

London Borough of Islington
DRAFT
Licensing Sub-Committee C – 25 February 2014

Minutes of the meeting of Licensing Sub-Committee C held at the Town Hall, Upper Street, N1 2UD on 25 February 2014 at 6.35 pm.

Present: Councillors: Raphael Andrews, Jean Roger Kaseki and Gary Poole.

Councillor Gary Poole in the Chair

231. INTRODUCTIONS AND PROCEDURE (ITEM A1)

Councillor Poole welcomed everyone to the meeting and asked members and officers to introduce themselves. The Chair stated that the procedures for the meeting were on page 4 of the agenda.

232. APOLOGIES FOR ABSENCE (ITEM A2)

Councillor Marian Spall.

233. DECLARATION OF SUBSTITUTE MEMBERS (ITEM A3)

Councillor Raphael Andrews substituted for Councillor Marian Spall.

234. DECLARATIONS OF INTEREST (ITEM A4)

Councillor Poole declared a non-prejudicial interest as he was the Ward Councillor for Item C2, XOXO but had taken no part in any previous discussions.

235. ORDER OF BUSINESS (ITEM A5)

The order of business would be as the agenda.

236. MINUTES (ITEM A6)

RESOLVED

That the minutes of the meetings held on the 17 December 2013 be confirmed as an accurate record of proceedings and the Chair be authorised to sign them.

**237. JOURNEYS KINGS CROSS, 54-58 CALEDONIAN ROAD, N1 9DP
APPLICATION FOR A NEW PREMISES LICENCE UNDER THE LICENSING ACT 2003
(Item B1)**

The licensing officer reported that the application for recorded music had been withdrawn, the noise conditions had been agreed by the applicant and the health and safety requirements had been satisfied.

The police reported that should the application be agreed they requested the Sub-Committee to add conditions as detailed on page 41. However, they confirmed that, as the premises was in a cumulative impact area they asked that the application be refused.

The local resident considered that the application should be rejected as it was in a cumulative impact area. Residents, in the vicinity of the hostel, had not been listened to by the management of the hostel and bed time should not be governed by what went on at the hostel. The noise levels were high and there was an open area at the rear of the building that residents used. Residents were informed that changes would be made and were given a telephone number to ring should there be problems. She reported that staff were too busy to answer or did not hear the telephone. Residents climbed out of the bedroom windows onto the roof. When school parties were present and residents had rung to complain, staff had said that

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they would let the teachers know. Management seemed to be concerned about the front of the building but not worried about the back where residents lived.

Nicholas White, the owner said that no complaints had been logged by the manager and this was the first he had heard about concerns. He had taken over two years ago and turned the business around. Rear windows were locked and the roof could not be accessed. The backyard was not licensed and doors should be shut at 10pm although he accepted that staff did forget sometimes. He wished to control the supply of alcohol and limit the licensing hours. School children were not allowed in the bar area.

The applicant called the General Manager as his witness. She had not received any complaints from neighbours. Residents could drink in social areas and could not be controlled. The age of residents was generally 18-35 years of age except for school groups. Window transfers had been applied to prevent neighbours seeing into the rooms.

In response to questions about the cumulative impact, the applicant stated that residents were already allowed to get alcohol from elsewhere and drink on the premises so they would be decreasing the number of people on the street. The applicant stated that it was not possible to ban alcohol from the premises as the franchise allowed drinking on site. Two staff were on duty for the hostel which held 135 residents, which was reduced to one member of staff after midnight. To prevent an increase in noise levels, numbers would be limited to 10 people smoking outside the building, no alcohol would be allowed outside and the rear would be closed at 10pm. Staff would be trained and there would be two personal licence holders. Late night refreshment would only be required on Friday and Saturday evening. Parties were not expected.

In summary the police raised concerns that one additional member of staff would not be able to control patrons outside the venue. The local resident stated that staff had received complaints from residents and she had mentioned their names earlier in the meeting. Windows were still not obscured and bathrooms could be seen into from her windows and residents were not prevented from getting onto the roof as they still gained access from the stairwell.

The applicant stated that there would be two members of staff with a personal licence and they would not have to be SIA qualified. He reported that they could solve the problem with the windows if residents pointed which ones they could see through.

Members of the Sub-Committee left the room to deliberate before returning to announce their decision.

RESOLVED:

That the new premises licence in respect of Journeys, 54-58 Caledonian Road, N1 9DP 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 002. The premises fall under the Kings Cross cumulative impact area. Licensing policy 002 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

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promotion of the licensing objectives.

The Sub-Committee heard evidence from a local resident regarding the anti-social behaviour at the premises. The local resident informed the Sub-Committee that staff at the hostel were too busy to deal with complaints when she rang.

The applicant reported that no complaints had been logged and the representation was the first he had heard of the resident's concerns.

The Sub-Committee noted that the premises was catering for residents and their guests and would not add to the existing cumulative impact, but concluded that the operation of the premises was likely to impact adversely on the licensing objective of prevention of public nuisance with the staffing levels proposed by the applicant.

In making their decisions the Sub-Committee considered licensing policies 1 and 2 regarding cumulative impact and policies 9 and 10 regarding high standards of management.

238. SUPPER STREET, 141 JUNCTION ROAD, N19 5PX - APPLICATION FOR A NEW PREMISES LICENCE UNDER THE LICENSING ACT 2003 (Item B2)

The licensing officer reported that the hours requested had been reduced and were detailed on page 47 of the agenda. The local resident, who was not present still had concerns regarding the use of the rear garden area.

The applicant confirmed that the rear garden was not to be used. The noise officer reported that number 4 of the noise conditions would not be necessary with the removal of the rear garden from the application.

The licensing authority confirmed that they would agree the application with amended hours and the withdrawal of the rear garden. The police agreed the application with their conditions. The Sub-Committee noted that the representation from Councillor Burgess had been withdrawn following the amendment to the application.

The applicant, Andrew Zilouf, reported that there had been no noise complaints for three years at the licensed premises in Upper Street. He had withdrawn the use of the rear garden as it had not been popular with residents. The application was for restaurant hours and the proposal was for a family friendly venue. He would be happy to make a personal contact number available for residents.

In response to questions he reported that he would mitigate the cumulative impact as drinking would be ancillary to a table meal and there would be no vertical drinking. He had a good track record and there had been no public disorder incidents. He did not think there would be a happy hour and believed that Challenge 25 should be included as a condition.

Members of the Sub-Committee left the room to deliberate before returning to announce their decision.

RESOLVED:

That the new premises licence in respect of Supper Street, 41 Junction Road, N19 5PX be granted.

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 002. The premises fall under the Junction cumulative impact area. Licensing policy 002 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.

The Sub-Committee noted that the applicant had agreed conditions with the police and the noise team and amended the application in relation to hours sought and the use of the rear garden to take into account the representations made by local residents.

The Sub-Committee further noted that the application was for a restaurant where alcohol would be served with a table meal, and no vertical drinking would take place. The premises fell within the exceptions set out in the Council's licensing policy and the Sub-Committee considered that the granting of the application was unlikely to add to the cumulative impact.

The Sub-Committee considered licensing policies 1 and 2 and 7 regarding the cumulative impact and framework hours and policies 9 and 10 regarding high standards of management. They also considered policy 18 regarding the amenity of residents and 20 regarding tables and chairs outside.

239. FOOD AND WINE, UNIT B, 30 NORTH ROAD, N7 9GJ - APPLICATION FOR A PREMISES LICENCE VARIATION UNDER THE LICENSING ACT 2003 (Item B3)

Graham Hopkins, the agent, reported that they had not had time to consider the additional CCTV evidence submitted by the police and requested that the Sub-Committee exclude this information. The police informed the Sub-Committee that no CCTV was to be shown.

The police referred to the additional papers circulated separately to the agenda and which would be interleaved with the papers. He referred to the statement from the CCTV operator which related to 20 anti-social behaviour incidents. He highlighted particularly four incidents detailed in the papers and stated that there were 16 further incidents and considered that the evidence was that there were less problems when the store was closed.

In response to questions, the police officer reported that the staff in the shop had never called for assistance in any of the 20 incidents and during one incident the staff had taken pictures of an arrest. It was noted that the staff in the shop, who may fear retaliation, had not contacted the local PCSOs indirectly.

Graham Hopkins, agent, stated that the local police could also seek to engage with the shop if they considered there were problems in the area. He reported that the additional hours requested were within framework hours. The sale of one bottle of wine after hours was a one off occurrence and there had been no other instances. The premises were not in a cumulative impact area. Additional conditions had been circulated which would be interleaved with the agenda papers. These conditions would address concerns. Staff could use a dispersal aid which emits a high pitched noise or play unpopular music to deter the youths hanging around the premises. Staff did ask the youths to move on and Mr Hopkins asked why the youths were not arrested. He considered that if an incident occurred outside the shop staff would call the police.

In response to questions, the applicant, Mr Doldur informed the Sub-Committee that he did not wish the youths to stand outside. He stated that he knew their families and could give names to the police. He was not aware of any of the incidents and was concerned about retaliation

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from the youths. He stated that he would let police know if there were any problems. Mr Doldur also had no recollection of a fight on the premises. The police reiterated that the CCTV operator had stated that there was much less of a problem when the shop was closed. Mr Hopkins reported that the youths were local people who lived there and if they were moved on they would only congregate elsewhere.

In summary the police reported that they were not convinced by the evidence from the applicant. They considered that the shop was an attraction and keeping the shop open for an hour longer would create more of an attraction and therefore they opposed the variation to the licence.

The agent submitted that the revised conditions would address concerns, the staff were happy to work with the police, the youths were not his customers and staff did all they could to move them away. He asked the Sub-Committee to grant the licence.

Members of the Sub-Committee left the room to deliberate before returning to announce their decision.

RESOLVED:

That the new premises licence in respect of Food and Wine, Unit B, 30 North Road, N7 9GJ 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 noted that the applicant had received additional written evidence from the police the day before the hearing but no CCTV evidence had been served. The police officer indicated that he would be prepared to forego the CCTV evidence and rely on the witness statements to support his representation. The applicant confirmed that the written statements were accepted and did not wish for the application to be adjourned.

The Sub-Committee heard evidence from the police officer regarding recent incidents of anti-social behaviour associated with the location of the licensed premises. He informed the Sub-Committee that the view taken by the police community support officer was that anti-social behaviour was less when the licensed premises were closed. The Sub-Committee noted that this was confirmed in the written evidence of the resident representations (none of whom had attended).

The Sub-Committee noted that the applicant had failed to engage with the police in regard with the anti-social behaviour in the locality and the reason given was that he was concerned about retaliation. The applicant disputed the recent incidents of anti-social behaviour relating to the licensed premises and highlighted by the police officer. He stated that he was happy to work with the police to resolve the anti-social behaviour problems.

The Sub-Committee noted the applicant's contrition with regard to the sale of alcohol to a council officer after authorised hours in November 2013. The Sub-Committee also noted that a number of conditions had been put forward by the applicant in support of his application.

However, the Sub-Committee was of the view that there was strong evidence that an additional opening hour would undermine the crime and disorder objective and concluded that the conditions proposed by the applicant would be insufficient to promote the licensing objectives.

When making their decision the Sub-Committee considered licensing policy 4 regarding shops

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selling alcohol and licensing policies 9 and 10 regarding high standards of management.

240. URGENT NON-EXEMPT/CONFIDENTIAL ITEMS

The following items were considered urgent as the temporary events were to be held prior to the next ordinary meeting of the Licensing Sub-Committee.

241. GIANT ROBOT, 45-47 CLERKENWELL ROAD, EC1M 5RS - APPLICATION FOR A TEMPORARY EVENT NOTICE UNDER THE LICENSING ACT 2003 (Item C1)

The Sub-Committee noted that this application for a temporary event notice had been withdrawn.

242. XOXO, 74 UPPER STREET, N1 - APPLICATION FOR A TEMPORARY EVENT NOTICE UNDER THE LICENSING ACT 2003 (ITEM C2)

The applicant, Santosh Kohli, spoke in support of the application. He reported that he had met with council and police officers and was doing his best in terms of dispersal. He was asking for the extension in hours as it was his birthday and 2 am was not sufficient. He had requested 3am in order to relax and have some time off.

The noise officer reported that there had consistently been complaints regarding customer noise outside. Visits had been made by the noise team and it had been witnessed that dispersal was a challenge for the licensee. Ceasing licensing activities at 2am was considered reasonable.

In response to questions the noise officer reported that despite a licensing panel meeting in November 2013 there had still been dispersal problems and patrons were not being moved on. There was no evidence that management could control this issue and they did consider they would get complaints if the premises were open for one more hour. At the panel meeting it had been agreed that the licensee would submit a variation and this would have been an opportunity to add adequate conditions relating to dispersal.

The licensee reported that the 15 December was one of the busiest weekends of the year. It was not certain that customers causing noise were from his premises. Management did their best to disperse patrons but they were not sure of their boundaries. Security had asked customers to move on quietly and they had responded by stating that it was public highway. He informed the Sub-Committee that patrons would disperse quietly on the evenings of the TENs.

Members of the Sub-Committee left the room to deliberate before returning to announce their decision.

RESOLVED:

That the application for a temporary event notice for XOXO, 74 Upper Street, N1, be refused and the licensing authority issue a counter notice.

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 submission from the noise team that there had been noise complaints about the premises which culminated in a Licensing Panel meeting in November 2013. It was agreed at the panel meeting that the applicant would submit a variation to add

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new licence conditions. The Sub-Committee noted that since November there had been further dispersal issues, witnessed by officers in December 2013 and January 2014. The noise officer considered they would receive complaints should the TEN be issued.

The Sub-Committee heard from the applicant that his staff did their best to disperse customers but they were not sure how far their boundaries reached.

The Sub-Committee considered licensing policy 28. The Sub-Committee noted from the objection from the noise team that the issue with dispersal had not been addressed since the panel meeting in November 2013 and had no confidence that the matter would be addressed on the evening of the temporary event notice. The Sub-Committee noted that there were no relevant conditions on the existing licence which would overcome the problems associated with dispersal.

The Sub-Committee concluded that the additional opening hour would be an additional stress to the area and it was satisfied that the granting of the TENs would undermine the licensing objective related to the prevention of public nuisance.

243. EXCLUSION OF THE PRESS AND PUBLIC

RESOLVED that the press and public be excluded during consideration of the following item as the press the presence of members of the public and press would result in the disclosure of exempt information within the terms of Schedule 12A of the Local Government Act 1972.

243. URGENT EXEMPT ITEMS

The following item was exempt under category 15 (the identity of a protected informant, a person giving the Authority information which shows that a criminal offence has been, or is being, or is about to be committed) of the Access to Information Act.

244. PERSONAL LICENCE – NEW APPLICATION (ITEM E1)

(See Exempt Minute Number 245 for details)

The meeting finished at 9:50 pm.

CHAIR