

London Borough of Islington

Licensing Sub Committee A - 24 May 2016

Minutes of the meeting of the Licensing Sub Committee A held at Committee Room 1, Town Hall, Upper Street, N1 2UD on 24 May 2016 at 6.30 pm.

Present: **Councillors:** Flora Williamson (Chair), Satnam Gill and Asima Shaikh.
Also Present: **Councillors:** Raphael Andrews and James Court

Flora Williamson in the Chair

106 INTRODUCTIONS AND PROCEDURE (Item A1)

Councillor Williamson welcomed everyone to the meeting, asked members and officers to introduce themselves and outlined the procedures for the meeting.

107 APOLOGIES FOR ABSENCE (Item A2)

Apologies for absence were received from Councillor Safi Ngongo and Councillor Diarmuid Ward.

108 DECLARATIONS OF SUBSTITUTE MEMBERS (Item A3)

Councillor Asima Shaikh substituted for Councillor Safi Ngongo and Councillor Gill substituted for Councillor Ward.

109 DECLARATIONS OF INTEREST (Item A4)

None.

110 ORDER OF BUSINESS (Item A5)

The order of business was as the agenda.

111 THE OLD SESSIONS HOUSE, 22 CLERKENWELL GREEN, EC1R 0NA (Item B1)

The licensing officer reported that the application for floors 1-3 was for half an hour less than originally applied for. It was noted that opening hours for floors 1-3 and the top floor would be to half past midnight and not 3am as stated on the front page of the report. It was noted that these details had been corrected on the report posted on the website. There was an additional condition proposed to those detailed in appendix 4 of the report regarding the management plan and this was detailed on page 10 in further submissions from the applicant. These submissions would be interleaved with the agenda papers. Revised plans were circulated to members which included the roof terrace. It was noted that the Peabody Trust residents had asked one of the interested parties to represent their views.

The Chair confirmed that both sides would have ten minutes to present their case and stated that the members had read all the papers.

The licensing authority raised concerns regarding the increase in capacity, up to 1000 additional people. It was stated that information regarding dispersal had not been received and the draft management plan was an old document. No operator had been confirmed. The premises were in a cumulative impact area and there was a concern regarding the impact of customers leaving the premises and the use of the outside areas.

Two residents spoke against the application at the meeting. One resident raised concerns about the cumulative impact. She stated this would have five times the capacity as the current premises and would not be food-led. The premises were in a residential area. There would be noise disturbance from smokers and drinkers on the terraces and the premises would be licenced for longer hours than presently. The management did not intend to operate the premises themselves. They had applied for extended hours with no analysis of noise escape from drinkers inside or from people on the streets. A large smokers terrace was to be located opposite a residential block. They had applied for unprecedented hours of use. There had been no analysis of capacity, the number of people entering or leaving the building, the number of smokers, deliveries and parking or additional foot and vehicular traffic. There was nothing in place for anti-social behaviour. They had claimed that 685 people would be using the building. The current premises had a couple of dozen customers, although it had a registered capacity of 686 persons. The management for each area was unknown. The management plan was one year old and lacked specifics. The applicant claimed that they should be an exception to the cumulative impact policy but had not stated why this should be. They had not tried to address in their application why they would have no adverse impact on the cumulative impact policy. The exceptions given as an example in the licensing policy were small premises with a 50 person capacity and coffee shops. This application was a long way from these examples. There were no other similar premises in the area. This had 1000 more licensing hours than other local premises and the private members club which allowed four guests, which was not considered to be very private as it allowed up to four guests. The application broke all the rules for an exception to policy.

The second resident stated that there had been 201 objections with no support. Residents were concerned about the use of the outside space. There were two recent applications in the area with roof terraces. Neither had permitted alcohol and had restricted hours to 8pm. The applicant had made no analysis of the noise impact. The application asked for 1600 extra licensed hours than nearby restaurants which were the same size as just the top floor. The applicant had ignored vertical drinking concerns. Other restaurants prohibited drinking alcohol without food and off sales were prohibited. The applicant had refused to state maximum capacity and on sale conditions and there was a concern that it would not be the applicant that managed queues to the premises. The applicants had refused to state a maximum capacity. The premises would have bars, regulated entertainment and music, which by definition could be a night club. With the opening hours applied for there could be five covers a day, with 921 seats, with 600 people per cover, there could be 3000 people through the doors each day. 1 million extra people per year. Residents asked that the application be refused as other premises agreed had been with a smaller capacity.

The applicants stated that they had wanted to make this building great and had the support of Historic England and the Council. They did not want the building to be closed to the public. It was intended that the ground floor should have public access and be a social hub in the area. They had been in discussions with a couple of operators including bakeries and health spas with a view to creating a market place. They would want to be personally involved with licensees and there was no intention to create a nightclub.

The applicants' representative stated that they had met with the police, environmental health and residents and as a result had tailored their application. He stated that the application should be granted as an exception. The applicants would retain overall control with individual leases. The police and environmental health had not objected despite the cumulative impact policy. Residents were concerned but could be assured that the premises would not add to the cumulative impact. He referred the Sub-Committee to s182 of the home office guidance which stated that the authority would look to the police regarding concerns with crime. Although there was a cumulative impact policy he considered that conditions relating to the outside area after 10pm and regarding rubbish and deliveries, the application would not add to the cumulative impact. The company owner

stated that this was an amazing opportunity to have public access to this building. There was strong support from local businesses and the City University.

The applicants' representative stated that this was a good location for this operation, it was an island site close to Farringdon Station and with sound noise control measures and insulation. This would not operate as a nightclub. There would be close communication with residents. There was a need to cater for a mix of people and lifestyles and this would provide dining and leisure for both business and the tourist. This was a good opportunity to restore a great landmark. He asked that the Sub-Committee consider the conditions on pages 235-238 of the report during their retirement, which included conditions regarding noise management and the dispersal policy to be agreed by the licensing authority.

In response to questions the applicant's representative stated that they did not know the capacity and that not every premises would add to the cumulative impact. There would be management and dispersal plans in place. The building would be sound insulated and egress from the premises would be dealt with by the noise team. The majority of customers would be exiting on Farringdon Lane and away from local residents. Regarding the dispersal policy the exits were detailed in the proposed conditions on page 238 of the report although it was accepted that residents were not happy with this. The customers had been moved away from Clerkenwell Green to Farringdon Lane after midnight. Principles were in place for dispersal but they could not be finalised until an operator was in place.

The Sub-Committee noted that there were three elements to the building. The ground floor or basement, which was intended to be a food court with multiple suppliers, the private members club on floors 1-3 and a dining room and swimming pool on the top floor/roof terrace. It was possible that one of the applicants or a Director of Satila Farringdon Ltd would be a designated premises supervisor (dps). The lease for each business area would be very specific and responsibility would lie with each dps and enforced through the lease. An application could have been made for each area separately. It was made as one application as it was considered easier, however it may be necessary to look at other licences at a later stage.

In response to a concern that financial concerns of the operators may override the removal of a leaseholder who was not upholding the licensing objectives, it was reported the leaseholder in this circumstance could jeopardise the whole of the licence. There was a greater risk for the owner to have one licence. If there were many operators the owners may need to look at having some form of security against occupiers breaking licensing conditions. The basement was intended to hold a mixture of premises. This could involve bakeries, restaurants, health spas possibly art shops. The Chair raised a concern that there was nothing to prevent 15 different bars in this location and there was no guarantee that there had to be food with alcohol. The applicants' representative stated that this was not the intention. A wine shop may be a possibility. An off licence would be stopped at an earlier hour. There would be a substantial food offering available at all times and a substantial food condition had been agreed for the ground floor. Off sales were conditioned to be in sealed containers after 9pm. The Chair reiterated that there was nothing in the conditions to prevent all bars on the ground floor. The applicants' representative stated that in the draft management plan dated 2015, the capacity on the ground floor was 254, in the membership areas it was 340 and on the top floor it was 74, although the top floor was likely to hold more looking at the plans. There were to be proper membership conditions. There was no condition proposed for the top floor to be table service only. The Chair stated that the entire area could then be used as a bar. The applicants stated that the top floor would be owned and operated by themselves. The applicants considered that they could manage the situation.

With regard to questions about dispersal it was stated that customers would disperse onto Farringdon Lane after midnight. The ground floor would be closed at this time and the top floor smaller venue, with 10% of customers, would exit onto Clerkenwell Green North. The management of doorstaff would be included in the dispersal policy. The application was outside core hours in the licensing policy as it was considered to be a general exception

and the police and environmental health were happy with those hours. The owners stated that they needed the flexibility in hours and members clubs around London operated for longer hours. This was considered to be the best use for the building. Planning hours were more restrictive but the applicants were in discussions with the planners. The hours granted were less than the applicants applied for and they would have to go back to seek longer planning permission hours if granted. They had not updated the management plan as they were waiting to see what would happen with the licensing application. They had not made a provisional statement as most licensing lawyers do not make them, although they could have done this.

In summary, the interested parties stated that the grant of this licence would be a dangerous precedent with no guarantees for residents. The onus was on the applicant to have planning permission in place before a licence was granted and the reasons why planning was granted for shorter hours was in the interests of protecting residential amenity. The planning authority had stated that once the applicant had drawn up a more detailed management plan they would consider longer hours. There was a capacity shown for 1000 customers. 10% of people leaving by the Clerkenwell Green North entrance meant that the capacity would be 1000 by the owners own admission. A main concern was the large volume of people entering and leaving the building. As detailed in the licensing policy, Clerkenwell had one of the highest concentrations of late licensed premises in the Borough with 10% of on licensed venues located within this small geographical area. The number of people on the ground floor would be greater than the Conran restaurant and the number on the top floor would be larger than Grainger. The applicant had refused to offer a condition for table service and had stated that a substantial meal would be available.

The applicant's representative stated that management and dispersal plans were to be agreed. He asked that the Sub-Committee be content with the conditions. The noise policy would be agreed with the noise team. They had submitted why they considered they would be an exception. He considered that the residents had concerns that were speculative. The premises already had a licence. The location was good. A licence had already been granted until 12 o'clock and the capacity was greater than it has been used for. The conditions proposed could satisfy the Sub-Committee that this was an exception.

RESOLVED

That the application for a new premises licence for The Old Sessions House, 22 Clerkenwell Green EC1R 0NA be refused.

REASONS FOR DECISION

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

The Sub-Committee took into consideration Licensing Policy 2. The premises fall under the 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.

Licensing policy 2 provided examples of applications that the licensing authority may consider as exceptional including, small premises with a capacity of fifty persons or less, small premises operating within core hours as set out in licensing policy 8 or premises which are not alcohol led. The characteristics of these premises were very different to the exceptions envisaged by the policy in that the capacity would be at least 685 persons, the

proposed hours of operation were outside the core hours and the restrictions regarding provision of food with the sale of alcohol were limited to the ground floor only. Furthermore the applicants' proposed condition that substantial food would be available at all times on the ground floor did not tie the sale of alcohol to the provision of a substantial meal or restrict units or percentage floor areas where alcohol would be available for sale.

The Licensing Sub-Committee noted that exact capacity numbers were to be agreed but the plans submitted by the applicant show seating provision for approximately 1000 persons. The Licensing Sub-Committee anticipated that in a day of trading there could be many more than 1000 people attending the premises. The premises would therefore substantially add to the cumulative impact area. The Sub-Committee noted the licensing authority's concern about the potential impact that such a large volume of additional people arriving in the area would have.

The Sub-Committee considered the existing licence for the premises with capacity numbers set at 686. However, the previous operation of the premises by the Masonic Centre was very different in nature. The sale of alcohol in the entire premises was restricted to members of the Masonic Lodge and their guests or for persons attending conferences by invitation. The Sub-Committee also noted the submission of the interested party that there were only a few dozen visitors a day to the premises when operated by the Masonic Lodge.

The Sub-Committee noted that the applicants had not yet identified tenants for the different parts of the premises. The applicants had not provided updated management and dispersal plans to evidence how the licensing objectives would be promoted. The licensing authority and the interested parties raised concerns about public nuisance from patrons at the premises when using outside drinking and smoking areas and dispersing from the premises. These parties also raised concern that the applicants had not provided details of how they would manage the premises to ensure the responsible retail of alcohol including measures to discourage vertical drinking. The Sub-Committee noted the applicant's proposals for 90% of customers leaving the premises late at night to be onto Farringdon Lane to reduce the impact on residents. However, the Sub-Committee noted that there would still be a sizeable number of customers leaving through the Clerkenwell Green North exit and the applicant had provided inadequate details concerning dispersal arrangements.

The applicants submitted that because the police and environmental health, as responsible authorities, had not made representations that the application was against policy, the Sub-Committee should be satisfied that the application could be granted as an exception. The Sub-Committee however noted that there was a submission from the licensing authority as a responsible authority and that the Sub-Committee should consider and give weight to these representations in relation to public nuisance.

The Sub-Committee was satisfied that the licensing objectives would be undermined and that the proposed conditions would be an ineffective solution. The applicants failed to rebut the presumption that the application would add to the existing cumulative impact of the Clerkenwell cumulative impact area.

The Sub-Committee noted that the premises currently had planning permission for limited hours of operation. The proposed hours in the application are more extensive than permitted under the planning consent and the applicants recognised that they needed to amend their planning consent to operate the licence as proposed. The Sub-Committee noted licensing policy 6 which states that the licensing authority expects applicants to ensure that they have planning consent for the intended hours of operation before making application for a premises licence. The licensing authority will only grant licences for premises without planning consent in exceptional circumstances which were not established in this case. There had been a Planning Committee hearing and the planning authority had

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clearly considered protecting neighbouring residential amenity in their reasoning. Therefore, the Sub-Committee were satisfied that the application should be refused on this basis as well.

The meeting ended at 8.30 pm

CHAIR