

London Borough of Islington

Licensing Sub-Committee 'D' – 29 April 2014

Minutes of the meeting of Licensing Sub-Committee 'D' held at the Town Hall, Upper Street, N1 2UD on 29 April 2014 at 6.30 pm.

Present: Councillors: Raphael Andrews, Troy Gallagher and David Wilson.

COUNCILLOR TROY GALLAGHER IN THE CHAIR

222 INTRODUCTIONS (Item A1)

Councillor Troy Gallagher welcomed everyone to the meeting and officers and members introduced themselves. The procedure for the conduct of the meeting was outlined and those present were informed that the procedure was detailed on page 5 of the agenda.

223 APOLOGIES FOR ABSENCE (Item A2)

None.

224 DECLARATION OF SUBSTITUTE MEMBERS (Item A3)

None.

225 DECLARATIONS OF INTEREST (Item A4)

None.

226 ORDER OF BUSINESS (Item A5)

The order of business would be as the agenda.

227 MINUTES (Item A6)

That the minutes of the meetings held on 4 March 2014 be confirmed as an accurate record of proceedings and the Chair be authorised to sign them.

228 BLACKSTOCK PUBLIC HOUSE, 284 SEVEN SISTERS ROAD, LONDON, N4 2HY (Item B1)

The licensing officer reported that he had been advised that the applicant had accepted the conditions suggested by the police and noise team on pages 54-56 of the agenda.

The noise liaison officer provided a report of a noise incident on 18 March 2014. A warning letter had been sent out immediately after the incident. The applicant had submitted a report as an acoustic report but this had been rejected as it was not considered to be a valid acoustic report. The noise liaison officer had been informed that the premises now had a music limiter and a date would be arranged to set the levels. However, there were concerns that with the premises in its present state, limits could not be set at a viable level.

The police advised that as the conditions they put forward had been agreed, the representation was now solely based on the premises being in a cumulative impact zone.

The licensee was not in attendance and was represented by solicitor, Mr Uzor. He stated that he did not know why the acoustic report was not valid but was willing to submit another report if required. He explained the application for late night music was primarily sought for karaoke events which would mainly occur at weekends.

In response to questions from members, Mr Uzor stated that the applicant did not want to cause nuisance to the neighbours, that in future the applicant would comply with legislation and conditions and that compliant CCTV cameras were being put in place and the police were welcome to inspect these. Mr Uzor stated that the licensee would accept the conditions put forward by the noise team and trading standards and that sound insulation would be installed and the applicant would work with the noise team. In case of any noise problems, a contact number would be advertised in the premises and relevant notices would be displayed.

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Mr Uzor stated that karaoke was not currently taking place at the premises. The noise incident in March was a result of a special event and the problems were being addressed. When asked about the behaviour of the people expected to attend karaoke nights Mr Uzor accepted karaoke noise was likely to travel further than other types of noise.

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

RESOLVED:

- 1) That the variation of the premises licence in respect of Blackstock Public House, 284 Seven Sisters Road, N4 2HY 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 009 in relation to standards of management and Licensing Policy 018 in relation to noise and the amenity of residents. The Sub-Committee took into consideration Licensing Policy 002. The premises fall under the Holloway and Finsbury Park 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 conditions suggested by the police and the pollution team were agreed by the applicant.

The Sub-Committee heard evidence from the noise liaison officer that over the past six months the noise patrol team had been called to the premises several times due to the noise from karaoke performances and a noise abatement notice was served on 17 December 2013. The most recent incident was on 18 March 2014 when a warning letter was sent to the licensee. The Sub-Committee heard evidence that the acoustic report submitted by the licensee could not be accepted as a valid report as it was nothing more than a jumble of paperwork. The Sub-Committee heard evidence that the noise liaison officer had been informed that the premises now had a music limiter but that there were concerns that with the premises in its present state, the limits could not be set at a viable level.

The Sub-Committee heard from the licensee's representative that a new acoustic report could be submitted. It was confirmed that the licence variation was needed primarily for karaoke and that this activity would take place primarily at weekends. The Sub-Committee heard evidence that CCTV was being installed at the premises, that this work was due to be completed this week and that sound-proofing work was also being done. The licensee's representative stated that if the work was not up to standard it would be corrected. He also stated that a contact number would be placed in the pub but that these measures were being done stage by stage and that the sound-proofing of the walls needed to be done first. The incident on 18 March 2014 was not disputed; the licensee's representative stated that it was a special event and that they were trying to cure the noise problem.

The Sub-Committee was concerned that the licensee had failed to submit a proper acoustic report and that sound-proofing and CCTV works were only now being done when complaints had been made as far back as November 2013. The Sub-Committee was concerned that the licensee had not yet put up the relevant signage.

The Sub-Committee noted that when asked about the behaviour of the people expected to attend

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karaoke nights the licensee's representative accepted that this kind of noise was likely to travel further, yet the application did not give the Sub-Committee confidence that the implications of this for neighbours had been properly considered.

The Sub-Committee was concerned that the licensee had made no real attempt to show that the premises would not add to the existing cumulative impact in the area.

The Sub-Committee noted the recent history of noise nuisance from the premises and was concerned that the management of the premises was not to a high enough standard. The Sub-Committee was concerned that the music levels in the premises could not be set at viable limits. The Sub-Committee was of the view that taking all of this into consideration, the premises would add to the existing cumulative impact were the variation to be granted.

The Sub-Committee was not satisfied that the addition of further conditions would sufficiently mitigate the noise nuisance and did not believe that the grant of the variation would promote the licensing objectives.

229 SUNNY BROTHERS FOOD AND WINE, 599 HOLLOWAY ROAD, N19 4DJ (Item B2)

The licensing officer reported that due to an administrative error, trading standards had missed the deadline for submitting a formal representation. The applicant was, however, willing to accept the conditions suggested by trading standards.

The noise officer referred to the suggested conditions on page 80 of the agenda and explained that the cumulative impact zone was saturated with premises.

The police stated that the police representation was now solely based on the cumulative impact as the suggested conditions had been agreed.

The applicant, Mr Bedi, was in attendance with his agent, Mr Bahal. Mr Bahal stated that a list of conditions the applicant would accept had been sent to the noise team and licensing officer. Also, the noise officer had visited the premises and suggested a condenser be installed and this had been done.

Mr Bahal reported that the premises had been licensed up until September 2013 when the licence was revoked. Mr Bedi had been unaware of this history until Mr Bahal advised him. Mr Bahal also advised him that the premises was in a cumulative impact zone and provided him with information on the council's policies and the guidance of the Secretary of State.

Mr Bahal stated that Mr Bedi had worked in off-licences for five years, had a degree in business studies and proposed to be a hands-on manager. The premises would be family run. Mr Bahal explained that within 500m of the premises there were numerous off-licences and drinking establishments, however within 200m of the premises, there was just Sainsburys and one or two off-licences. Mr Bedi was willing not to sell alcohol over 5.5% ABV and would not sell cheap ciders and beers which could appeal to street drinkers. Mr Bedi was used to selling good quality wines and spirits and would specialise in these. He would not have Buy One Get One Free promotions or advertise alcohol on the shop front other than to state that it was sold there. Signs would be displayed in the premises to advise potential sellers that alcohol would not be bought from them. There would be a paper trail to show that all alcohol would be purchased from a cash and carry.

In response to questions from members, Mr Bahal stated that Mr Bedi was not yet a member of Pub Watch as the premises was not licensed. However he would join Pub Watch and any other relevant organisations prior to selling alcohol and would seek advice on this from trading standards. Currently Mr Bedi had no staff however if he took on staff in the future, they would have initial training and would then attend regular training and Mr Bedi would consider sending them on personal licence courses. The CCTV in the shop had been inherited and the police were welcome to visit to check it was adequate. Any future members of staff would be trained to produce CCTV recordings. Mr Bedi confirmed that he would ask to see identification of anyone attempting to purchase alcohol who looked under 25 and would record refusals in a refusals book. In response

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to a question as to whether Mr Bedi had enquired to the police about crime in the area, Mr Bahal replied that he did not know the crime figures but had read the relevant policies and the crime level was similar to that in other London boroughs.

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

RESOLVED:

- 1) That the application for a new premises licence in respect of Sunny Brothers Ltd, 599 Holloway Rd, N19 4DJ 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 Holloway and Finsbury Park 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 suggested conditions put forward by the police had been accepted but that the police objection remained on the basis of the cumulative impact zone. The Sub-Committee noted that whilst trading standards had not submitted a formal representation, in discussions with the applicant conditions had been suggested and agreed.

The Sub-Committee heard evidence that the applicant had worked for five years in off licences, had a degree in business studies and proposed to be a hands-on manager. The premises would be family run. The Sub-Committee noted that the applicant was not yet a member of any local organisations such as Pub Watch but that he was happy to become a member in the event of a licence being granted. The Sub-Committee heard evidence that the applicant intended to concentrate on the sale of high class wines and have less emphasis on strong cider or lager which could attract street drinkers, and took this information into consideration along with all other relevant material when reaching the decision.

The Sub-Committee noted that there were 42 licenses premises within a 500m radius of the premises, 17 of which were off-licences. The Sub-Committee noted that even with agreed conditions the police were still concerned about the cumulative impact of further licensed premises in this area, as was the noise/pollution team.

The Sub-Committee concluded that a further off-licence in the area would increase footfall and would add to the availability of alcohol in an area where there was 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 002, 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. The applicant did not show any exceptional circumstances as to why the Sub-Committee should grant the application.

230 LE CANTINE, 21 WHITE CONDUIT STREET, N1 9HA

The licensing officer stated that the applicant had recently employed a licensing consultant and there had been discussions between the applicant and the noise team about the suggested

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conditions.

The noise officer stated that the area was saturated with premises and referred the Sub-Committee to the suggested conditions on pages 116 and 117 of the agenda. Local residents had made representations.

The police stated that the police representation was in relation to the premises being in a cumulative impact zone. There were 50 premises within 250m of the premises, the police were dealing with a number of venues within the area and were looking to reduce the hours of operation. The applicant's legal representative, Mr Aylott, who attended along with the applicant, Mr Uzunsakal, raised concern that the police had not provided evidence of the crime statistics and there was therefore insufficient evidence of crime and disorder.

Mr Aylott advised that Mr Uzunsakal had worked in a restaurant in Croydon and in a family run pub. He had grown up in the area and knew the area well. He was aware that there were two pubs in the area which closed at 12-12.30am and two off licences which closed at 11pm. Sainsbury's was also close by.

Mr Aylott stated that even though the premises were in a cumulative impact zone, the licensing objectives would not be undermined. Mr Aylott guided the Sub-Committee to particular paragraphs in the guidance, which the Sub-Committee noted. The premises were a small restaurant/bistro with about 30 covers. It was aimed at clients who already visited the café and were in the area. The applicant planned to create a venue with a French/Mediterranean feel. The licence would enable customers to have wine with their meals. If the licence was not granted, Mr Uzunsakal would continue to operate until 11pm as a café/restaurant. Last orders for food and drink would be at approximately 10.30pm. Noise would be minimal, would only be from customers sitting outside and this would be concluded by 11pm at the latest.

Mr Aylott reported that Chapel Market was once vibrant but was now in decline and the applicant wanted to improve the economy and the area. Mr Aylott confirmed that the applicant was willing to accept the suggested conditions if some of the wording was amended. The chair stated that if the licence was granted, the wording could be agreed with officers.

Mr Aylott stated that he had used the police website to create a circle around the premises with a diameter of 60m. This showed that there had been 17 crimes within the area in the last two years. The police raised concern that the figure of 60m had been used as this meant 50% of the area was within Sainsbury's car park. The police stated that there were 291 reported crimes in Chapel Market in the one year to 28 April 2014 and this was about 30m from the premises. The police stated they had been unable to provide statistics in relation to the venue as it was not licensed but if the applicant had asked for general statistics, these would have been provided.

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

RESOLVED:

- 1) That the application for a new premises licence in respect of Le Cantine, 21 White Conduit Street, N1 9HA 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 applicant's representative guided the Sub-Committee to particular paragraphs in the guidance, which the Sub-Committee noted.

The Sub-Committee took into consideration Licensing Policy 002. The premises fall under the

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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 promotion of the licensing objectives.

The Sub-Committee noted that the applicant had entered into a discussion with the pollution team in relation to proposed conditions and that the applicant was in general agreement concerning the conditions subject to slight amendments to the wording.

The Sub-Committee heard evidence that residents in the area had made complaints concerning noise from the premises and that these representations were in the agenda papers. The Sub-Committee noted that the police were concerned about the application due to the cumulative impact area in which the premises was located.

The Sub-Committee heard evidence that the applicant and his family had been working in the licence trade for some time; the applicant had worked in a restaurant in Croydon and in a family run pub. The applicant was said to know the area very well as he grew up here. The Sub-Committee heard evidence that the applicant wanted to run the premises as a café with a French/Mediterranean feel and wanted to add to the community and that it was his intention to trade until 11pm as a café even if the licence was not granted.

The Sub-Committee noted that the applicant was likely to finish serving at 10.30pm and that tables and chairs would only be outside until 11pm. Noise from inside the premises was said to be minimal and any noise outside would not go beyond 11pm. The Sub-Committee noted that the premises were very small with only around 30 covers at most.

The Sub-Committee was concerned that the granting of a licence would increase footfall because more people would be attracted to the premises than if it was just serving food. The Sub-Committee was concerned that the management was not controlling smokers outside the premises as noted in the representation at page 112 of the agenda papers and that this was adding to the cumulative impact in the area.

The Sub-Committee was concerned that although these premises were small and were only seeking to trade until 11pm, due to the number of premises already in the area and considering the levels of crime in the area of Chapel Market, the grant of a new premises licence would inevitably add to the cumulative impact and undermine the licensing objectives.

The Sub-Committee was not satisfied that the grant of a licence, even with conditions, would promote the licensing objectives. The Sub-Committee therefore concluded that the application should be refused.

231 SUPER PERSIA, 621 HOLLOWAY ROAD, N19 5SS

The licensing officer informed the Sub-Committee that the applicant had requested an adjournment of the hearing to seek legal representation. The Sub-Committee refused the request.

The trading standards officer stated that he considered that the licence should be revoked. The papers described the incidents which had led to the review being called. Concern was raised about the deliberate actions of Mr Tousirad who had chosen to sell illicit tobacco and wine and had been uncooperative. Concern was raised about the reliability of the licensee statement which stated that Mr Tourisad was not involved with the business but on a visit last week he was at the premises and said he was a partner of Ms Serposhan, the licence holder. Mr Tousirad was responsible for the business rates when the officer last checked. Concern was expressed regarding the identity of the person named on a false invoice.

Ms Serposhan, the licence holder was accompanied by her mother and Mr Hajiyev, a potential

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business partner. Mr Serposhan explained that she had bought the premises from Mr Tousirad on 27 December 2013. She had made an offer months before this but it had not been accepted. As Ms Serposhan was new to the business, Mr Tousirad had been working with her. She would be completing her university dissertation next week and then she would have more time and Mr Tousirad would not be involved any more. Ms Serposhan wanted the business to be a family business.

Mr Hajiyev owned a supermarket and held a personal licence and would decide whether to be a partner following the hearing. Ms Serposhan explained that if the licence was revoked she would lose the opportunity to work with Mr Hajiyev and her family would be punished for the previous owner's mistakes and the business would be unable to survive. Ms Serposhan explained that business had been slow lately and selling alcohol would help. The shop would be decorated and the signage would be changed so that customers would know there was a new owner. She would endeavour to comply with the licensing objectives. Ms Serposhan raised concern about the representations from neighbours and she stated that no one with those names lived at those addresses.

In response to members' questions, Ms Serposhan stated that prior to receiving papers from the licensing officer on 26 February, she was unaware of the issues with the previous owner. When she bought the business from Mr Tousirad, she used him to train her staff. However Mr Tousirad had not been involved since just after she found out about the issues. She would not have bought the business if she had known about them and when she consulted her solicitor she was advised that as she had signed the contract, there was nothing she could do. She tried to sell the business back to the previous owner but he would not buy it. To prevent future problems, Ms Serposhan advised that she had enrolled on a course to get a personal licence and would then be able to train her staff herself. She had prepared signage and would only buy alcohol from a cash and carry and would keep the invoices. Although on questioning she was unclear on how she would identify fake goods and what the licensing objectives were, she stated that following her personal licence holders' course she would know. Ms Serposhan did not know the identity of the person named on the fake invoice.

In summary, the trading standards officer stated that the contract signed by Ms Serposhan had not been seen, the Sub-Committee had been told by Ms Serposhan that Mr Tousirad was no longer involved but when the trading standards officer visited the premises last week with the police and licensing officer, Mr Tousirad was there and therefore there was concern that Mr Tousirad could be running the business.

In summary, Ms Serposhan explained that she had tried to negotiate with Mr Tousirad and had told him she did not want him involved. She had difficulties in that she was a student and English was not her first language. When trading standards, licensing and the police had visited, Mr Hajiyev had also been present. He was meeting Mr Tousirad for information relating to the shop. Ms Serposhan had been advised by her solicitor that if she lost her business, she should sue the previous owner. She would increase the number of CCTV cameras, change the internal structure and would sell international foodstuffs, not Persian.

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

RESOLVED:

- 1) That the premises licence in respect of Super Persia, 621 Holloway Road, N19 5SS be revoked.

REASONS FOR DECISION

The Sub-Committee listened to all the evidence and submissions and read all the material. The

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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 review was brought, following the discovery of smuggled alcohol found at the premises by the responsible authorities. The Home Office guidance at paragraphs 11.23 to 11.28 identifies criminal activity which the Secretary of State considers should be treated particularly seriously. This includes the sale of smuggled alcohol. The Sub-Committee considered that the crime prevention objective was undermined through the premises being used for the sale of smuggled alcohol.

The Sub-Committee noted that a large quantity of alcohol, namely 20.3 litres of various spirits and 68 bottles of wine was seized from the premises by HMRC together with 700 cigarettes, none of which were duty paid. The Sub-Committee noted that when the then licensee, Mr Tousirad, was asked to produce an invoice for the wine, false documentation was provided. The Sub-Committee noted that on 6 December 2013, an 18 year old volunteer purchased counterfeit Golden Virginia tobacco from the premises and was not asked for proof of age.

The Sub-Committee heard evidence that the current licensee, Ms Serposhan, bought the business from Mr Tousirad on 27 December 2013 and that she had been responsible for the shop ever since. However the Sub-Committee noted that Ms Serposhan admitted that she had no experience of running licensed premises and that she had therefore asked Mr Tousirad to help train her staff. Ms Serposhan stated that Mr Tousirad had not had anything to do with the business since some time at the beginning of March but the Sub-Committee noted the evidence from trading standards that when the premises were visited on 23 April 2014 by trading standards and the police Mr Tousirad was in the premises and appeared to be in charge of the shop.

The Sub-Committee heard evidence that the current licensee wished to run the premises as a family business with her parents. Mr Hajiyev was also in attendance at the Sub-Committee meeting and confirmed that if the licence continued he would become a business partner. Ms Serposhan stated that Mr Hajiyev had a supermarket in Muswell Hill and had a personal licence. Mr Serposhan stated that the previous mistakes were nothing to do with her and that the running of the premises would now be completely different. She confirmed that she was enrolled on a course to obtain a personal licence. However, the Sub-Committee was concerned that Ms Serposhan lacked any real experience in the licence trade, that she did not know the licensing objectives and that she had continued to involve Mr Tousirad in the business despite his track record.

The Sub-Committee was not satisfied that Mr Tousirad was no longer involved in the business. The Sub-Committee was concerned that Ms Serposhan sought his advice and asked him to train her staff when he had clearly been unable to properly manage the business. The Sub-Committee was concerned about inconsistencies in the licensee's evidence when compared with the evidence submitted by trading standards.

The Sub-Committee was concerned that Ms Serposhan did not have the relevant skill, knowledge or experience to run licensed premises and that the management of the premises would not meet the standards required in order to promote the licensing objectives. The Sub-Committee was not satisfied that the licensing objectives could be promoted by the addition of conditions or a suspension and therefore concluded that the licensing objectives would only be promoted by revocation of the licence.

The Sub-Committee took into consideration Licensing Policy 026 in relation to illicit goods, Licensing Policy 030 in relation to reviews and Licensing Policy 009 in relation to standards of management.

The meeting ended at 9.30 pm

CHAIR