

**Licensing Sub Committee A - 27 June 2024**

Minutes of the meeting of the Licensing Sub Committee A held at Committee Room 4, Town Hall, Upper Street, N1 2UD on 27 June 2024 at 6.30 pm.

**Present:**      **Councillors:**      Heather Staff (Chair) Gary Heather and Clare Jeapes

**Councillor Heather Staff in the Chair**

**92      INTRODUCTIONS AND PROCEDURE (Item A1)**

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

**93      APOLOGIES FOR ABSENCE (Item A2)**

Apologies for absence were received from Councillor Ben Mackmurdie.

**94      DECLARATIONS OF SUBSTITUTE MEMBERS (Item A3)**

Councillor Jeapes substituted for Councillor Mackmurdie.

**95      DECLARATIONS OF INTEREST (Item A4)**

There were no declarations of interest.

**96      ORDER OF BUSINESS (Item A5)**

The order of business would be as the agenda.

**97      MINUTES OF PREVIOUS MEETING (Item A6)**

**RESOLVED:**

That the minutes of the meeting held on 16 April 2024 be confirmed as an accurate record of proceedings and the Chair be authorised to sign them.

**98      FLORA CAFE, 71 NEWINGTON GREEN ROAD, N1 1QU - NEW PREMISES LICENCE (Item B1)**

The licensing officer advised that on sales would stop at 10.30pm and off sales would be with food deliveries.

A local resident stated that he was pleased that concerns about vertical drinking had been noted and there was a proposed condition relating to this. He raised concerns about discarded cans and bottles and the potential noise levels. He stated that the consumption of alcohol was linked to poor behaviour and crime and wished for premises to be made enjoyable for everyone. He also asked where off sales would be consumed and hoped for good communication with the applicant.

The applicant stated that this was a café and they wished to improve the business to extend hours for dinner in the evening. There would not be a lot of alcohol sold but hoped to sell a

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bottle of wine or beer with a meal. This was not a bar. There were eight tables and they wanted customers to socialise with friends. Noise levels would not be high. It was likely that hours would be until 10pm. He did not understand why he had received objections when there were other similar businesses in the location.

In response to questions, the applicant stated that there was an intention to serve food with alcohol where possible. Off sales would be with food deliveries only. They would be using delivery platforms and would hope to use non-motorised vehicles where possible but was not sure that this could be guaranteed. They had concerns about letting delivery drivers use their toilets due to hygiene reasons and concerns that they often kept helmets on. The applicant intended to move from serving breakfast at 7am to serving a later brunch, lunch and dinner. They considered that there would be a maximum of four smokers outside and signs would be erected to advise of this. There would be a maximum of 24 customers and approximately 5 staff on the premises.

### **RESOLVED**

- 1) That the application for a new premises licence, in respect of Flora Café, 71 Newington Green Road, N1 1QU, be granted to allow the following licensable activities during the following hours:-
  - a) The on-sale supply of alcohol from 11:00 am to 10:30 pm Monday to Sunday.
  - b) The off-sale supply of alcohol from 11:00 am to 11:00 pm on Monday to Sunday.
  - c) Opening hours to be from 7:00 am to 11:00 pm Monday to Sunday.
- 2) That conditions detailed on pages 40 to 41 of the agenda (Appendix 3) shall be applied to the licence, together with the mandatory conditions and the following imposed additional conditions:-
  - The sale of alcohol off the premises shall be with food deliveries only.
  - Non-internal combustion engine delivery vehicles shall be used where possible.
  - There shall be a maximum of four smokers outside at any one time and there shall be signage displayed on the premises to indicate this.
  - A management contact phone number shall be displayed on the outside of the premises for residents in case of disturbance.

### **Note of the Sub-Committee**

The Sub-Committee would welcome the applicant to make available the toilet facilities for delivery driver use in line with restaurant management policy for the premises.

### **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 considered the Licensing Act 2003, as amended, and its regulations, the Home Office revised guidance issued under section 182 of the Licensing Act 2003 and the Council's Statement of Licensing Policy.

Ten local resident objections had been received and petitions against the application and in support. Representations from the noise and the police were withdrawn following conditions being agreed by the applicant.

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The Sub-Committee noted that the hours sought were within the hours specified in Licensing Policy 6.

The Sub-Committee heard evidence from a local resident who stated that he was pleased to see that there would be no vertical drinking in the premises and welcomed open communication. However, he had concerns about the link between poor behaviour and alcohol consumption and the possible noise levels from the premises, which could disrupt resident's sleep. The resident stated that it was important that residents could approach someone at the business if there were problems.

The Sub-Committee heard from the applicant that this was a café which they wished to turn into a restaurant and would serve a brunch, lunch and evening meal. This would not be a bar. Alcohol was to be served with a meal, with some exceptions, and patrons would socialise with friends. All customers would be encouraged to buy food and would be offered the food menu on arrival when sitting at a table. Certainly, the intention was to only serve alcohol ancillary to a meal. There were 8 tables inside. There was space for four smokers outside and they did not expect there to be more than this. A sign would be displayed to instruct customers of this restriction.

The applicant would be using third party companies such as 'Just Eats' and 'Deliveroo' for food deliveries. The applicant had concerns about Delivery riders walking in with their helmets on and using the toilets. Off sales would only be with food. They were happy to use non-motorised or electric vehicles where this was possible. The Sub-Committee stated that such applications are encouraged. Licensing Policy 25 says, "The Licensing Authority recognises that deliveries from the licensed premises can sometimes be outside the control of the premises licence holder but usually expects the appointment of contractors who can carry out collections and deliveries using non-internal combustion engine vehicles." The Sub-Committee noted the resident attending the meeting, had been satisfied that the owners of the premises were acting responsibly and did not object to the sale of alcohol.

The legal adviser has advised the Sub-Committee of the importance of the case *R (on application of Daniel Thwaites plc) v Wirral Magistrates' Court and Others* (2008) EWHC 838 (Admin). This case, referred to as 'the Thwaites case', is important because it emphasises the important role that Responsible Authorities have in providing information to decision makers to contextualise the issue before them. The case recognises that Responsible Authorities are experts in their fields, and that weight should be attached to their representations. It is most relevant when opposing grant applications. In this case it was noted that the Police and Noise team had withdrawn their representations, having agreed conditions with applicant.

The Sub-Committee had regard to Licensing Policy 5 in the Statement of Licensing Policy and concluded it was not appropriate to seek to restrict hours applied for. The applicant had satisfied the Sub-Committee that this application promotes the licensing objectives. The Sub-Committee concluded that the granting of the licence, during the hours applied for, with the proposed and additional conditions would promote the licensing objectives. The Sub-Committee noted that the hours sought were within the hours specified in Licensing Policy 5 and 6.

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

**99      216 ST PAULS ROAD, N1 2LL - NEW PREMISES LICENCE (Item B2)**

The licensing officer reported that, should an application be granted, the applicant would need to amend their planning consent hours. He reported that there had been noise complaints, and these had been in relation to construction work. Once notified of the complaint, work had stopped immediately. Letters to the residents about the application had been sent, but no response had been received.

The applicant's representative stated that this application would not undermine the licensing objectives. This was an off licence and a small store that would sell organic goods and alcohol. The application sat within framework hours outlined in Licensing Policy 6. There was no intention to do any deliveries and he was happy to agree to an additional condition regarding this. The applicant had four years' experience. The sale of alcohol was ancillary to the sale of organic goods. Floor space would not take up any more than that detailed on the plan submitted. The applicant was aware that a subsequent planning application would need to be submitted if the licence application was granted.

In response to questions, it was noted that the premises was not immediately next to the underground station. The Responsible Authorities had not considered it necessary to make suggestions around match day conditions. The applicant was looking to sell miniatures, but this would not be a primary concern. He agreed to a condition that no spirit should be sold less than 100ml. Most sales would come from organic food/alcohol. Much of the alcohol would be kept behind the till out of the reach of customers.

**RESOLVED**

- 1) That the application for a new premises licence, in respect of 216 St Pauls Road, N1 2LL, be granted to allow:-
  - a) The sale of alcohol off the premises only on Monday to Sunday from 8:00 am – 11:00 pm
  - b) Opening hours to be 6:00 am to 11pm on Monday to Sunday.
  
- 2) That conditions outlined on pages 67 to 68 of the agenda shall be applied to the licence, together with the mandatory conditions and the following additional conditions:-
  - The premises will not sell/supply miniature bottles of spirits of 50ml or less
  - There shall be no customer deliveries of alcohol.
  - The following conditions relate to events and football matches at Emirates stadium where attendance is expected to exceed 10,000 persons:-
    - a) No more than four cans or plastic bottles of beer, lager, or cider to be sold to an individual.
    - b) The premises will cease all sales of alcohol if requested to do so by a police officer.

**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 considered the Licensing Act 2003, as amended, and its regulations, the Home Office revised guidance issued under section 182 of the Licensing Act 2003 and the Council's Statement of Licensing Policy.

Two local resident objections had been received. The police withdrew their representation following agreement of conditions. No other representations had been made by the responsible authorities.

The Sub-Committee noted that the hours sought were within the hours specified in Licensing Policy 6.

The Sub-Committee noted that noise complaints had been made in respect of construction works.

The Sub-Committee heard evidence from the applicant that this was a small off licence, which would sell organic food and beers. Alcohol would be sold ancillary to organic goods. Alcohol would be stored mainly behind the till and out of reach of customers. The applicant's representative agreed to some matchday conditions and stated that he would be happy if it was agreed that no spirit would be sold under 100ml.

The legal adviser has advised the Sub-Committee of the importance of the case R (on application of Daniel Thwaites plc) v Wirral Magistrates' Court and Others (2008) EWHC 838 (Admin). This case, referred to as 'the Thwaites case', is important because it emphasises the important role that Responsible Authorities have in providing information to decision makers to contextualise the issue before them. The case recognises that Responsible Authorities are experts in their fields, and that weight should be attached to their representations. It is most relevant when opposing grant applications. In this case it was noted that the Police had withdrawn its representation, having agreed conditions with the applicant.

The Sub-Committee was satisfied that the conditions offered by the applicant, not to make deliveries of alcohol or to sell spirits in small containers, demonstrated that the applicant was committed to the promotion of the licensing objectives. However, the Sub-Committee felt that the appropriate limit on the size of the container for spirits should be 50ml.

The Sub-Committee concluded that the granting of the licence with the agreed and additional conditions would promote the licensing objectives. The Sub-Committee noted that the hours sought were within the hours specified in Licensing Policy 5 and 6.

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

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**RUSH COCKTAILS, BASEMENT, 100 OLD STREET, EC1V 9AY - NEW PREMISES LICENCE (Item B3)**

The licensing officer reported that the start time for the sale of alcohol would be 10am. A previous application had been for later hours. The interested party had not responded to the letter sent to him by the applicants' representative.

The applicants' representative stated that this application was within framework hours. The Responsible Authorities had come to an agreement with the applicant and was happy with the application. There was only one objection and the applicant had tried to engage with the

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interested party. There had previously been a licence for the premises so this application would not be adding to the cumulative impact. He advised that contact details could be shared with residents, there would be a maximum of 3 or 4 smokers outside. The premises was situated in the basement, and he considered there would be no external audible noise. The designated premises supervisor lived on the first floor of the premises.

In response to questions, the applicant's representative stated that music would be played but would not be audible to members. It was proposed to play quiet jazz and they would want music to be at a level where customers could talk to each other. There would be no more than 40 customers. There would be two personal licence holders on the premises and drinks were not allowed outside. They had CCTV and it was not considered necessary to have SIA door supervisors as it was a small premises. They were agreeable to share a contact telephone number to residents in case of issues.

### **RESOLVED**

- 1) That the application for a new premises licence, in respect of Rush Cocktails, Basement, 100 Old Street EC1V 9AY, be granted to allow the following licensable activities during the following hours:-
  - a) The on sales of alcohol, from 10:00 to 23:00 hours Sunday to Thursday and from 10:00 until midnight Friday and Saturday;
  - b) The provision of Recorded Music from 10:00 until 23:00 Sunday to Thursday and from 10:00 until midnight Friday and Saturday.
  - c) Opening times from 10:00 until 11pm Sunday to Thursday and from 10:00 until midnight Friday and Saturday.
- 2) That conditions detailed on pages 99 to 101 (Appendix 4) of the agenda shall be applied to the licence with the mandatory conditions and with the following additional conditions:
  - Staff training shall include awareness of drink spiking.
  - There shall be a maximum of four smokers or vapers outside at any one time and there shall be signage displayed on the premises to indicate this.
  - A management contact phone number shall be displayed on the outside of the premises for residents in case of disturbance.

### **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 considered the Licensing Act 2003, as amended, and its regulations, the Home Office revised guidance issued under section 182 of the Licensing Act 2003 and the Council's Statement of 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.

One local resident objection had been received. The applicants adopted conditions suggested by the Police and Islington Council's Noise Service in the Operating Schedule.

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The Sub-Committee noted that the hours sought were within the hours specified in Licensing Policy 6.

The Sub-Committee heard evidence that the applicant had tried to engage with the objector but with no response. The premises had a previous licence so he considered that the premises would not add to the cumulative impact. The applicant's representative was happy to share contact details with residents, and to have a limit of 3 or 4 smokers outside. The premises was located in the basement, and they did not believe that any noise would be audible outside the premises. The music would be quiet enough to allow for conversation in any event. There would be two personal licence holders at the premises and drinks would not be allowed outside. The designated premises supervisor lived above the premises. CCTV was to be installed at the premises.

The Sub-Committee concluded that the granting of the licence with the agreed conditions would promote the licensing objectives. The Sub-Committee noted that the hours sought were within the hours specified in licensing policy 5 and 6. The Sub-Committee was concerned about the general increase in drink spiking and added a condition that awareness of this could be covered in the staff training.

The Sub-Committee considered that, as this was a small premises, one that had previously held a licence and with the extensive conditions being agreed and adopted in the Operating Schedule, the premises would not add to the cumulative impact.

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

The meeting ended at 8.45 pm

**CHAIR**