the premises should not be criticised for failing to control non-customers.

RESOLVED:

That the premises licence of The Winchester, 2 Essex Road, N1 8LN, be modified as follows:

- The sale of alcohol by retail on and off the premises on Thursday, Friday and Saturday from 11:00 until 01:30 on the day following.
- The provision of live music on Friday and Saturday from 09:00 until 02:00 the day following.
- The provision of late night refreshment on Thursday, Friday and Saturday from 23:00 until 02:00 the day following.
- The opening hours of the premises to be: Friday, 11:00 to 02:00 the following day; Saturday, 11:00 to 02:00 the following day.
- The incorporation of the suggested conditions set out at Appendix 3 (page 163 of the agenda pack), subject to the following amendments:
 - Condition 1: The CCTV to be upgraded to HD cameras which will work in low light conditions, to cover the full interior of the venue, excluding the inside of the toilets, but including the entrances to the toilets;

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- Condition 2: New door staff to be provided, which do not include any former members of security staff previously employed at the premises prior to the review;
- Condition 3 to be removed.

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 the representations from residents about public nuisance and anti-social behaviour associated with the premises. The Sub-Committee was directed to Paragraph 11.7 of the Home Office Guidance by the licensee's legal representative. The Sub-Committee considered whether the evidence presented could be linked by a causal connection to the premises. The Sub-Committee concluded that the representations from the applicant and other residents set out in the papers established a direct causal link to the premises.

The Sub-Committee noted the following as establishing a direct causal link to the premises:

- Page 105, Rep 7: 'It is particularly bad in the summer, as customers of the Winchester stand and sit outside in St Peters Street, smoking, sitting comfortably in the window sills, which have been converted into benches. We did approach the manager of the Winchester and ask them to stop their customers sitting outside, in the middle of the night, as they are incredibly noisy, but it has not changed anything'. The Sub-Committee noted the suggested condition from the Noise Team that this seating should be removed and the window ledges rendered unusable as seating. Furthermore, the report from the licensee's licensing consultant dated 22/01/18 confirmed that the benches built into the windows were to be removed to ensure they cannot be used in future. The Sub-Committee noted the licensee's acceptance that these were a source of public nuisance to residents.
- Page 89, Rep 3: 'In the past I have been verbally threatened when I have asked people from the bar not to make noise outside the bedroom windows of my house and move on, but the problem has become so bad that I now dread the weekend... on the occasions of loud screaming, the bouncers from The Winchester simply stood by and watched'.
- Page 98, Rep 3: Photograph of large numbers gathering outside of the premises on October 29th 2017 at 3.40am.
- Page 100, Rep 3: Noise Diary for September and October 2017.
- Page 101, Rep 4: 'We have spoken to the bouncers at the Winchester who confirmed that the problem is due to the fact that they are the only establishment in quite a large area that is open late, so people congregate there once the other places close... Patrons leaving The Winchester also contribute to the noise and disruption, showing a complete disregard for residents. It has become a magnet for antisocial behaviour.'
- Page 103, Rep 5: 'The streets surrounding the pub, particularly our otherwise quiet mews, are used by pub visitors to congregate, drink, argue, and urinate. We have been woken by countless altercations in the early hours over the year. I recall an incident one 3am last summer where, while awake with our newborn, I witnessed a young woman from this pub squat in front of our front door and urinate on our doormat.'

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- Page 141, Rep 11: 'We find the noise (shouting, so-called singing etc.) from The Winchester in the early housing very disturbing... The customers also vomit and urinate – not only in the street but in our yard too.'

The Sub-Committee also noted evidence that the premises had breached its licence conditions, in particular the conditions highlighted in the representation from the Licensing Authority relating to CCTV, a dedicated smoking area, over 21's and the re-entry policy.

In accordance with Licensing Policy 2, the Sub-Committee took into account the past compliance history of current management, and whether the licensee is able to demonstrate a commitment to a high standard of management. The premises are within the Angel and Upper Street cumulative impact area. Licensing Policy 3 recognises that there has to be a balance between the needs of businesses and residents.

The Sub-Committee considered Licensing Policy 8, which sets out the high standards of management expected by the Licensing Authority. Licensees are expected to demonstrate that they have implemented any advice that has been given by the responsible authorities. The Sub-Committee received evidence that the premises had failed to follow advice from the Police regarding the sale of alcohol on 17th November 2017, when there was an Arsenal v Tottenham football match. The Sub-Committee also noted that the licensee had failed to implement a closing-down plan and dispersal plan as advised by the Noise Team, and training records and incident logs had not been made available to the Licensing Team.

The Sub-Committee also noted Licensing Policy 14, which sets out that licensees are required to operate the highest standards of management and cooperate with responsible authorities, to prevent alcohol induced crime, disorder and antisocial behaviour inside, outside and in the near vicinity of the premises. Licensing Policy 21 sets out the Licensing Authority's expectation in relation to controls on the licence to support the prevention of public nuisance, including dispersal of patrons and urinating in public.

The Sub-Committee noted the representation from the Police and in particular their suggested condition to reduce the hours of trading to a 02:00 closing time with a period of drinking up time. The Police evidence was that the serious incidents related to the premises occurred after 02:00. The Police were concerned that the incidents started as verbal abuse, then escalated to violence, and that management has not been running the premises in a way that is conducive to promote the licensing objectives. The Sub-Committee noted Paragraph 9.12 of the Home Office guidance that in relation to the crime and disorder objective the Licensing Authority should accept all reasonable and proportionate representations made by the Police.

The Sub-Committee were satisfied, with the modification of the conditions of the licence, that the licensing objectives would be promoted. The Sub-Committee was satisfied that the conditions were reasonable and proportionate and the reduction in trading and opening hours would promote the licensing objectives.

The Sub-Committee balanced the business interests of the licensee and the interests of residents. It was noted that the licensee had recently taken some steps to address the applicant's and residents' concerns, in particular, new CCTV had been purchased, new door staff had been contracted, the conditions proposed by the Noise Team had been accepted, and a dispersal policy was being developed. However, the Sub-Committee was concerned that there has been crime and disorder and public nuisance associated with the premises, and concluded that it is reasonable and proportionate to modify the hours of operation and introduce a drinking-up time of 30 minutes, which will support the closing down and dispersal from the premises, thereby promoting the licensing objectives.

The meeting ended at 9.10 pm

CHAIR