

Licensing Sub Committee D - 24 April 2018

Minutes of the meeting of the Licensing Sub Committee D held at Committee Room 4, Town Hall, Upper Street, N1 2UD on 24 April 2018 at 6.30 pm.

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

Councillor Nick Wayne in the Chair

224 INTRODUCTIONS AND PROCEDURE (Item A1)

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

225 APOLOGIES FOR ABSENCE (Item A2)

None.

226 DECLARATIONS OF SUBSTITUTE MEMBERS (Item A3)

There were no declarations of substitute members.

227 DECLARATIONS OF INTEREST (Item A4)

There were no declarations of interest.

228 ORDER OF BUSINESS (Item A5)

The order of business would be as the agenda.

229 MINUTES OF PREVIOUS MEETING (Item A6)

RESOLVED

That the minutes of the meeting held on the 26 February 2018 be confirmed as a correct record and the Chair be authorised to sign them.

230 BYRON, 26 COWCROSS STREET, EC1M 6DQ - PREMISES LICENCE VARIATION (Item B1)

The Sub-Committee noted that this item had been withdrawn by the applicant before the meeting.

231 GREAT, 98 FARRINGDON ROAD, EC1R 3EA - NEW PREMISES LICENCE (Item B2)

The Sub-Committee noted that there was a current licence with opening hours until 3am Sunday to Thursday and 4am Friday and Saturday. This was not in the name of the applicant therefore if this application was refused the applicant would need to apply for a transfer of the current licence.

A local resident reported that on one occasion he had rung the manageress about the problems with noise associated with the extract system but had not received a positive response. He stated that he had called the noise team on the 17 April as the extractor was making noise. He did not consider that the management was suitable as they had no regard for local residents. The Chair of the TRA raised concerns as the premises would be a noise nuisance to neighbours, would affect their quality of life and would be an alcohol

nuisance. This was a conservation area and this should be taken into consideration. This was a residential area and there were tenants living above the premises.

Councillor Andrews, speaking in support of the objectors, stated that serving alcohol in a cumulative impact area would be unfair to residents. Hours needed to be taken into consideration. Alcohol would attract anti-social behaviour. The cumulative impact policy had led to improvements in the area and he would not want to see this trend reversed. Farringdon was an area where people wanted to stay and drink late into the evening.

In response to a question about why this licence would cause more disruption than the previous licence, the residents stated that the new premises would serve kebabs and not fish and chips. This premises did not have a modern extraction system as other premises did. The previous licensee closed at 10 or 11 pm. Councillor Andrews stated that the previous business operated mainly during the day and would generally close at 9pm and mainly operated a take away in the evening. This business would be very different and a public nuisance in terms of smell and people coming and going. It was noted that there was a possibility that customers could bring their own alcohol to the restaurant if not licensed. Off sales would apply to the delivery service only. One resident stated that when customers consumed alcohol they did things that they wouldn't normally do and this would add to the cumulative impact. It was noted that other premises had modernised their extract systems and had higher flues. This premises had a shorter flue which was causing a problem for residents.

The applicant challenged the versions of events given by the resident in response to a complaint about the noise. She stated that they had a modernised extractor system which had been tested. They did not use deep fat fryers but cooked with charcoal, this was a family business and they would not want to upset the neighbours. She did not think that the extractor could be improved further as it had been checked by the surveyor. Alcohol would not be served after 11pm, opening hours would be until 1am and cookers would not be on after midnight.

In response to questions regarding condition 36 the applicant stated that to prevent food smells causing a nuisance to residents she had installed a modern extractor, had air conditioning so doors and windows remained shut. All windows were double glazed and lightbulbs had been sealed. Some staff had personal licences and were trained. They would bottle out during the day. The previous owners had been open late and she had not had any noise complaints and would be respectful to residents/customers. It was noted that the onus was on the applicant to demonstrate why a premises would not add to the cumulative impact.

In summary, the resident stated that the flue was much shorter than the other flues in the area and pointed directly into the car park whilst others pointed to Farringdon Road. A compressor had been left on for 24 hours and the noise patrol had visited.

The licensing officer reported that once an application had been made the noise team would look at the history of complaints and sometimes met with the applicant. In this case they had proposed 11 conditions but not made a representation. The Environmental Protection Act gave residents protection from noise nuisance or smell.

In summary, the applicant stated that she had not heard from the noise team about any complaints made. She stated she would be happy to look at the flue to see if any improvements could be made. Improvements on the system had been made internally. Alcohol would only be served until 11pm and to those customers in the premises eating a meal. Staff had been trained. Opening hours were until 1am which had been reduced as they did not want to be a nuisance to neighbours.

RESOLVED

- 1) That the application for a new premises licence, in respect of Great, 98 Farringdon Road, EC1R 3EA be granted to allow:-
 - a) The sale of alcohol for consumption on and off the premises from 10am until 11pm hours Monday to Sunday.
 - b) Late night refreshment from 11pm to 1am Monday to Sunday.
 - c) The premises to be open to the public from 12:00 until 01:00 Monday to Sunday.
- 2) That conditions detailed on pages 60-62 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.

Two local resident objections had been received. There had been no representations made by the responsible authorities.

The Sub-Committee noted that the hours sought were within the hours specified in licensing policy 6.

The Sub-Committee heard evidence from residents who were concerned about noise and smell attributed to the extractor flue which they stated was discharging into the car park behind their flats. One of the residents said that he had called the public protection team recently during the day. Although the applicant said that the extractor had been entirely modernised since she had taken over the lease, the residents expressed worries that the extractor flue was too short. However, the Sub-Committee was advised by the licensing officer that the responsible authorities had been notified of the application and although additional conditions had been suggested they had made no representations.

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, 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. Not only noise but smell also could amount to a public nuisance.

The Sub-Committee considered that condition 36 was sufficiently robust to promote the licensing objective for the prevention of public nuisance. The Sub-Committee concluded that with the addition of the proposed conditions from the noise team and the conditions agreed with the police, granting the premises licence would not result in a negative cumulative impact on one or more of the licensing objectives.

The Sub-Committee concluded that it was appropriate to the licensing objectives and in the public interest and proportionate to grant the premises licence with the addition of the proposed conditions.

Note of the Sub-Committee

The Sub-Committee requests that the noise team inspect the flue within fourteen days to ensure that condition 36 is being complied with.

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The meeting ended at 7.40 pm

CHAIR