

Licensing Sub Committee B - 29 January 2018

Minutes of the meeting of the Licensing Sub Committee B held at Committee Room 4, Town Hall, Upper Street, N1 2UD on 29 January 2018 at 6.30 pm.

Present: **Councillors:** Alex Diner (Chair), Rakhia Ismail and Diarmaid Ward

Councillor Alex Diner in the Chair

181 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.

182 APOLOGIES FOR ABSENCE (Item A2)

Apologies for absence were received from Councillor Aysegul Erdogan.

183 DECLARATIONS OF SUBSTITUTE MEMBERS (Item A3)

Councillor Rakhia Ismail substituted for Councillor Aysegul Erdogan.

184 DECLARATIONS OF INTEREST (Item A4)

There were no declarations of interest.

185 ORDER OF BUSINESS (Item A5)

The order of business would be as the agenda.

186 MINUTES OF PREVIOUS MEETING (Item A6)

RESOLVED:

That the minutes of the meeting held on 10 October 2017 be confirmed as an accurate record of proceedings and the Chair be authorised to sign them.

187 COACH AND HORSES, 26-28 RAY STREET, EC1R 4DJ - PREMISES LICENCE NEW AND VARIATION APPLICATIONS (Item B1)

The licensing officer reported that there were further documents circulated following despatch with the agenda. These would be interleaved with the agenda papers. He reported that there had been two temporary events reflecting the hours proposed from Tuesday 16 January to Sunday 21 January and from Tuesday 23 January to Sunday 28 January. These were for on sales only.

The licensing authority reported that they maintained their representation. They were happy with the proposed hours but had concerns over the use of the outside area and proposed a 9pm close for the rear garden and 10pm cut off time for taking drinks outside the front. The authority raised concerns over how the front area would be managed.

The noise officer, acting as a witness for the licensing authority, had submitted proposed conditions. She requested 8pm closure at the rear and 9pm at the front. She considered that a 10pm close for the rear area was far too late as the area was surrounded by flats with bedrooms facing onto the rear garden and noise would reverberate around the area. She stated that there should be no vertical drinking outside the front and alcohol should be ancillary to food in the rear garden. Lighting should also be moved to go in a downward direction. She considered that these conditions would be reasonable and proportionate.

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The police stated that they had withdrawn their objection as the applicants had reduced their proposed hours.

The residents were in agreement with the comments made by the noise officer. Flats looked over the garden, the direction of the lights were already a problem and the noise at the front and the rear was already an issue. There had been a lot of noise over the weekend and even where only three or four people were having a conversation the noise would reverberate. The resident wanted the premises to succeed but could not see the business case for later hours when all restaurants in the area closed at 10.30/11pm. Another resident stated that extended hours would allow people on the street later at night regardless of the operator. There were no similar establishments with a late licence. Smokers would be outside and did not need a drink in their hand to cause disturbance. A management plan could not mitigate concerns. Residents were already experiencing lots of noise which was fundamentally around the licensing hours and not just drinking alcohol. One resident stated that customers had been outside at 1.30pm. Tables and chairs should be cleared and had not been until after 9 or 10pm. Lighting was an issue and had still not been rectified. Later closing meant later taxi collections at half past midnight. Residents considered the hours to be too late.

In response to questions, the residents stated that there had been more disturbance over the two weekends when the temporary event notices were on. Customers were having conversations on their phones and hanging around once the premises was closed. This was a very quiet residential street.

The applicant's representative stated that this was an application for a variation as well as a new application. It was noted that the application was for midnight on Fridays and Saturdays and not Saturdays and Sundays as stated on the report. The variation was to vary the plans and the applicant agreed an additional condition that the window in the back private dining room would be shut during licensing hours. With regard to the new application, the hours were within core hours and had been agreed with the police, they were reducing their New Year's Eve hours from their current licence and opening hours had been previously non-restrictive. The hours for the sale of alcohol were increased by half an hour on Sundays and one hour on Friday and Saturday. Regarding the conditions proposed by the noise officer he proposed that the outside rear area be closed at 10pm with no new customers after 9pm, there would be no vertical drinking or smoking in the rear garden, smokers would be out the front. He considered that the hours proposed were appropriate for a public house. The applicant had bought the pub and had invested in it significantly. They had been in dialogue with residents. He did not accept that it was their customers outside at 1am as they were closed. The hours at the temporary events had not gone beyond the hours requested and this was an experienced operations team. He considered that two out of three residents who backed onto the courtyard garden at the rear were agreeable to a 10pm closure. He stated it would be disproportionate to stop deliveries of consumables between 8pm and 8am and that this was essential to the business. Regarding the cumulative impact he stated that the premises sat outside the cumulative impact area in the previous policy, the licensing authority had no objection to the later hours, there was already a licence in place, the style of the premises, the robust management and the type of clientele were material and he considered that this could be made an exception to the policy.

In response to questions it was noted that off sales were sought in order to ensure that diners could take home wine which had not been finished and had been purchased with a meal. There were windows at the front of the first floor dining area and it was proposed to close the window at the rear to prevent noise outbreak. There was a maximum seating area for 12 people in the first floor dining area. It was agreed that there would be no smoking in the rear garden area. The off sales was sought in order to take wine home in a sealed

container, however, the applicant's representative did agree to the removal of off sales if this was a concern. The applicant's representative stated that there had been engagement with residents although there had been some initial problems. The garden had been used as a smoking area so it had been shut at 9pm so signs could be displayed. The garden area had been planted recently so he would be surprised if plants were already too tall. The plants would become a natural acoustic. He considered that there was evidence in emails that management had been proactive. He stated that the rear garden had been used for vertical drinking. There was a fairly wide curtilage outside which was part of the premises. The supervision of this area would be included in the management plan. The tables and chairs were within the curtilage and so no separate licence would be required for these. He would not want to see this area restricted unduly as this was an important part of the business. It would be difficult to remove the table from the first floor dining room if there was any event such as a wedding reception.

In summary, the licensing authority stated that concerns regarding the front area and how it would be controlled and customers dispersed remained.

The noise officer stated that the garden was previously virtually derelict and would now be a feature for customers with potential for noise disturbance. There was also greater potential for noise at the front. This was a quiet residential area, where traffic noise had faded from the main road and she would have concerns that customers would make a lot of noise to the distress of residents. She was concerned about deliveries of food in the small hours of the morning which would also disturb residents. She considered that there could be a condition for off sales to be limited to part consumed bottles of wine in sealed containers for customers to take home.

The residents stated that the crowd of customers outside would spread across the road and up the hill particularly in the summer. There would a large number of customers outside and they would need to be managed properly. The applicant had made no comments regarding dispersal which could be incredibly noisy as the noise bounced around the concrete areas.

The applicant's representative stated that he would be happy to agree the off sales condition and work with residents. Issues had been addressed as soon as they had been raised. A staff guide was detailed on page 84-89 of the agenda. There was already a licence in place. There had been no representation from the police or environmental protection. Significant conditions were proposed which were agreed as amended. There would be no new entry after 11 o'clock. This would be a more robust licence and risks were minimal.

RESOLVED

- 1) That the premises licence variation in respect of Coach and Horses, 26-28 Ray Street, London, EC1R 4DJ to change the layout of the premises in accordance with the submitted plan be granted.
- 2) That the application for a new premises licence, in respect of Coach and Horses, 26-28 Ray Street, London, EC1R 4DJ be granted to allow:-
 - a) The playing of recorded music between 10 am and 11pm on Sundays to Thursdays and between 10am and midnight on Fridays and Saturdays.
 - b) The supply of late night refreshment between 11pm and midnight on Fridays and Saturdays.

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- c) The sale of alcohol, for consumption on and off the premises, between 10am and 11pm on Sundays to Thursdays and between 10am and midnight on Fridays and Saturdays.
 - d) Opening hours between 8am and 11.30pm on Sundays to Thursdays and between 8am and half past midnight on Fridays and Saturdays.
 - e) To extend the permitted hours for all licensable activities on New Year's Eve to 2am with opening hours until 2.30 am.
- 3) That the following conditions shall be applied to both the new licence and the variation licence.
- a) Conditions detailed on pages 141 and 142 of the agenda.
 - b) The following conditions detailed on the tabled document from the noise team with the amendments indicated.
 - Noise or vibration must not emanate from the premises so as to cause a nuisance to nearby properties.
 - The sound insulation properties of the premises must be maintained and kept in good order.
 - Noise and/or odour from any flue used for the dispersal of cooking smells serving the building shall not cause nuisance to the occupants of any properties in the vicinity.
 - The rear garden shall be cleared of customers by **21:00**.
 - The rear doors to the garden area shall be locked using key operated locks at the specified closing time.
 - There shall be no entertainments in any outside areas.
 - There shall be no vertical drinking in the rear garden area or front outside area.
 - All outside furniture shall be fitted with rubber pads to the bottom of the legs to minimise noise when moved.
 - **Delete.** Staff shall wear soft soled shoes when working in the rear garden area.
 - Exterior lighting shall be directed away from residential properties.
 - Alcohol shall not be sold or supplied in the rear garden area otherwise than to persons taking table meals there and for consumption by such a person as ancillary to their meal.
 - The consumption of alcohol in the seating area at the front of the premises shall end at 21:00 hours.
 - **Delete.** After 20:00 hours smokers shall be directed to the front of the building and **substitute** 'Smoking is not permitted in the rear garden at any time. Notices in the rear garden will be displayed to that effect'.
 - Prominent, clear and legible notices must be displayed at all exits requesting the public to respect the needs of local residents and to leave the premises and the area quietly.
 - Bottling out from the premises is prohibited between 20:00 hours and 08:00 hours.

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- There shall be no collections of refuse or deliveries of consumables between the hours of 20:00 and 08:00. There shall be no deliveries on Sundays or Bank Holidays
 - All fuel used for the charcoal grille shall be of the type approved on the schedule of DEFRA for use in smoke free zones i.e. compliant with BS3841. Appropriate documentation in relation to solid fuels in use shall be kept on site and available for inspection by authorised officers.
 - Doors and windows to the premises will be kept closed, so far as practicable, at all times when noise generating entertainment is taking place ie live and recorded music.
 - In the event of a noise complaint substantiated by an authorised officer, the licensee shall take appropriate measures in order to prevent any recurrence.
- c) The following additional conditions:-
- The window in the back private dining room on the first floor will be shut during hours of operation.
 - Any off sales shall be limited to resealed, part consumed bottles of wine.

REASONS FOR DECISION

The Licensing Sub-Committee considered the application papers, the written submissions and the submissions made on the night from the Licensing Authority, the representative from the Noise Team, the Applicant's representative and the residents who made oral submissions.

The applications were for the variation of the existing licence to reflect the changes to the new layout of the premises and for a new licence in relation to the operating hours, the hours for selling alcohol and for the licence to provide authority to sell alcohol on and off the premises.

The premises are situated in the Clerkenwell Cumulative Impact Area.

The exceptions to the Clerkenwell Cumulative Impact Policy are that the applicant must demonstrate that there will be no negative cumulative impact on one or more of the licensing objectives.

Factors to be considered are whether there is provision of flexible use of the premises, that the premises are not alcohol led, that the hours of operation are consistent with the framework hours, robust arrangements are in place to prevent vertical drinking, a demonstration of high standards of management specifically in relation to preventing public nuisance associated with waste management and littering.

The hours applied for in relation to the sale of alcohol, namely 10am to 11pm on Sundays to Thursdays and 10am to midnight on Fridays and Saturdays are within the core hours as set out in Licensing Policy 6 of the 2018-2022 policy.

The Licensing Sub-Committee accepted the concerns raised by the Noise Team representative and residents and the requirement of an off sales licence. The applicant submitted that the off sales licence was required to enable diners to take their unfinished wine bottles with them when they left the premises after their meal. The applicant agreed

that a condition could be added that provided that the off sales licence should be limited to sealed half consumed customers bottled of wine.

The Licensing Sub-Committee granted the applications with conditions which are attached to the decision. The Licensing Sub-Committee was of the opinion that the added conditions, specifically in relation to the rear garden and the front of the premises, were reasonable, appropriate and proportionate to uphold the licensing objectives.

The Licensing Sub-Committee noted that the applicant had undertaken to surrender the existing licence following the grant of the new application.

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**ELLIPSIS IMMERSIVE THEATRE, 132 GOSWELL ROAD, EC1V 7DY - NEW PREMISES
LICENCE APPLICATION (Item B2)**

The licensing officer reported that there were papers from the applicant's representative that had been circulated separately. These would be interleaved with the agenda papers. It was noted that the representation on page 174 of the agenda had been withdrawn as a bottling out condition had been agreed that stated there would be no bottling out between 10pm and 8am Mondays to Fridays and not on Sundays.

Local residents raised concerns that there had been two refused planning applications in recent months and Ellipsis only held the lease until October. The conditions allowed 75 people as a maximum number and they would like this number reduced. It was noted that the entrance was on Peartree Street which was a residential road and which already had a certain amount of noise which amplified. It was considered that even a small group of people could cause a disturbance 7 days a week. They raised concerns about taxi parking as there was limit space on a single width road. Users should be directed away from the venue, capacity limited to 60 users and the hours were too long and should be reduced with no opening on Sunday. They also raised concerns that this was an open ended application which was unrestricted and stated that concerns raised should be reflected in the conditions.

In response to questions, it was noted that capacity numbers were not restricted in conditions. It was considered that the hours for the sale of alcohol should end at 10pm. There should be a management plan to include flow of traffic and people. It was noted that the licence would be time limited. It was noted that bedrooms overlooked the narrow street and the late hours and the number of days a week that the events were held would be a concern. There would be new events every six minutes and they would be held until midnight which would have an impact. The street was very narrow and noise travelled as in a canyon. This was a narrow street and the whole of the main building opposite was residential.

The applicant's representative stated that this was an immersive theatrical experience with groups of 6 people at 10 minute intervals. There would be constant supervision by at least one member of staff. Each showing would last for 1 to 1 ½ hours and there would be a last entry time of 9.30 pm. This would be a time limited project. They were confident that the lease would extend after October but were not concerned if it did not run until after 2019. Noise assessments were ongoing. There were controls regarding noise outbreak and the additional papers detailed the dispersal policy, the lobby would be permanently staffed and could hold 24 people on arrival or departure. Patrons could be dispersed onto Goswell Road. This would be licensed with restrictive conditions. They had engaged in correspondence with the residents which they hoped had been a useful process. They would be looking for flexibility for the capacity numbers. The applicant's representative agreed that there could be a condition on the licence that the licence be surrendered when they left the premises.

In response to questions, it was noted that phones and wallets were taken at the start of the event and each group were led through six different rooms with different themes. There were pods for six with ten minute intervals. Patrons could be led out onto Goswell Road. It was considered that only a small proportion of theatre goers would stay in the bar area. They would manage the flow of patrons in a proactive manner. It was noted that the theatre would attract a different crowd to public houses in the area. This application fitted with the licensing policy exceptions, it was a new cultural experience, it was within policy hours, had robust controls, was not a late night venue and there had been universal silence from the responsible authorities.

In summary, the residents were concerned that the application depended on good will from the applicant. They would not want the applicant to breach their conditions and this was an opportunity to set boundaries. They raised concerns regarding the number of people, the hours and the use of the premises seven days a week. They would like the last entry ticket to be sold at 8.30pm. Normal levels of talking by patrons could still disturb residents. The applicant stated that this would be a theatrical experience and would be concerned if dispersal was agreed onto Goswell Road only.

RESOLVED

1) That the application for a new premises licence, in respect of Ellipsis Immersive Theatre, 132 Goswell Road, EC1V 7DY be granted to allow:-

- 1) The supply of alcohol for consumption on the premises from 10am to 11pm Sunday to Thursday and 10am to midnight Friday and Saturday.
- 2) Provision of regulated entertainment of plays, films, live music, recorded music and performance of dance from 10am to 11pm Sunday to Thursday and 10am to midnight Friday and Saturday.
- 3) Late night refreshment from 11pm to midnight Friday and Saturday.
- 4) Opening hours of the premises from 10am to 11.30pm Sunday to Thursday and 10am to half past midnight Friday and Saturday.
- 5) The premises licence will be time limited and lapse on 29 February 2020

2) That conditions detailed on pages 231 and 232 of the agenda be applied to the licence.

REASONS FOR DECISION

This was a new application for a premises licence in the Bunhill Cumulative Impact Area. Licensing Policy 2 and 3 and 6 were applicable.

The Licensing Sub-Committee considered all the written submissions and the oral submissions made at the hearing. The oral submissions were from the applicants' legal representative and various residents.

No written or verbal submissions were made by any of the responsible authorities to the application.

The application was for the premises licence to be time limited and to lapse on 29th February 2020.

The maximum number of customers permitted in the premises at any one would be 75 although it was envisaged as per the operating plan that the actual figure would be in the region of 36 people.

The business plan was for alcohol to be consumed by patrons after they had experienced a six phase sensory experience in various small theatre environments. The plan was for customers to be provided with a niche experience in very small groups to be followed, if they wished, by a couple of drinks at the end of the experience before they left the premises.

Condition 1 and 2 stipulated by the applicant on page 168 of the application papers, provided that the supply of alcohol shall only be to persons attending the premises for artistic and theatrical entertainment and that it shall be ancillary to the use of the premises as an artistic and theatrical entertainment venue.

The Licensing Sub-Committee fully considered the submissions made by the residents and the concerns that the licence could be used by subsequent owners with a completely different, noise creating business.

The Licensing Sub-Committee considered imposing a condition on the licence that the applicant would be required to surrender the licence when it sold the business or closed down.

The Licensing Sub-Committee concluded that the specific conditions offered by the applicant and imposed by the Licensing Sub-Committee, together with the fact that the licence is time limited until February 2020, were sufficient safeguards.

The Licensing Sub-Committee concluded for the reasons set out above, that the application fell within the exceptions to the Bunhill Cumulative Impact Policy and should be granted.

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THE LONG TABLE, OLD STREET YARD, (FRONTING 32-37 FEATHERSTONE STREET) EC1 - NEW PREMISES LICENCE APPLICATION (Item B3)

The applicant's representative had stated that a meeting had been held with residents who raised concerns with the ground floor hours. As a result, in respect of the ground floor, hours were reduced to 10.30 pm for the supply of alcohol.

The resident stated that the basement area would be an incubator for aspiring chefs with an entrance on Featherstone Street. In the planning consent the ground floor was described as a café and retail area with no mention of alcohol and had therefore received no objections. The resident was concerned about a bar opening onto Featherstone Street, with vertical drinking and no restrictions on alcohol being ancillary to food. He considered that conditions relating to no vertical drinking and alcohol being served ancillary with food be additions to the licence. He would also like to see a condition added regarding waiter service on the ground floor and he considered that with these changes there would be less disturbance on the street.

In response to questions, the resident stated he lived near to the venue and had bad experiences of the venue previously. This was a restaurant and should be happy to accept these conditions.

The applicant's representative stated that there was a plan of the premises at page 262 of the agenda. There were small kitchens and users would graduate to central kitchens. There was expected to be a named chef on the main table. The ground floor was a café bar/juice bar and a feeder bar for the downstairs operation. There was a condition to restrict vertical drinking on the ground floor. This area may be used for wine tasting. This would not be a late night bar and some vertical drinking was important. They would be happy to agree to table service throughout the ground floor.

In response to questions it was noted that the applicant would be working with the local business programme and schools.

In summary, the resident considered that the basement operation was praiseworthy but was concerned about vertical drinking, alcohol being served without food, the lack of table service and asked that these be additional conditions to the licence. The applicant's representative reminded the Sub-Committee that planning and licensing were separate regimes.

RESOLVED

- 1) That the application for a new premises licence, in respect of The Long Table, Old Street Yard (fronting 32-37 Featherstone Street) EC1 be granted to allow:-
 - a) The sale by retail of alcohol for consumption on and off the premises from 10am until 11pm Monday to Saturday and from 10am until 10.30 on Sundays and in respect of the ground floor 10am until 10.30 on Mondays to Sundays.
 - b) Opening hours from 10am until 11.30pm Monday to Saturday and from 10am until 11pm on Sundays.
- 2) That conditions detailed on pages 269 and 270 of the agenda shall be applied to the licence.

REASONS FOR DECISION

The Licensing Sub-Committee considered the application papers, the written representations by residents, the oral submission by the Applicants' representative and the oral submission by one resident.

The application was for a new premises licence within the Bunhill Cumulative Impact Area. The Licensing Sub-Committee noted that no representations had been made by the Responsible Authorities.

The business operated from the premises would be an enterprise and training company, providing a café and restaurant areas on the ground and lower ground floors. The hours requested were within the core hours and the off sales will be restricted to re-sealed bottles of wine.

The Licensing Sub-Committee was satisfied that the application if granted with the stipulated conditions, would fall within the exceptions to the Bunhill Cumulative Impact Policy. The Licensing Sub-Committee concluded that the business would support the wider cultural offer in the area, the hours were consistent with framework hours, and the application granted should not cause public nuisance or cause a negative cumulative impact.

The application granted with conditions was proportionate and reasonable taking all the representations into account.

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B AND D SUPERMARKET, 156 SEVEN SISTERS ROAD, N7 7PL - PREMISES LICENCE VARIATION (Item B4)

The licensing officer reported that a petition had been received in support of the application. The applicant had stated that he would amend the hour for sale of alcohol to 8am from 6am but the authority had not received this notification in writing.

The licensing authority reported that they were particularly concerned with the early start time and the impact on street drinkers, these hours were outside core policy hours and the applicant had not demonstrated how he could operate in the cumulative impact area. The

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applicant would need to demonstrate how he would not add to the problems in the area and how he would operate after 11pm.

The police reported that 33% of crimes in the area took place after 11pm. They accepted that there were premises that were already in the area but they had seen nothing in the application about how the applicant would address the issues of cumulative impact in the area.

The licensee reported that 100 people had signed a petition in support of his application. The offences that took place after 11pm were not alcohol related offences. He had CCTV and supplied it straight away when required. He had passed underage tests.

In response to questions the applicant stated he had a refusal book and did not sell to underage or drunk people. He did not think that the sale of alcohol had an impact on the problems in Seven Sisters Road. He did not think that opening later would cause further problems.

The police asked if he could bring back the hours for the sale of alcohol to 11pm and the applicant stated that he would not be agreeable to doing that as it would create problems. There were 24 hour premises nearby.

RESOLVED

That the application for a premises licence variation, in respect of B & D Seven Sisters Road, N4 2DA, be refused.

REASONS FOR DECISION

The Licensing Sub-Committee considered the application papers, the written submissions and the oral submission from the applicant, the Licensing Authority and the Metropolitan Police.

The application was for a variation of an existing off premises licence to 6am until 1am the following day and for the opening hours to be the same. The applicant stated that if the sale of alcohol licence was not extended to the added hours, he would not require the opening hours to be extended as this would cause him potential danger from customers who would require him to sell them alcohol.

The premises are within the Finsbury Park Cumulative Impact Area.

The Licensing Authority was concerned primarily about the earlier opening hours and stated that this was when street drinkers would purchase alcohol. The Police were concerned that the extended later hours would exacerbate an already dangerous situation in that area.

The Licensing Sub-Committee was of the opinion that the applicant failed both in his application and in his submissions at the hearing to adequately address the cumulative impact issue and did not demonstrate why the operation of the premises with the extended hours would not add to the cumulative impact or otherwise impact adversely on the promotion of the licensing objectives.

The application for the variation was accordingly refused.

191 SPORTS BAR AND GRILL, UNIT E, COWCROSS PLACE, COWCROSS STREET, EC1M 6DH - TEMPORARY EVENT NOTICE (Item B5)

The Sub-Committee noted that this application had been withdrawn.

The meeting ended at 9.50 pm

CHAIR