

Licensing Sub Committee D - 6 December 2016

Minutes of the meeting of the Licensing Sub Committee D held at Committee Room 4, Town Hall, Upper Street, N1 2UD on 6 December 2016 at 6.30 pm.

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

Councillor Nick Wayne in the Chair

152 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.

153 APOLOGIES FOR ABSENCE (Item A2)

None.

154 DECLARATIONS OF SUBSTITUTE MEMBERS (Item A3)

There were no declarations of substitute members.

155 DECLARATIONS OF INTEREST (Item A4)

Councillor Marian Spall declared that she was a ward councillor for item B2, Nisa Local, which was in Hillrise Ward.

156 ORDER OF BUSINESS (Item A5)

The order of business would be as the agenda.

157 MINUTES OF PREVIOUS MEETING (Item A6)

RESOLVED

That the minutes of the meeting held on the 13 October 2016 be confirmed as a correct record and the Chair be authorised to sign them.

158 GUNAY SUPERMARKET, 231 SEVEN SISTERS ROAD, N4 2DA - PREMISES LICENCE VARIATION (Item B1)

The licensing officer reported that there was no further update to the report.

The licensing authority stated that the premises were in the Finsbury Park cumulative impact area. There had been no mention of this in the application and there were no proposed conditions from the applicant. The premises currently operated within framework hours and the licensing authority would be concerned of the impact on the area if the hours were extended. It was an area which received noise complaints and they would want to minimise late night disturbance. During a licensing visit, after hours sales had been witnessed and it was noted that several licence conditions were being breached. The current designated premises supervisor was also the designated premises supervisor in

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2012 when there was an unauthorised sale. The applicant would be prepared to reduce the hours applied for until midnight with additional conditions and this was acceptable to the licensing authority, however they had not had an opportunity to speak to the applicant about how they would manage this additional hour in a cumulative impact area.

The police reported that they had spoken to the applicant and they had agreed to restrict licensing hours to midnight and also to update a CCTV condition and include a high strength beer condition. The police stated that they would be agreeable to this.

The public health authority reported that the premises were located in a cumulative impact area and they were concerned that the increase in hours would have significant health impacts. The area experienced a high level of ambulance callouts. The proposal regarding a reduction in high strength alcohol would be acceptable.

The applicant's representative stated he agreed with the reduction of hours to midnight with the conditions proposed. He stated that it was difficult when the closing time was different to licensing hours as customers may cause trouble at the last minute. He considered that 11pm was early for customers and the area was still busy after this time.

In response to questions the applicant's representative stated that if the hour was extended until midnight they would have more staff and customers would know what time they would be closing. He considered they would not have trouble with customers at the last minute if the hours were extended until midnight. When asked about cumulative impact the applicant's representative stated that Seven Sisters Road was very active and traffic was busy. He did not think that the extra hour would have any effect on the area. The representative stated that it was less difficult if the licensing hours were the same as the closing time.

In summary, the licensing authority was concerned that the cumulative impact policy was not fully understood by the applicant when he had stated that Seven Sisters Road was a busy road. She raised concerns about the standards of management and the number of staff on duty to cope with the extra customers who may be drunk. She considered that the applicant should supply further information on staff training.

The police stated that a common response from other licensees was that licensing hours and closing hours should not be different as this could cause problem with customers. In response to a question from the Chair the police stated that there was no evidence of this but this had been reported by other licensees in the Borough.

The applicant stated that other premises in Seven Sisters Road had a licence for 24 hours. They would just want a licence until midnight.

RESOLVED

That the application for a premises licence variation in respect of Gunay Supermarket, 231 Seven Sisters Road, N4 2DA 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 2. The premises fall within the Finsbury Park/Holloway Road cumulative impact area. Licensing policy 2 creates a rebuttable presumption that applications for variations to premises licences that are likely to

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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 noted that the applicant had agreed to reduce the hours sought to midnight, seven days a week. However, the Sub-Committee also noted that the hours sought were still outside the core hours specified in licensing policy 8.

The Sub-Committee heard evidence from the licensing authority, police and the public health authority. The licensing authority commented that the fact that the premises were in a cumulative impact area and this was not mentioned in the application. No extra conditions were offered and the licensee already operated to the framework hours. The licensing authority confirmed that whilst there had been previous breaches of the licence conditions there had been no problems for less than a year. The licensing authority emphasised the need to minimise the impact of late night drinking in the area. The licensing authority suggested that with extra conditions the grant of an extra hour could be acceptable but also expressed concerns as to staff numbers and training and whether or not the applicant fully understood the cumulative impact policy. The Sub-Committee heard evidence from the police that there had been a brief chat between the officer and the applicant just before the hearing. The police confirmed that additional conditions had been discussed.

The Sub-Committee heard from the applicant that there were other licensed premises in the area that had 24 hour licences. When asked about the cumulative impact in the area, the applicant stated that Seven Sisters Road was busy 24 hours a day and an extra hour for the premises would make no difference. The applicant emphasised that they were now seeking fewer hours and would be prepared to accept further conditions. The applicant stated that it would be easier for them to have the same hours for licensable activities and opening.

The Sub-Committee concluded that the increased hours would add to the availability of alcohol in an area where there is already a large number of licensed premises with associated anti-social and criminal behaviour and therefore have a cumulative impact on the licensing objectives. In accordance with licensing policy 2, the Sub-Committee was satisfied that the grant of the application would undermine the licensing objectives. The applicant failed to rebut the presumption that the application if granted, would add to the cumulative impact area, even with the conditions offered. The applicant did not show any exceptional circumstances as to why the Sub-Committee should grant the application.

The Sub-Committee was not satisfied that the applicant fully understood the cumulative impact policy nor that the highest standards of management were being upheld at the premises. The Sub-Committee was concerned that in response to questioning the applicant gave little detail as to how they would avoid the same problems at midnight that they currently encountered at 11pm, or how they would avoid adding to the cumulative impact in the area. The view of the Sub-Committee was that the conditions, which had arisen out of late discussions with the police and included a condition restricting the ABV percentage on beer sold at the premises, were not sufficient to persuade the Sub-Committee to grant the amended application.

When making their decision the Sub-Committee also considered licensing policy 7 and 8 regarding licensing hours and licensing policy 9 and 10 regarding standards of management.

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NISA LOCAL, 89-91 HOLLAND WALK, N19 3XU - LICENCE TRANSFER APPLICATION (Item B2)

The licensing officer reported that she had received an email at 16.37 pm from the applicant asking for the application to be withdrawn. The licensing officer informed the agent that they would need to attend the meeting in order to withdraw the application. Two minutes later an identical application from the agent had been received for a licence transfer. It was reported that the previous licensee was facing an application for review and the application received that evening was a third application from the same applicant.

The police reported that a transfer application had been made previously but had been withdrawn just before the meeting. The police had asked for proof of sale but nothing had been received. It was noted that the licensing officer had received a bank statement on the 5 December which showed a transfer of £20,000 and it was noted that this was more than two months after the alleged transfer. The police were concerned that this was not a bona fide sale.

In summary the licensing officer reported that the premises had been reviewed twice previously. The area had on-going issues and the premises required strong management.

Concerns were expressed by the Sub-Committee that the applicant would not be able to fund this purchase and this raised questions about a bona fide sale. The Chair stated that they would have been able to question the applicant if they had attended the hearing.

RESOLVED

That the transfer of the premises licence to Buluthan Kartel 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, particularly in relation to Section 42, the national guidance and the Council's Licensing Policy.

The Sub-Committee heard from the licensing officer that at 16.37pm an email had been received from the applicant's agent asking that the application be withdrawn. The Sub-Committee noted that the applicant had been informed on at least two occasions that in order to withdraw with less than 24 hours' notice to the Sub-Committee it would be necessary to attend the Sub-Committee hearing. As neither the applicant nor the agent attended to withdraw the application, the Sub-Committee decided to proceed with the hearing.

The Sub-Committee heard evidence from the police that the applicant had made a previous identical application in September 2016 which was withdrawn just before the hearing. The police had asked for proof of the sale of the premises but no such proof had been received. The police stated that at a visit to the property on the 2 November 2016 proof of sale was again requested. This was never received by the police although the Sub-Committee noted that a document entitled 'agreement' together with a solicitors bank statement had been submitted to the licensing officer. The Sub-Committee noted the police concerns that there had not been a bona fide sale and that it was in fact a sham arrangement.

The Sub-Committee noted that MHAK Management Ltd was currently subject to an investigation following breaches of the premises licence conditions, seizure of illicit alcohol and the sale of alcohol to an underage test purchaser. It was noted that the applicant had worked at the premises for MHAK Management for almost a year and had been present when officers visited the premises and breaches of conditions were noted. The Sub-

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Committee noted that there was no evidence that the applicant had the wherewithal to purchase the business at the price indicated and as no-one attended it was not possible to question the applicant further on this.

The Sub-Committee was satisfied that, if the application was granted, this would undermine the crime prevention objective. The Sub-Committee considered that the evidence presented by the police showed that the current licensee had failed to comply with the terms of the licence thus undermining the licensing objective to prevent crime and disorder and that the applicant had clear links to the current licensee.

The meeting ended at 7.15 pm

CHAIR