

London Borough of Islington

Licensing Sub Committee D - 10 September 2015

Minutes of the meeting of Licensing Sub Committee D held at the Town Hall, Upper Street, N1 2UD on 10 September 2015 at 6.40pm

Present: **Councillors:** Flora Williamson (Chair) Satnam Gill (Vice-Chair) and Alex Diner

Councillor Flora Williamson in the Chair

71 INTRODUCTIONS AND PROCEDURE (Item A1)

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

72 APOLOGIES FOR ABSENCE (Item A2)

Received from Councillor Aysegul Erdogan.

73 DECLARATIONS OF SUBSTITUTE MEMBERS (Item A3)

Councillor Alex Diner substituted for Councillor Erdogan.

74 DECLARATIONS OF INTEREST (Item A4)

None.

75 ORDER OF BUSINESS (Item A5)

The Chair advised all present that there were two items remaining on the agenda: Item B1 – Unit 1, 62 Turnmill Street, EC1 and agenda Item B3 – Addis Ababa, 192 Seven Sisters Road, N4 3NX.

76 UNIT 1, 62 TURNMILL STREET, EC1M 5NP - APPLICATION FOR NEW PREMISES LICENCE (Item B1)

The Licensing Officer reported that, since the licence application had been submitted, the Police had withdrawn their representations. In addition, following discussions between the applicant and resident objectors, agreement had been reached on a number of outstanding issues, culminating in a revised set of conditions, copies of which were laid round.

However, a few areas of disagreement still remained, which were highlighted in yellow on the circulated document. The applicant's representative suggested that the highlighted areas in the revised conditions should form the basis of discussion.

The applicant's representative made the following observations:

Revised condition 1: The following opening hours had been agreed with residents: 08:00 to 23:00 hours from Monday to Thursday, 08:00 to 00:00 hours on Friday, 09:00 to 00:00 hours on Saturday and 10:00 to 19:00 hours on Sunday.

Revised condition 13: As the premises licence holder was not in a position to control third parties, such as vehicles making collections and deliveries, or collection of rubbish, he suggested that a revision be made to condition 13, to read as follows "The premises licence holder shall use reasonable endeavours to ensure that no deliveries or rubbish collections are permitted before 07:00 and after 19:00 from Monday to Sunday and no vehicles shall be

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permitted to sit outside the premises prior to 07:00 waiting to make deliveries.....moved on". However, he highlighted the fact that, as all the produce used in the restaurant was fresh each day, the issue of deliveries on Sundays and Bank Holidays was still an issue as the resident objectors wanted no deliveries on those days.

Revised condition 20: As the premises licence holder was not in a position to control third parties, such as waiting taxi/minicab services, he suggested that a revision be made to condition 20, after the word "customers", to read as follows "and the premises licence holder shall use reasonable endeavours to ensure that any called minicabs.....at any time"

Revised condition 23: It was not lawful to include this condition requesting the licence holder not to seek a Temporary Event Notice.

Revised condition 32: It was not lawful to include this condition requesting the licence holder not to seek a variation to opening or licensed hours.

In response to a question from the Chair, the Legal Officer confirmed that she concurred with the applicant's representative that the inclusion of revised conditions 23 and 32 would not be enforceable and not upheld by a Court in the event of a challenge. She advised that it would be possible for the Licensing Authority to enforce to some extent a condition " to use reasonable endeavours to ensure that" in revised conditions 13 and 20.

A spokesperson for the resident objectors regretted the fact that the licensee had taken four months to produce the revised conditions, which removed many of the original objections raised by residents. She wished to see the first sentence of the final paragraph of revised condition 1 being retained ie "The Licence Holder shall serve last orders and cease serving alcohol 30 minutes prior to the applicable terminal hour". However, residents were content to delete the second sentence ie "No new customers.....Sundays". She thought that revised condition 3 relating to the number of persons who could be served alcohol in the basement of the premises if they were also dining there, lacked a management plan and queried how the numbers would be counted and managed. She appreciated the fact that, with regard to revised conditions 13 and 20, it would not be possible to enforce these as they involved third parties. She understood that revised condition 23 was unlawful, but if a Temporary Event Notice was approved at any future date, residents would have no opportunity to object even if the premises were open until 3 or 4am. Revised condition 32 had been requested by the residents who wished to have some sort of reassurance from the licence holder that they would not seek to vary the opening or licensed hours in the future by way of a variation application.

A second spokesperson for the residents referred to revised condition 32, which had been a voluntary offer from the licence holder, and suggested that a period of 5 years within which the licence holder should offer not to seek a variation to opening or licensed hours could be reduced to a period of 2 years.

In response to a question from members, the applicant's representative stated that other restaurants in the area all opened early to provide breakfast.

Members thanked all present for their work to achieve these levels of agreements, especially the residents.

The applicant's representative reported that this premises and others run by the Prescott Conran owners caused no problems in their localities, even though they were in an area of cumulative impact. The Police and Environmental Health had no objections to this application and now the Licensing Authority had withdrawn theirs. There had been a large amount of agreement with residents, for which he thanked all involved. He pointed out that

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the Council's Licensing Policy permitted exceptions in areas of cumulative impact where the premises were not alcohol-lead, which this premises was not, since it had only 20 seats in the basement floor. A great deal of financial investment had been made in the premises and the opening and licensing hours would be necessary to realise income to justify the spend already made. He stated that, at most, the maximum noise associated with the premises was less than 1 decibel and it would not therefore add to noise in the vicinity. The premises was situated 50 metres away from the nearest residential property.

In response to questions from members about the apparent reluctance of the applicant to engage with local residents, the length of time taken to submit the application and the deluge of late submissions by the applicant, the applicant's representative apologised and said that the late submissions from themselves were to aid deliberations at today's meeting. A member of the Sub-Committee sought assurance from the applicant's representative that this was not "the thin end of the wedge" and that the applicant would not be likely to apply for a variation to the conditions in the future. The applicant's representative stated that this would necessitate various levels of approval, including Board level and from the developers, so it would not happen. He confirmed that no variations to conditions had been sought for the applicant's other premises and furthermore that there were no plans to do so. In response to a question about future communications with local residents over activities at the premises, the applicant's representative drew the Sub-Committee's attention to new condition 16, suggested by the residents and agreed by the applicant, requiring a meeting with residents and the premises licence holder every six months.

Members expressed concern about the dispersal policy for the twenty persons allowed to drink in the bar area, either before or after a meal, and queried how the applicant proposed to ensure that persons did not remain in the bar after the terminal hour. Following discussion, the applicant agreed that it would be reasonable for an amendment for a drinking up period to be applied to the bar area to ensure that the condition applying to terminating hours was met. Local residents remained concerned about this and one of their representatives suggested a 15 minute drinking up period being applied in the bar area before closing hours to ensure that the premises closed on time.

The Sub-Committee adjourned at 7.28pm to deliberate and reconvened at 7.45pm. However, the Sub-Committee had to adjourn again for a short period to consider the question of whether there could be deliveries to the premises on Saturdays and Sundays, since they had not considered this in their original deliberations. The Sub-Committee reconvened at 7.53pm.

RESOLVED:

1. That the application for a new premises licence in respect of Unit 1, 62 Turnmill Street, London EC1M 5 NP be granted to permit:

i) the sale of alcohol for consumption on and off the premises from 11:00 to 23:00 on Monday to Thursday, 11:00 to 00:00 on Friday and Saturday and 11:00 to 19:00 on Sunday

ii) the provision of Late Night Refreshment from 23:00 to 00:00 on Friday and Saturday

iii) the following opening hours: 08:00 to 23:00 on Monday to Thursday, 08:00 to 00:00 on Friday, 09:00 to 00:00 on Saturday and 10:00 to 19:00 on Sunday

2. That the revised conditions as outlined in the document circulated in the meeting, which had been accepted by the applicant and agreed with the resident objectors, with the following *additions/amendments* shall be applied to the licence:

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- i) That a 15 minute drinking up period be applied in the bar area before closing hours to ensure that the premises close on time (paragraph 1 of the revised conditions) and delete second sentence "No new customers.....18:00 Sundays".
- ii) The premises licence holder shall use reasonable endeavours to ensure that no deliveries or rubbish collections are permitted before 07:00 and after 19:00 from Monday to Sunday and no vehicles shall be permitted to sit outside the premises prior to 07:00 waiting to make deliveries.....moved on". Deliveries shall be permitted on Sundays and Bank Holidays (paragraph 13 of the revised conditions)
- iii) After the word "customers" in line 2 of revised condition 20, add the following "and the premises licence holder shall use reasonable endeavours to ensure that any called minicabs shall not wait in Clerkenwell Road.....at any time" (paragraph 20 of the revised conditions)

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 2. The premises fall under the Bunhill and Clerkenwell cumulative impact area. Licensing policy 2 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 application for a new premises licence was likely to add to the existing cumulative impact on the licensing objective of public nuisance. However, the Sub-Committee considered that the applicant had largely demonstrated, through conditions agreed with the residents on the operating schedule, that the impact for any potential nuisance would be mitigated and was satisfied that, with the addition of further conditions, the grant of the premises licence would not be likely to add to the existing cumulative impact in the area. These conditions were for a drinking up period and amendments to the condition concerning rubbish collection, such that the licence holder would use reasonable endeavours to ensure that vehicles would not wait outside the premises for the collection of rubbish or deliveries and to restrict minicabs waiting outside. Although the residents had requested a condition prohibiting deliveries on Sundays and Bank Holidays, the applicant had explained that this would not be feasible because they served fresh produce every day.

The residents present had asked for specific conditions restricting the variation in the opening or licensed hours for five years and any application for temporary event notices. Legal advice was given that this would fetter the exercise of statutory powers by the licence holder and that these conditions would in any case be unenforceable.

The Sub-Committee considered that the phrase "shall use reasonable endeavours to ensure" was appropriate in relation to dealing with rubbish collections and minicabs and taxis, as to require the licence holder to do more would be outside his control and effectively unenforceable as a condition.

Home Office guidance states "The Courts have made it clear that it is particularly important that conditions which are imprecise, or difficult for a licence holder to observe, should be avoided". However, Peter Prescott gave assurances that there was no intention to seek any increases in the licensing hours.

The Sub-Committee considered that these additional conditions were appropriate and proportionate to the licensing objective of public nuisance and in the public interest.

77 7 DAYS FOOD AND WINE, 93 STROUD GREEN ROAD, N4 - PREMISES LICENCE VARIATION (Item B2)

The Sub-Committee noted that this item had been postponed to the meeting of the Licensing Sub-Committee on 17 September 2015.

78 ADDIS ABABA, 192 SEVEN SISTERS ROAD, N4 3NX - PREMISES LICENCE REVIEW (Item B3)

The Sub-Committee noted that English was not the first language of the premises licence holder, but he had colleagues present who would interpret for him where necessary.

The Licensing Officer stated that there was no additional information to report. The review of the premises had been triggered automatically by an application from the Metropolitan Police Service for a closure notice under the Anti-Social Behaviour, Crime and Policing Act 2014, which was issued by Highbury Magistrates' Court on 30 July 2015.

The Police representative reported that a number of incidents, most often occurring very late at night or early in the morning, had taken place at or near the premises and there had been breaches of conditions associated with CCTV operation. The area was a hotspot for violence and Addis Ababa was the only licensed premises in the area. The Police were therefore of the view that Addis Ababa was responsible for most of the crime in the area after midnight. He pointed out that, rather than a revocation of the licence, a closure order had been issued by the Court to afford the licence holder and management an opportunity to put their affairs in order. The Police had recommended that, if the premises was permitted to operate after the eight week closure order, the opening hours should be reduced and a number of other conditions applied to the licence, which were detailed in the Police's written representation in pages 148 to 150 of the agenda.

The Licensing Authority's representative referred to the Authority's written representation on page 151 of the agenda and stated that revocation would not have been proportionate but, if the Sub-Committee agreed that the premises should be allowed to operate after the closure notice period, it would be necessary to look at the conditions on the licence and to ensure that there was no sale of alcohol after midnight. The premises should also be asked to provide a more diverse offer by, for instance, selling meals.

The premises licence holder's representative referred to the number of findings against the venue, detailed on page 137 of the agenda, which had led to a Judge making the finding that closure of the premises was necessary "to prevent the behaviour, nuisance and disorder from continuing, recurring or occurring". He asserted that the Police could have informed the Licensing Authority that a review was necessary at any stage, before the closure order was applied for, but had not. He stated that his client took the problems seriously and accepted that he must tighten up on the persons entering and exiting the premises. His client intended to limit the numbers in the premises and to keep a list of those allowed into the premises, or their acquaintances, by way of an informal membership list.

The premises licence holder's representative said that it was clear that the Magistrate who made the closure order had not wanted the premises to close. The premises owner had spent a lot of money on the premises. He did not agree with the proposal that only those persons eating in the premises could drink alcohol, since that would be likely to close the entertainment provision in the basement of the premises. He went on to state that some of the evidence from the Police was disputed by the licence holder at the Court hearing and that CCTV was supplied on every occasion it was requested by the Police. He pointed out

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that there were two 24 hour off licences operating nearby to Addis Ababa, that some trouble had been caused by adjacent premises and that there was friction between the two. He concurred that there was nuisance caused, but not of a serious kind. Addis Ababa offered services for local people. As far as the proposed conditions were concerned, his client would accept all of them. The premises licence holder would introduce a strict drug policy, keep a log of all persons on the premises and would ensure that the personal licence holder was on the premises when it was open and ensure sufficient numbers of door supervisors. He asked that the premises be permitted to operate beyond midnight and that when the premises was open and selling alcohol after 11pm that there be two door supervisors present. He said that the premises licence holder had asked that the premises be permitted to remain open until 2.00am. If the new conditions were not sufficient to maintain order at the premises, there would likely be a review after a few months of operation. He suggested that it would be draconian to require the premises to close at midnight. The premises licence holder would appreciate some time to prove that the licence holder could manage the premises satisfactorily and adopting the new conditions would alleviate the problems complained of.

In response to a question from a member of the Sub-Committee, the premises licence holder's representative confirmed that they agreed with all of the recommendations suggested by the Police and the Local Authority, apart from that requiring them to make the sale of alcohol ancillary to food. The premises licence holder's representative maintained that the problems at the venue were caused by people arriving late and not by those drinking there. A strict door policy and the presence of door supervisors should help to alleviate these problems. In response to a member of the Sub-Committee as to whether he thought the problems would have occurred if the premises was a restaurant, the premises licence holder's representative stated that it was hard to say, though likely to have happened. There was further discussion as to whether the premises would be operating as an "informal club" which was open to anyone, or a private members' club, where patrons were required to show an ID card and membership number. A member of the Sub-Committee pointed out that all of the incidents complained about, except for one, had happened after midnight and that there was a direct link with Addis Ababa, which was open at that time. He maintained that, if the premises management were taking the issues seriously, they should be more enthusiastic about a proposed midnight closure of the premises.

Members remained concerned about poor management of the premises, that the premises management had not addressed Police representations, that the premises was selling alcohol to people who were already drunk, that there was no clear dispersal policy for people leaving the premises and that the licensee did not seem to understand his responsibilities. A colleague of the premises licence holder, who was also present at the meeting and acting as an interpreter, stated that the licence holder fully understood the Licensing Policy requirements, that he would not serve someone who was already drunk and would ask them to leave the premises if necessary. He would work with the Police and ensure that two door supervisors operated at the premises. He described the venue as providing traditional food, live or recorded music and alcohol and said that the problems came from persons who were associated with a competitor and who came wanting to cause trouble. He said that the owner was a singer and a decent person.

The premises licence holder's representative stated that the seriousness of the situation had been brought home to his client as his business was now closed until 24 September 2015, but he was still having to pay rent.

In summing up, the Police representative stated that the premises could not be permitted to operate as it currently was, that its hours needed to be reduced to midnight, that door supervisors should be employed at the premises and that staff needed to be trained to

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ensure that alcohol was not served to persons who were already drunk. If the licence holder was permitted to keep his licence, the additional conditions proposed by the Police and Local Authority should be included on the licence. The Licensing Authority's representative said that the closure order had provided an opportunity for the licence holder to review the way his premises was operating and had heard the points made by members at this meeting about methods of managing persons coming into the premises. She suggested that a reduction in operating hours and the inclusion of robust conditions on the licence was the way forward for the premises.

The premises licence holder's representative said that the problems associated with the premises seemed to emanate from people arriving late, already drunk and intent on causing trouble. A strong door policy could have alleviated some of these problems and any door supervisors should have turned away the people who were likely to cause trouble. He proposed a further condition to the licence as follows: "That persons entering the premises be required to produce an ID document, the details of which the premises manager will copy and retain as a record of evidence on a system"

In response to a question from the Chair, the premises licence holder confirmed that he had been satisfied with the interpreting facilities provided by his colleagues.

RESOLVED:

That the premises licence in respect of Addis Ababa, 192 Seven Sisters Road, N4 3NX be modified to include the conditions suggested by the Police, as outlined on pages 148 to 150 of the agenda which, with the following amendments, would be applied to the licence:

- i) the permitted opening and licensing hours for all alcohol at the premises to be Sunday to Thursday from 10:00 to 23:00 and on Friday and Saturday from 10:00 to 00:00
- ii) the permitted terminal hours for all other activities at the premises shall be Sunday to Thursday to 23:00 and on Friday and Saturday to 00:00.
- iii) a period of 30 minutes for drinking up before closing hours to ensure that the premises closes at the required time
- iv) No vertical drinking shall be permitted

REASONS FOR DECISION

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

The Sub-Committee noted that this review had been triggered by the Court making a Closure Order on the application of the Police under Section 80 of the Anti-Social Behaviour Crime and Policing Act 2014. The Court had made this Order until 24th September 2015 so that the management of the premises could take steps to get their house in order. Neither the Licensing Authority, nor the Police, sought a revocation of the licence but the Police conditions, with the addition of no vertical drinking, were accepted by the Sub-Committee as proportionate and appropriate to the Licensing Objectives of Crime and Disorder and Public Nuisance and in the public interest. The restriction on licensing hours by the Sub-Committee was imposed after considering that almost all of the serious incidents of assault

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had occurred after midnight and the long opening hours had been shown to be a cause of anti-social behaviour in and around these premises.

79 **DIRTY BURGER, UNIT 2, 15-17 EXMOUTH MARKET, EC1 - APPLICATION FOR NEW PREMISES LICENCE (Item B4)**

The Sub-Committee noted that this item had been withdrawn from the agenda on the basis of agreed conditions.

The meeting ended at 9.05 pm

CHAIR