

Licensing Sub Committee C - 22 September 2014

Minutes of the meeting of the Licensing Sub Committee C held at Committee Room 4, Town Hall, Upper Street, N1 2UD on 22 September 2014 at 6.30 pm.

Present: **Councillors:** Gary Poole (Chair), Angela Picknell and Nick Wayne

Councillor Gary Poole in the Chair

18 INTRODUCTIONS AND PROCEDURE (Item 1)

Councillor Poole welcomed everyone to the meeting, asked members and officers to introduce themselves and outlined the procedures to be followed at the meeting.

19 APOLOGIES FOR ABSENCE (Item 2)

Received from Councillors Gill and Ngongo.

20 DECLARATIONS OF SUBSTITUTE MEMBERS (Item 3)

Councillor Picknell substituted for Councillor Gill and Councillor Wayne substituted for Councillor Ngongo.

21 DECLARATIONS OF INTEREST (Item 4)

None.

22 ORDER OF BUSINESS (Item 5)

The Chair stated that the applications would be discussed in the order they appeared on the agenda.

23 BEST MANGAL BAR AND RESTAURANT-CLUB REINA, 85 CHARTERHOUSE STREET, EC1 - VARIATION APPLICATION (Item 1)

The Licensing Officer reported that an application for a variation of DPS had been received to permit Mr Stefano Del Core to replace Mr Sinan Kurt as DPS. He also reported that the applicant was not now seeking off sales of alcohol. There were additional conditions which the Licensing Authority wished to see applied to the licence and which had been discussed with and agreed by the applicants, should the Sub-Committee be minded to approve the application. These had arisen largely as a result of the applicant's responses to representations made by the Licensing Authority and were detailed on pages 34 and 35 of the agenda.

The Licensing Officer also reported that a certificate of lawfulness under Section 191-2 of the Town and Country Planning Act 1990 (as amended) was pending, though he had been copied into correspondence between the applicant and the Council's Building Control Services, which satisfied him that this particular matter was being progressed.

In response to questions, the Police Officer reported that he had been impressed with the way the applicants had engaged with the Police and confirmed that the majority of the outstanding documentation referred to on page 40 of the agenda, comprising the representation from the Islington Police Licensing Team, had now been received. The Police Officer stated that, in view of the history of crime and disorder reported at the

Licensing Sub Committee C - 22 September 2014

premises in the past, he was working with the applicants to ensure that this did not happen in the future.

The Noise Team representative stated that a copy of the calibration certificate supplied by an acoustician and the Noise Management Plan for the premises were awaited. The applicant stated that these documents had been posted to the Council's Noise Team on the preceding Friday.

The applicants responded to Members' questions about the management of access to the first and second floors of the building, capacity limits on each floor of the building and how that was to be managed, controlling the flow of persons outside the venue and access to and capacity of the designated smoking area .

Members of the Sub-Committee left the room at 6.58pm to deliberate before returning at 7.10pm to announce their decision.

RESOLVED:

(a) That the application for a variation of a premises licence in respect of Best Mangal Bar & Restaurant/Club Reina, 85 Charterhouse Street EC1M 6HJ be granted to:

- i) remove conditions 16,18,25, 28 and 29 of the current premises licence in so far as they apply to the ground floor of the premises
- ii) amend the floor plans attached to the current premises licence.

(b) That the conditions detailed in appendix 3 of the report and the following conditions be attached to the licence:

That the ground floor be used solely as a restaurant

That no more than 10 smokers at a time be permitted in the designated smoking area

That capacity checks be recorded in writing hourly

That a minimum of two personal licence holders be on duty at all times

The premises may not be used until signed off by a Building Control Officer

The conditions suggested by the Police shall be included in the schedule of conditions

REASONS FOR DECISION

The Sub-Committee listened to all of 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 application was for a variation of an existing licence.

The present owners purchased the premises in November 2013. The premises consisted of 3 floors and the application was to remove 5 conditions from the current licence as they apply to the ground floor of the premises and to amend the floor plans.

The Sub-Committee considered the representations made by the Licensing Authority, the Police and the Noise Team, as well as representations made by the applicant.

At the hearing, the Licensing Authority requested additional conditions to those originally referred to in the papers.

The additional conditions were agreed to by the licensee.

The Sub-Committee considered whether the proposed variation with the proposed conditions would impact on the promotion of the licensing objectives and concluded that they should not have an adverse effect.

The variation was accordingly agreed.

24 **BOROUGH WINES, 63 EXMOUTH MARKET, EC1 - NEW APPLICATION (Item 2)**
The Licensing Officer reported that the applicant had agreed to the suggested conditions on page 79. However, he noted that condition 14, which related to the closure of doors and windows at the premises at all times when recorded music was being played and during trading hours, was not necessary since the premises would be operating a buzzer entry system. A copy of a further letter (dated "12 September 2013" (sic)) from one of the persons who had made a representation was passed around to Members, outlining concerns on opening hours, the area covered by the licence and security. The Police representative stated that the Police had made no representations against this application. He commented that the inclusion of a buzzer entry system to the premises, which formed part of one of the objections to the application, had probably been suggested by the Police, as a mitigating factor to noise from the operation of the shutters and to keep noise to the residents at a minimum.

The applicant stated that there was no buzzer to gain entry to the premises, rather an entry system, so there would be no additional noise caused to local residents. In addition, the shutter to the entrance was inside and electrical, so noise would be reduced.

In response to questions from the Sub-Committee, the applicant said that she had not liaised directly with local residents about the application, although she had spoken to the managing agent for the building.

The applicant stated that, although the application was to permit the sale of alcohol off the premises from 09:00 hours to 23:00 hours from Monday to Sunday, the expected operating schedule would be 10:00 hours to 22:00 hours, and the requested hours were mainly to give some leeway on wine tasting events. In response to a question, the applicant confirmed that there were no restrictions on planning.

Members of the Sub-Committee left the room at 7.25pm to deliberate before returning at 7.32pm to announce their decision.

RESOLVED:

That the application for a new premises licence in respect of the premises Borough Wines, 63 Exmouth Market, EC1R 4QL, be granted, to permit the premises to sell alcohol for consumption off the premises from 09:00 to 23:00 on Monday to Sunday, subject to the following conditions:

The conditions outlined in appendix 3 and detailed on page 79 of the agenda, with the following amendments/additions: the addition of conditions 2-9 from the Noise Team on page 72.

REASONS FOR DECISION

The Sub-Committee listened to all the evidence and submissions and read all the material. The Sub-Committee reached their decision having given consideration to the Licensing Act 2003, as amended, and its regulations, the national guidance and the Council's Licensing Policy.

This was an application for a new premises licence for the sale of alcohol for consumption off the premises from 09:00 hours to 23.00 hours, Monday to Sunday.

The business intended to sell fine wines, craft beers and boutique spirits to a specific clientele. Wine tastings were also planned for the premises from time to time.

A representation was made by the Noise Team and two written representations were received from residents, who did not attend the hearing. The Noise Team submitted recommended conditions, which were agreed to by the applicant.

The Sub-Committee considered the fact that the premises were in a cumulative impact area and that there was accordingly a rebuttable presumption that applications for new premises licences that were likely to add to the cumulative impact will normally be refused, unless the 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 was satisfied that the Operational Schedule provided by the applicant demonstrated that the planned business would not add to the cumulative impact and adversely impact on the licensing objectives.

The Sub-Committee accordingly decided to grant the application for a new premises licence in respect of the premises Borough Wines, 63 Exmouth Market, EC1R 4QL to permit the premises to sell alcohol for consumption off the premises from 09:00 to 23:00 on Monday to Sunday.

25 **MEDITERRANEAN RESTAURANT, 131-133 CENTRAL STREET, EC1 - NEW APPLICATION (Item 3)**

The Licensing Officer reported that, due to an error, twenty four letters from residents of Barnabas House, King's Square, EC1, concurring with the views expressed in the letter of objection at pages 99 and 100 of the agenda, had been omitted from the papers circulated with the agenda. The Chair of the Sub-Committee read out the terms of the standard statement signed by the twenty four objectors and copies were passed to the applicant and his representative and to members of the Sub-Committee.

The Licensing Officer highlighted the fact that there was a planning restriction on the operating hours of the premises, permitting use only between the hours of 08:00 hours to 23:00 hours on weekdays and Saturdays and requiring closure on Sundays and Bank Holidays. The application before the Sub-Committee sought permission to supply alcohol on the premises from 11:00 to 23:00 hours and late night refreshment from 23:00 to midnight, from Monday to Sunday.

The Police representative pointed out that the premises was situated in a cumulative impact zone and that there had been two and a half thousand crimes in the area in 2013/14, including assaults and anti-social behaviour. He had asked the applicant's agent to contact him at the end of July to discuss how they proposed to mitigate the situation and to ensure that their premises did not add to the existing problems in the area, but had not been

Licensing Sub Committee C - 22 September 2014

contacted by the end of August. He was concerned that, as the application stood, the premises could operate as another bar in the area. If granted, he asked the Sub-Committee to consider the addition of a condition to ensure that the premises were operated solely as a restaurant. In response to a question from a member of the Sub-Committee, the Police Officer said that anti-social behaviour was the main problem in the area, rather than crime, and there had been many Police call-outs to the area. He also confirmed, in response to another question, that the only operating schedule he had seen from the applicant was that detailed on page 89 of the agenda and that no further documents had been supplied in that regard.

The Noise Officer stated that she had spoken with the applicant about a further condition which should be applied to the licence, if the Sub-Committee were minded to agree the application. This proposed condition had been agreed by the applicant: "That there be no bottling out, collections or deliveries between the hours of 22:00 hours and 07:00 hours".

A representative of residents at Barnabas House in King's Square stated that the premises was situated in a residential area and she could not understand why they proposed to stay open until midnight, when other businesses in the vicinity closed at 11pm. She and other residents remained concerned about anti-social behaviour in the area. She stated that residents had enjoyed good relationships with other businesses in the area, that they were not opposed to the proposed new restaurant and were keen to see no empty units in King's Square.

The applicant's agent apologised if there had been miscommunication with the Police, but she believed that a message had been left with them. She asked that the request for late night refreshments from 23:00 to midnight from Monday to Sunday, detailed on page 92 of the agenda, be withdrawn. She also asked that the supply of alcohol be amended to 11:00 hours to 22:30 hours, as her client wished to close the premises at 23:00 hours. She stated that it was not her client's intention to run a bar at this premises. Her client owned a restaurant in King's Cross and this restaurant would be run along similar lines, with six to eight staff and there would be no tables or chairs outside, or vertical drinking. She passed around copies of the menu which were available at the existing restaurant in King's Cross and would be similar for the proposed restaurant in King's Square. There would be extensive CCTV at the proposed premises, comprising ten cameras, and she stated that she accepted the conditions proposed by the Licensing Officer and the Police.

The applicant's agent stated that she had attempted to speak to the Police Officer this evening. She apologised again for any miscommunication and pointed out that August was her holiday period. She hoped to be able to invite the Police to the restaurant in King's Cross and the new premises, when established. She understood that it was important to work with the Police.

The Chair asked the agent whether there had been any engagement with the local community, particularly in view of the concerns and anxieties which had been expressed by them this evening. The applicant's agent stated that her client was new to the area and had received only one letter. She stated that her client would work with and engage with local residents, although there had been no contact to date.

The Chair noted that, although the premises was situated in a cumulative impact zone, he had no assurance from the operating schedule that the applicant would take seriously his responsibilities to reduce alcohol harm and prevent crime in the area.

The applicant's agent said that this would be achieved by the conditions applied to the licence and the extra conditions which had been accepted by the applicant.

Licensing Sub Committee C - 22 September 2014

In response to a question to the resident objectors who were asked whether they felt reassured by the reduction in the proposed hours of operation of the premises and the menu, one of the residents said that she remained concerned. Another objector stated that the applicant was new to the area, but not to business and stressed again the high level of crime in the area. There had been no attempt by the applicant to communicate with local residents. The residents were also concerned that there was no identified smoking area and, if patrons of the restaurant chose to smoke in Lever Street, this was directly under bedroom windows.

In response, the applicant's agent said that, once the premises was open and the licence had been granted, details of matters such as the main point of contact at the premises would be available. There was no intention to run the premises as a bar and alcohol would be ancillary to the provision of meals. It was her wish and that of her client to work with the Police and local residents. In response to a further question about how the applicant would engage with the local community if the licence was granted, the agent stated that the local community would be invited to a meeting. The applicant had spent substantial sums of money on the lease and works to the premises. She added that this was a seated restaurant and therefore no security would be required.

A member of the Sub-Committee asked about the restriction on hours of use, required by Planning. The applicant's agent said in response that they would have to withdraw Sundays from their application.

Members of the Sub-Committee left the room at 8.15pm to deliberate before returning at 8.33pm to announce their decision.

RESOLVED:

That the application for a new premises licence in respect of Mediterranean Restaurant, 131-133 Central Street, EC1V 8AP 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 original application was for supply of alcohol for consumption on the premises from 11am to 23:00 Monday to Sunday and for Late Night Refreshment both on the premises from 23:00 to midnight Monday to Sunday.

During the course of the presentation of the application, the applicant's representative stated that the application would be varied and that there would no longer be an application for Late Night Refreshment and that the sale of alcohol was only for 11am until 10.30pm and permission was not sought to sell alcohol on Sundays.

The Sub-Committee heard submissions from the Police, 3 residents and the applicant's representative.

The objection from the Police was on the basis that the premises were in the Bunhill Cumulative Impact Area and there had been 2541 reported crimes in the area in the year April 2013 to March 2014, of which 200 reported crimes were assault.

Licensing Sub Committee C - 22 September 2014

The police further referred to the weak application that had been presented. The applicant had refused to engage with the police prior to the application. No attempt had been made by the applicant prior to the hearing to resolve the issues and lack of detail in relation to the application.

More information had been sought by the Police in July 2014 and they had not received any response thereto. The Licensee's representative apologised for this at the hearing.

The Sub-Committee took into consideration the submissions made by all representatives and in particular the submissions made by the Police and the Licensee's representative.

The premises are situated in the Bunhill Cumulative Impact Area. Licensing Policy Number 2 provides that the cumulative impact area policy 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 the 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 operating schedule set out in the application and the submissions made at the hearing by the applicant's representative failed to adequately deal with this issue and failed to demonstrate that there would be no adverse cumulative impact on the licensing objectives. There was no mention of any proposed dispersal arrangements and smoking areas for customers appeared not to have been considered.

Insufficient management and operational details were provided by the applicant and his representative.

The Police submitted that the granting of the application would undermine the Licensing objectives, in particular the prevention of crime and disorder and public nuisance.

The Sub-Committee took into consideration Paragraph 9.12 of the Revised Home Office Guidance issued under section 182 of the Licensing Act 2003 (June 2014), which states:

“ in their role as a representative authority, the police are an essential source of advice and information on the impact of licensable activities, particularly on the crime and disorder objective. The Police should be the licensing authority's main source of advice on matters relating to the promotion of crime and disorder objective..... The licensing authority should accept all reasonable and proportionate representations made by the police.”

The application was accordingly refused on the basis that the applicant did not demonstrate why the operation of the business would not add to the cumulative impact or otherwise impact adversely on the promotion of the licensing objectives.

The meeting ended at 8.34 pm.

CHAIR