

Licensing Sub Committee B - 27 February 2024

Minutes of the meeting of the Licensing Sub Committee B held at Islington Town Hall, Upper Street, N1 2UD on 27 February 2024 at 6.30 pm.

Present: **Councillors:** Wayne (Vice-Chair) and Cinko-Oner and MackMurdie

Councillor Nick Wayne in the Chair

97 INTRODUCTIONS AND PROCEDURE (Item A1)

The Chair introduced all parties and outlined the procedure.

98 APOLOGIES FOR ABSENCE (Item A2)

Apologies were received from Councillor Ibrahim

99 DECLARATIONS OF SUBSTITUTE MEMBERS (Item A3)

Councillor Mackmurdie was a Substitute Member for Councillor Ibrahim

100 DECLARATIONS OF INTEREST (Item A4)

No Declarations of interest were made.

101 ORDER OF BUSINESS (Item A5)

The order of Business was as per the Agenda.

102 MINUTES OF PREVIOUS MEETING (Item A6)

RESOLVED:

That the minutes of the previous meeting be agreed as a correct record and the Chair be authorised to sign them

103 DRIP, 27 CLERKENWELL ROAD, LONDON, EC1M 5RN - NEW PREMISE LICENCE (Item B1)

The Applicant's legal representative noted that the Sub Committee included a Ward Councillor and suggested that this could constitute a conflict of interest. The legal representative made an application to adjourn the hearing stating that, whilst he was not suggesting that the applicant would not get a fair hearing, there should be no perception of bias. As an alternative, it was suggested that the hearing proceed with only two Councillors. Representations were made against the application for an adjournment by the legal representative of one of the residents, who stated that there was no legal bar to a Ward Councillor hearing an application relating to premises in their ward. It was suggested that the Ward Councillor's experience and knowledge of the area could be helpful.

Licensing Sub Committee B - 27 February 2024

The legal advisor confirmed that the Sub-Committee would not be quorate if only two Councillors heard the application. The Sub Committee retired to deliberate. Upon returning to the meeting, it was confirmed by the legal advisor that the Council had no policy preventing a Ward Councillor hearing an application. The Ward Councillor had confirmed that he had not received any representations from any parties involved in the application. The Chair confirmed that it was the Sub-Committee's view that there was no conflict of interest, that there would be no perception of bias and that the application for an adjournment would be refused and the hearing would proceed.

The Licensing officer updated the Sub-Committee explaining that the Police and the Noise team had agreed conditions and withdrawn their representations. Additional information and documents had been provided and all parties had seen this. The Applicant's rep had provided information on a property at 84 Clerkenwell road, one resident lives in this block but this was not the exact address, originally the building had been developed as number 84 but now was number 14 as well.

The licensing authority maintained a representation on the grounds of licensing policy and hours, being in a Cumulative Impact Area (CIA). There was already an abundance of premises and outlets in the Clerkenwell CIA for alcohol and late-night refreshments. Concerns arose due to the number of reports sent to the Anti-Social Behaviour (ASB) team; the opening night was overrun with people as a private event was leaked onto social media. 'Chaos' outside resulted in many complaints and causes of concern, with 45 reports to the ASB team regarding this premises. As many reports were made online, this made it challenging to address them promptly while the venue was open. Although noise complaints had decreased, there were still many, especially on weekends, with music being heard in adjacent flats. No acoustic testing had been conducted inside residents' houses. The stance remained unchanged, but they understood that the Noise team and Police had agreed conditions. The applicant was asked to surrender the current license should the new application be granted. The Licensing Authority made it clear that there was a need for effective management as it was a residential area, and a robust dispersal policy was needed.

The fire brigade highlighted concerns regarding the venue's safety measures, stating that there was only one way in and out, which usually meant a maximum of 60 people. However, it was noted that a staircase did lead into the foyer, allowing for 50 patrons on the ground floor and 50 on the first floor plus staff if well-managed and signed. It was suggested that the double doors on the street could be opened to facilitate evacuation if problems did arise. Concerns persisted over the ability to evacuate such a number of people safely, necessitating the need for additional exits if the venue wanted a larger capacity. Inside fireworks and sparklers were flagged as potential hazards if not properly managed, with the existing risk assessments being deemed inadequate. The presence of a VIP lounge on the second floor was noted, this would not be allowed to be used, in case of a fire due to its distance from the exit.

Residents', echoed the concerns raised by the fire brigade, emphasising that permissions had not been enforced adequately. They suggested that if planning

regulations had been upheld, potential fire hazards might have been addressed earlier in the planning process rather than during licensing. One resident explained the number of representors present highlighted the high level of concern, with some residents even hiring representation specifically for this issue. The application had been perceived as a variation to the current license rather than an entirely new concern, and if the application were refused, residents might even opt to review the current license the premises operated under. Complaints regarding noise and disturbances during dispersal were extensive, with reports of individuals lingering after hours and door staff failing to proactively manage the dispersal situation. This was often beyond the 2am license. Residents shared diary entries detailing sleep deprivation due to recurring disturbances, particularly highlighting distressing arguments that could be heard during late hours, even through double glazed windows. Concerns were raised about the impending summer months exacerbating noise issues, rendering opening windows impractical. Additionally, residents on the party wall expressed frustration over increased noise levels since the venue's opening, attributing it to inadequate soundproofing measures. Despite previous efforts by other venues to mitigate noise, and the resident not lodging any complaints against previous bars and clubs at the venue, the current establishment's methods were deemed ineffective. Overall, while some residents expressed indifference toward the club itself, they emphasised the urgency of addressing noise concerns for the sake of the community's well-being. Residents' confirmed to the Sub-Committee they had been experiencing noise from inside the club beyond 2 am, noting that while Temporary Event Notices (TENs) had been issued on some nights, they were not consistent with when noise could be heard. Regarding noise from dispersal, residents confirmed that it persisted until 4 am, particularly on Sunday mornings. They highlighted the issue of patrons parking in resident spaces, indicating that most patrons travelled by car causing even more noise pollution.

The Applicant's legal representative stated that no other complaints were reported aside from the representations made and this was a small number in comparison to the number of residents in the area, with no evidence of public or private nuisance. Environmental health officers visited the site multiple times, often on weekends, and found no evidence of public nuisance except on one occasion, which was not considered significant. The establishment had set a noise limiter lower than the previous Licensed Premises, which environmental health officers confirmed and deemed satisfactory. The police had formulated conditions aimed at preventing crime and disorder, meeting statutory guidance criteria. Additionally, a dispersal plan was agreed upon, with ample parking available that wasn't residents' spaces. The argument was made that neighbouring residents on lot 103 were not affected by dispersal, as specified in the documentation as they were too far down the road from the venue. Conditions outlined in page 15 were highlighted as being adhered to. No one had visited to witness noise in the street, which therefore could have been explained as potentially originating from the busy, noisy road, an A road and red route. Temporary Event Notices were presented as evidence of the ability to operate while promoting Licensing Objectives. Police, Licensing officers, and noise officers had conducted visits without witnessing any breaches of Licensing Objectives. The commitment was made to limit patrons to no more than 50 on each floor, with a willingness to appoint a designated person in charge of dispersal if

Licensing Sub Committee B - 27 February 2024

necessary. The representative emphasised no council staff had witnessed any breaches of Licensing Objectives when visiting the premises.

In response to questions from the Sub-Committee, the applicant and their representative explained; the dispersal policy involves door staff encouraging patrons to leave quietly, often providing lollipops, and ensuring there is no lingering around St. John's Square, with an emphasis on utilising public transportation. Door staff monitor and limit the number of patrons outside for smoking to no more than 10 at a time, employing ID scanning to record problematic customers and potentially barring them from entry in the future. Last entry is currently at 12:30am, proposed to extend to 1:30am if the license was granted, with no reported issues regarding ingress and egress due to the lobby area. Noise monitors have been in place and recalibrated after a December meeting, with a noise limiter set lower than the previous premises and there had been no removal of soundproofing measures, as stated by a resident. Regarding the decision for a new license instead of a variation, the legal representative had advised the applicant did this to protect the existing license, with the willingness to surrender the other License if granted. As for the planning situation, as detailed on page 10 of the Agenda this outlined the planning history of the building and indicated that the venue has operated late in the past.

Each party summed up their case. The Responsible Authorities expressed their commitment to their representation, citing concerns that the proposed operating hours could potentially disrupt the peace of residents in the area. They underlined recent instances of noise and nuisance witnessed, including one as recent as February 18th, and questioned the sustainability of the policies and procedures put in place to address such issues. Additionally, they authority voiced support for the fire brigade's concerns regarding capacity limitations due to the presence of only one entrance and exit, emphasising the importance of public safety.

The Residents cited the CIA policy to refuse the application unless the applicant could convincingly demonstrate otherwise, which they said had not been done. They emphasised the credibility of residents' testimonies, noting that noise complaints had only arisen since the application was submitted, and they had witnessed the removal of sound proofing. Concerns were raised about the absence of noise officers testing in their flat and therefore the applicant wasn't aware of the true extent of the disturbance.

The applicant presented their case as evidence-based, highlighting the withdrawal of representation from both the Police and Noise due to their satisfaction with the conditions. They contested claims regarding noise disturbances, particularly one representor's purported ability to hear external noise from their property. The applicant expressed willingness to reduce the number of smokers outside if necessary to help mitigate external noise issues and urged that with no representations from other responsible authorities, including noise, environmental health, and police, the application should be granted.

RESOLVED

DECISION

Licensing Sub Committee B - 27 February 2024

The Sub-Committee has decided to REFUSE the application for a new premises licence to Drip, 27 Clerkenwell Road, London, EC1M 5RN.

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 Policies 2 & 3. The premises fall within the Clerkenwell cumulative impact area. Licensing policy 3 creates a rebuttable presumption that applications for the grant or variation of premises licences which are likely to add to the existing cumulative impact will normally be refused following the receipt of representations, unless the applicant can demonstrate in the operating schedule that there will be no negative cumulative impact on one or more of the licensing objectives.

10 local resident objections had been received. Representations had been made by the Licensing Authority and the London Fire Brigade. Conditions had been agreed with the Noise team and the Police.

The Sub-Committee noted that the hours sought were not within the framework hours specified in licensing policy 6.

The Sub-Committee heard evidence from the Licensing Authority and the London Fire Brigade. There were a significant number of reports to the Council's Anti-Social Behaviour (ASB) team, for example, on the opening night of the premises there was chaos as the premises was overrun with people after the event was leaked on social media. There had been a total of 45 reports to the ASB team since the premises opened, with the most recent being the previous weekend. An acoustic report had been submitted but no testing had been done from inside residents' properties. The Licensing Authority remained concerned about dispersal of patrons from the premises and how egress would be managed. The London Fire Brigade stated that there is only one way in and out of the premises and that the guidance is where there is only one exit there should be a maximum of 60 people, however, it had been agreed with the applicant that as long as numbers were well managed, a maximum of 50 patrons could be permitted on the ground floor and first floor. The London Fire Brigade expressed concern at the quality of the fire risk assessments conducted and stated that the second-floor room should not be used as this is too far from the exit.

The Sub-Committee heard evidence from local residents who could be loosely separated into two groups, those who were experiencing noise through a party wall and those who were experiencing noise from patrons outside the premises. Residents were awoken from sleep night after night by loud voices in the street arguing early in the morning. This noise could be heard in residents' properties through closed double-glazed windows. Residents were disturbed by loud voices and car horns and noted that the door staff at the premises did not seem able to control patrons leaving and making noise. A resident who shared a party wall with

Licensing Sub Committee B - 27 February 2024

the premises noted that although there had previously been clubs operating at the premises, this was the first time he had, had to make noise complaints. It seemed as if the current operator had not put in sound proofing. Residents stated that parking and people travelling to the premises by car was a real problem.

The Licensing Sub-Committee heard from the applicant's representative, who stated that the Noise team representation had been withdrawn. Environmental Health officers had visited the premises multiple times and had not heard anything that constituted a nuisance. The resident objectors must therefore be exaggerating. Since then the premises had set the Noise Limiter to lower level than that recommended in the acoustic report. The Noise team had visited and were satisfied. The representative referred to paragraph 2.1 of the guidance and stated that the Police conditions had been agreed. There is ample parking. The representative stated that the premises are on an A-Road which is busy and noisy, and the noise is not necessarily from the premises. The premises had operated Temporary Event Notices (TENs) and responsible authorities had visited and not witnessed any undermining of the licensing objectives. The Applicant had agreed to have no more than 50 patrons on each floor and was willing to have a designated person outside to move people on. A dispersal policy had been drafted and would be agreed with the authority. As patrons leave the premises, they are given lollipops and asked to leave quietly. The applicant would put a steward in St Johns square and was happy to open a dialogue with neighbours. There would be no more than 10 smokers outside the premises at a time but the applicant would be happy to reduce this to 7. All patrons must provide ID and if they did not disperse properly the premises could record this and not allow them in next time. Last entry will be 1:30am and it is currently 12:30am. The Applicant's representative referred to paragraph 14.12 of the guidance that conditions should focus on matters within the control of license holders, i.e. the premises and its vicinity. Cumulative Impact Areas (CIA) should not impose quotas and each application should be considered on its own merit.

The Sub-Committee considered Licensing Policy 6 paragraph 80. The hours requested were outside of framework policy. 'Applicants for premises licences falling outside 'those' hours are expected to fully explain in their operating schedule the arrangements that they will put in place, to ensure that the premises will not add to the impact late-night premises may have on the local community'. It was not satisfied that the arrangements devised by the applicant were sufficiently robust, particularly in light of the number of noise complaints that had been made to the authority since the premises had opened.

The Sub-Committee was concerned that up to 100 patrons leaving the premises at 4am would add to cumulative impact and that the proposed dispersal policy would not mitigate the noise impact that had been described by local residents. The Sub-Committee did not consider that the premises fell within any of the exceptions to the Clerkenwell CIA and was not satisfied that granting the license even with the conditions agreed would promote the licensing objectives.

The Sub-Committee was satisfied that refusing the premises license was proportionate and appropriate to the promotion of the licensing objectives.

104 **HOTEL INDIGO, 2 CLERKENWELL ROAD, LONDON, EC1M 5PQ - NEW PREMISE LICENCE (Item B2)**

The Licensing Officer explained there were no updates on this application.

No interested parties were present at the hearing.

The Applicant explained the application was for the restoration of the Hat and Feathers pub. It was noted that the area has been successfully restored to its former glory, with a hotel now attached to the side. Concerns from residents were raised regarding potential noise and nuisance from entertainment activities. However, there would have been limited entertainment, it was emphasised that obtaining a license was necessary to enable patrons to enjoy refreshments and to facilitate licensable activities, if they do occur.

It was proposed that the entire premises be licensed, primarily to provide mini bars in the rooms. It was emphasised that the applicant had significant interest in minimising noise and nuisance, as there are 170 rooms for guests within the establishment.

The applicant explained that notably, there were no representatives present from the police, Environmental Health, or the Local Authority. And it was highlighted that the proposed activities fell within the framework hours outlined in the Cumulative Impact Assessment (CIA).

In response to questions from the committee the applicant explained the hotel was to the left side of the Pub facility on Clerkenwell Road and the Pub will be open to the General public.

RESOLVED:

DECISION

The Sub-Committee has decided to GRANT the application for a new premises licence to Hotel Indigo, 2 Clerkenwell Road, London, EC1M 5PQ.

- 1) The On Sales of Alcohol, from 00:00 until 24:00 Monday to Sunday for guests residing at the hotel.
- 2) The On and Off Sales of Alcohol, from 08:00 until 23:00 Sunday to Thursday and from 08:00 until 00:00 Friday and Saturday for non guests.
- 3) The provision of Films, Live Music, Recorded Music from 08:00 until 23:00 Sunday to Thursday and from 08:00 until 00:00 Friday and Saturday.
- 4) The provision of Late Night Refreshment from 23:00 until 05:00 Monday to Sunday for guests residing at the hotel.
- 5) The provision of Late Night Refreshment from 23:00 until 00:00 Friday and Saturday to Non-Guests.
- 6) All activities above, from the end of permitted hours on New Years Eve, until the start of permitted hours on New Years Day

7) Opening hours 00:00 until 24:00 Monday to Sunday
Conditions detailed on pages 122 to 124 of the agenda shall 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.

The Sub-Committee took into consideration Licensing Policies 2 & 3. The premises fall within the Bunhill cumulative impact area. Licensing policy 3 creates a rebuttable presumption that applications for the grant or variation of premises licences which are likely to add to the existing cumulative impact will normally be refused following the receipt of representations, unless the applicant can demonstrate in the operating schedule that there will be no negative cumulative impact on one or more of the licensing objectives.

Five local resident objections had been received but they did not attend. Conditions had been agreed with the Noise team and the Police.

The Sub-Committee noted that the hours sought were within the framework hours specified in licensing policy 6, in respect of patrons who were not guests of the hotel. It appeared from some of the resident objections that there could have been some confusion as to the hours that alcohol and late-night refreshment would be available to non-guests.

The Sub-Committee heard evidence from the applicant's representative that the premises are not entertainment focused, the premises are a hotel with a restaurant and the old Hat and Feathers pub. The pub had been brought back to its former glory and would be open to the general public. The premises were keen to mitigate noise and nuisance because they did not want to disturb their own guests.

The Sub-Committee was satisfied that granting the premises licence for the hours specified in licensing policy 6 and with the agreed conditions was proportionate and appropriate to the promotion of the licensing objectives.

105 **RUSH COCKTAILS, BASEMENT, 100 OLD STREET, LONDON, EC1V 9AY**
(Item B3)

The Licensing Officer updated the committee explaining that they had received various email communications each explaining the facility was to be used for different things, therefore it was not clear whether the facility would be used as a 'members bar' for Ukrainian students or as a bar open to the public.

No interested parties were present.

Licensing Sub Committee B - 27 February 2024

The applicant's representative apologised for the mix up in communications, telling the committee they had recently lost their father and therefore had not been as focused as they usually would have been.

The representative explained that they had initially applied for this to be a venue for a member's club for Ukrainian Students due to the fact the applicant worked closely with Ukrainian students studying in the UK but after speaking with Licensing Officers they decided to change this to allow the bar to be open to the general public as well as the students.

They further explained they had tried to communicate with residents to help mitigate the issues surrounding noise and nuisance but had not been successful in these communications. They had also introduced a noise mitigation policy and sound proofing to the facility and had reduced the hours applied for from those originally sought. They were willing to work with and have open communication with residents that had concerns and had already agreed conditions with the Responsible Authorities.

In response to questions from the Committee it was confirmed that changes to the premises use, specifically the decision to transition to an open public bar, were made following consultations with the Police and Licensing Officers. The rationale behind this decision was to accommodate a wider audience.

Concerns were raised regarding the implementation of Challenge 25 policy and combatting underage drinking. The Bar Manager explained that identification checks would be conducted on individuals who appear to be under the age of 25, with a need for physical identification documents not photocopied versions.

Clarifications were sought regarding the nature of the premises, particularly whether it was a Ukrainian-themed club. It was clarified that while the establishment primarily targets Ukrainian students studying in London, it operated as a normal bar and would be open to the public.

Regarding the dispersal of intoxicated individuals, it was noted that conditions had been agreed upon with the Police. Additionally, it was emphasised that while the premises primarily function was as a bar, it was also a space for group engagements and alcohol would be supplementary to this.

Updates were provided regarding the current operational status of the premises. The Bar Manager told the committee that the establishment had not served alcohol for sale in the past two months, this had only been served free of charge to friends and family while practicing mixology. One Temporary Event Notice (TEN) had been issued from December 20th to January 3rd.

Furthermore, inquiries were made about the licensing experience of the Bar Manager. It was disclosed that the applicant had obtained a personal license six weeks prior, and while the applicant was unable to attend the meeting, they possessed extensive knowledge in the field. Lastly, the issue of a written dispersal policy was raised, to which it was agreed that one would be prepared if the license was granted.

Upon retiring to deliberate, the Sub-Committee initially considered that the matter should be adjourned to a date which would allow the applicant to attend in person

Licensing Sub Committee B - 27 February 2024

and provide more information in respect of the proposed operation of the premises. However, upon hearing representations against the adjournment from the applicant's representative, the Sub-Committee resolved to continue their deliberations and reach a decision in respect of the application. The Sub-Committee then decided to refuse the application.

RESOLVED:

DECISION

The Sub-Committee has decided to REFUSE the application for a new premises licence to Rush Cocktails, Basement, 100 Old Street, London, EC1V 9AY.

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 Policies 2 & 3. The premises fall within the Bunhill cumulative impact area. Licensing policy 3 creates a rebuttable presumption that applications for the grant or variation of premises licences which are likely to add to the existing cumulative impact will normally be refused following the receipt of representations, unless the applicant can demonstrate in the operating schedule that there will be no negative cumulative impact on one or more of the licensing objectives.

Three local resident objections had been received but they were not present. Conditions had been agreed with the Noise team and the Police.

The Sub-Committee noted that the hours sought were within the framework hours specified in licensing policy 6, although it was noted that the hours had been amended from the original application.

The Sub-Committee heard from the applicant's representative that the applicant could not be present because he had been called back to Ukraine by the President. The representative stated that the original application had been for a bar exclusively serving Ukrainian students but that following discussions with the Licensing Police it would be open to all members of the public but still primarily aimed at Ukrainian students. The hours had been reduced after communication with the Police. The applicant had noted residents' concerns about noise and had attempted to communicate with residents, but this was unsuccessful. All that they could do as responsible management was make sure staff were trained, a noise mitigation policy was introduced, and sound proofing was carried out. Contact details had been given to residents and if any calls were received the management would act accordingly. The applicant's representative stated that the Police had not required a written dispersal policy from the premises, but they were happy to produce one if necessary.

Licensing Sub Committee B - 27 February 2024

The applicant's representative introduced the proposed bar manager who was asked by the Sub-Committee how he would operate the policy of Challenge 25. It appeared to the Sub-Committee that he did not initially understand the question, but after a brief discussion with the representative he confirmed that he would check ID and would not accept photocopied versions. It was confirmed that the proposed bar manager had completed his personal license training 6 weeks ago but that the applicant was very experienced.

Upon retiring to deliberate, the Sub-Committee initially considered that the matter should be adjourned to a date which would allow the applicant to attend in person and provide more information in respect of the proposed operation of the premises. However, upon hearing representations against the adjournment from the applicant's representative, the Sub-Committee resolved to continue their deliberations and reach a decision in respect of the application. The Sub-Committee then decided to refuse the application.

The Sub-Committee was concerned about the standards of management at the premises and the exact nature of the proposed business. The Sub-Committee noted that conditions had been agreed with the Police and Noise team, but it was not clear whether, at the time that the conditions were agreed, those authorities were aware that the premises would be open to the public.

The Sub-Committee was concerned, on the evidence before it, that insufficient thought had been given to the responsibilities of a license holder where premises were open to the public. The Sub-Committee concluded that in the circumstances, urged as they were to determine the application at the hearing, granting the license even with the conditions agreed, would not promote the licensing objectives.

The Sub-Committee was satisfied that refusing the premises licence was proportionate and appropriate to the promotion of the licensing objectives.

The meeting ended at 9.20 pm

CHAIR