

Licensing Sub Committee D - 22 June 2016

Minutes of the meeting of Licensing Sub Committee D held at the Town Hall, Upper Street, N1 2UD on 22 June 2016 at 6.30 pm.

Present: **Councillors:** Nick Wayne (Chair), Satnam Gill (Vice-Chair) and Flora Williamson

Councillor Nick Wayne in the Chair

123 INTRODUCTIONS AND PROCEDURE (Item A1)

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

124 APOLOGIES FOR ABSENCE (Item A2)

Received from Councillor Marian Spall.

125 DECLARATIONS OF SUBSTITUTE MEMBERS (Item A3)

Councillor Flora Williamson substituted for Councillor Marian Spall.

126 DECLARATIONS OF INTEREST (Item A4)

Councillor Nick Wayne declared an interest in agenda item B4 – Mediterranean Food Centre, Unit 2, St Paul's Road, N1 – as a Canonbury Ward councillor.

127 ORDER OF BUSINESS (Item A5)

The order of business would be as stated on the agenda.

128 MINUTES OF PREVIOUS MEETING (Item A6)

RESOLVED:

That the minutes of the meeting held on 14 April 2016 be confirmed as a correct record and the Chair be authorised to sign them.

129 POPESEYE STEAK HOUSE, 36 HIGHGATE HILL, LONDON N19 5NL - PREMISES LICENCE VARIATION (Item B1)

The Licensing Officer drew attention to an email of 31 May 2016, from James Hutchinson, the owner of Popeseye, responding to the representations which had been received to the application for a variation to the premises licence and copies of which had been provided to members of the Sub-Committee.

The Sub-Committee had noted that no representations had been received from the Local Authority or the Police.

The applicant stated that his response to the representations received was contained in the email of 31 May 2016. No reports of public disorder at the premises had been made to the Police. He thought that many of the representations were unfair. The premises was in a quiet area and there would be no heavy drinking.

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In response to a question as to why the applicant had applied to operate until 00:00 on Mondays, which was outside the recommended core hours, the applicant said that, firstly, it was to maintain parity with the existing approved operating hours for the premises from Tuesdays to Sundays. Secondly, there was a large room at the back of the premises which he hoped to be able to hire out for private functions. He saw this as a selling point for the business. In response to a further question about how much the business was likely to be affected if the hours were not extended, the applicant queried the grounds upon which that might be possible, since the premises already operated until 00:00 from Tuesdays to Sundays.

In response to a question as to why no adverse affect in granting this variation to the premises licence would occur, given its location in the Archway cumulative impact zone, the applicant maintained that there was no current impact on the area and he failed to see how extending the opening hours to include Mondays would cause an adverse impact.

The applicant stated that his was a sophisticated but informal establishment, selling steak and wine, and not part of a chain. The menu and wine prices would not attract the type of clientele who would cause trouble.

RESOLVED:

1. That the application for a premises licence variation in respect of Popeseye Steak House, 36 Highgate Hill, N19 5NL be granted to allow:

- i) the provision on sales of alcohol and recorded music on Mondays from 11:00 until 00:00
- ii) the provision of late night refreshment on Mondays from 23:00 to 00:00
- iii) opening hours on Mondays from 11:00 until 00:00

2. That the conditions outlined in appendix 4 and detailed on page 40 of the agenda 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 Policy 2. The premises fell under the Junction area of Archway cumulative impact area. Licensing policy 2 created a rebuttable presumption that applications for new premises licences that were likely to add to the existing cumulative impact would normally be refused, unless an applicant could demonstrate why the operation of the premises involved would not add to the cumulative impact, or otherwise impact adversely on the promotion of the licensing objectives.

The Sub-Committee noted that no representations had been received from the Local Authority or the Police.

None of the local residents who had objected to the application were present at the meeting, although their written representations had been taken into account, together with the applicant's response to those representations.

The applicant maintained that the operation of his premises at the current time had not adversely impacted on or added to the cumulative impact area and would not do so in the future, if the variation to the licence to open on Mondays was granted. He said that his was

a sophisticated but informal establishment which did not attract clientele who would cause trouble. He had applied for a closure hour for the premises of 00:00 on a Monday to maintain parity with the current closure hours from Tuesday to Sunday, which were also at 00:00. In addition, being able to open until 00:00 would be a selling point for the letting of a function room at the back of the premises for private functions, which would help his business overall.

Notwithstanding the fact that the premises currently operated outside the core hours ie until 00:00, the Sub-Committee concluded that, although the premises fell under the Archway cumulative impact area, the granting of the variation to the licence would not add to the cumulative impact of the area and the licensing objectives would be promoted

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72 ST JOHN STREET, LONDON EC1M 4DT - NEW PREMISES LICENCE (Item B2)

The Licensing Officer referred to the second bullet point on page 61 of the agenda and circulated to Members of the Sub-Committee a copy of the plan indicating by hatching the area of the premises where alcohol would be supplied and consumed prior to a meal in the bar area, by up to a maximum of twelve people at any one time.

The Sub-Committee noted that there had been no representations from the Licensing Authority or the Police, although the premises was situated within the Bunhill Cumulative Impact Zone.

The Applicant's agent outlined the application, which was for the offer of alcohol alongside food on Mondays to Saturdays. All of the responsible authorities were satisfied that the granting of a new premises licence would not impact adversely on the area. Although the original application had sought agreement to the supply of alcohol up until 23:00, this had been reduced to 22:30 in response to representations from the Council's Noise Team and local residents, as detailed in the "Statement for Other Parties" which had been circulated to members of the Sub-Committee. In addition, the applicant had agreed to an additional condition that "There shall be no collections of refuse or deliveries between the hours of 22:00 to 08:00" to reduce the noise impact on residents. He suggested that most of the representations referred to a noisy and boisterous establishment, which this was not. The applicant proposed to run a high quality wining and dining experience, along the lines of an Italian "cicchetti" restaurant. The applicant was a qualified sommelier who ran a successful establishment nearby, for which he had an alcohol licence and had experienced no problems.

In response to a question from a member about the management of potential queues outside the restaurant, the applicant's representative explained that a limit of 50 people would be allowed in the pre-dining area. The applicant himself added that the restaurant's kitchen was small. The manager would plan in advance and would know if it were possible to accommodate all their clients, most of whom would have booked in advance and this would prevent queues building up outside the premises.

RESOLVED:

1. That the application for a new premises licence in respect of 72 St John Street, London EC1M 4DT be granted to allow:

- i) the supply alcohol for consumption on the premises from 12:00 until 22:30 on Monday to Saturday
- ii) the premises to be open to the public from 12:00 until 23:00 on Monday to Saturday

2.The conditions outlined in appendix 3 and detailed on page 74 of the agenda to 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 Policy 2. The premises fell under the Bunhill cumulative impact area. Licensing policy 2 created a rebuttable presumption that applications for new premises licences that were likely to add to the existing cumulative impact would normally be refused, unless an applicant could demonstrate why the operation of the premises involved would not add to the cumulative impact, or otherwise impact adversely on the promotion of the licensing objectives.

The Sub-Committee noted that no representations had been received from the Local Authority or the Police to this application and that none of the local residents who had objected to the application were present at the meeting, although their written representations had been taken into account, together with the applicant's response to those representations. In response to the representations received from residents, the applicant had reduced the hours for the sale of alcohol to 22:30 from the original application for 23:00 hours.

The applicant's representative stated that this was a small premises with a capacity of 50 persons who would operate only during the hours specified within Licensing Policy 8. He therefore asked the Sub-Committee to consider this application as exceptional to the policy. The premises was primarily a quality wining and dining experience for its customers and the applicant was a qualified sommelier who wished to sell quality wines to discerning customers. In response to a question, the applicant had said that he was confident that there would be no problems caused by customers queuing up outside the premises since most tables were pre-booked and the manager of the premises would know in advance of numbers expected.

The Sub-Committee concluded that, although the premises fell under the Bunhill cumulative impact area, the granting of the licence would not add to the cumulative impact of the area and the licensing objectives would be promoted.

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PASSENGERS, 19 GREEN LANES, LONDON N16 - NEW PREMISES LICENCE (Item B3)

The Licensing Officer drew members' attention to eight further conditions which had been circulated. In response to a question from members, the applicant's representative confirmed that these were conditions with which the applicant would comply.

The Sub-Committee noted that no representations had been received from the Responsible Authorities.

The applicant's representative stated that the application was solely for the sale of alcohol on the premises and that the hours of operation were within those recommended in the Licensing Policy. Alcohol would be served with food, as in a traditional restaurant. In fact, the sale of alcohol would be for an hour less than the closing times recommended in the Licensing Policy on Fridays and Saturdays. The premises had been licensed in the past but the licence had been revoked, so the current applicant could not use that licence.

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The application for an opening hour of 08:00 when the premises would be open to the public was to cater for the breakfast trade. There had been problems associated with the premises historically, but this was no longer the case. The applicant's representative said that the concerns of the resident above the premises about noise would be addressed by the additional conditions and the hours of operation of the premises.

Following the identification of a discrepancy on page 1 of the report of the Service Director for Public Protection which indicated that the application was for the sale of alcohol from Mondays to Sundays from 11:00 until 22:00, whereas the actual application (page 86) requested sale of alcohol from 11:00 on Sundays to Thursdays and 11:00 to 23:00 hours on Fridays and Saturdays, the Licensing Officer apologised for what appeared to be an officer error. She suggested that there had been no consequent affect on the notification to the Responsible Authorities, since her records indicated that the correct operating times had been notified to them.

In response to questions, the applicant confirmed that he had held the lease for the premises for six months and had not traded any later than 19:00 hours for a number of months.

RESOLVED:

1. That the application for a new premises licence in respect of Passengers, 19 Green Lanes, London N16 9BS be granted to permit:

i) the sale by retail of alcohol, on supplies only, on Sunday to Thursday, from 11:00 until 22:00

and 11:00 to 23:00 on Friday and Saturday

ii) the premises to be open to the public from Sunday to Thursday from 08:00 until 22:00 and from 08:00 to 23:00 on Friday and Saturday

2) The conditions as outlined in appendix 4 and detailed on page 106/107 of the agenda and the eight additional conditions as agreed by the applicant to 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.

Following the identification of a discrepancy on page 1 of the report of the Service Director for Public Protection which indicated that the application was for the sale of alcohol from Mondays to Sundays from 11:00 until 22:00, whereas the actual application (page 86) requested sale of alcohol from 11:00 on Sundays to Thursdays and 11:00 to 23:00 hours on Fridays and Saturdays, the Licensing Officer stated that her records indicated that the correct operating times had been notified to the Responsible Authorities.

The Sub-Committee noted that no representations had been received from the Local Authority or the Police.

None of the three local residents who had objected to the application were present at the meeting, although their written representations had been taken into account, together with the applicant's response to those representations. However, the Sub-Committee noted that

the applicant had addressed residents' concerns and produced and agreed eight further conditions with the residents with which the applicant would comply. The applicant's representative stressed that the sale of alcohol would be ancillary to food, that the hours of operation were within those recommended in the Licensing Policy and that the opening hour of 08:00 was to enable the premises to provide breakfast to customers.

In response to residents' representations, the applicant had engaged his own noise expert to carry out an inspection and, as a result, had carried out additional insulation works at the premises to reduce noise. The applicant's representative suggested some of the noise problems cited by local residents as part of their representations emanated from nearby premises.

The Sub-Committee was satisfied that the proposed operation would promote the licensing objectives and therefore agreed to grant the application.

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MEDITERRANEAN FOOD CENTRE, UNIT 2, ST PAUL'S ROAD, N1 - REVIEW OF PREMISES LICENCE (Item B4)

Councillor Nick Wayne pointed out to the applicant and his representative that he had declared an interest in this item at the beginning of the meeting, as one of the local Ward councillors for Canonbury.

The Licensing Officer circulated to members coloured versions of photographs of the inside of the premises, which had previously been circulated in black and white.

The Trading Standards Officer described the circumstances which had led to the review. In December 2013, shortly after having taken over the business, the premises licence holder had sold alcohol, without proof of age being requested, to an 18 year old who was working with Trading Standards. This was a breach of condition 10 on the premises licence. A similar occurrence had happened in December 2015. At that later visit, the Trading Standards Officer had carried out a comprehensive check of the alcohol and tobacco in the shop, during which a large amount of spirits was identified as non-UK duty paid and seized. The premises licence holder had informed Trading Standards that he had bought the alcohol from an acquaintance, whose own shop had closed. No proof of purchase had been available. Subsequent checks by Trading Standards with the local authority where the closed premises had been situated proved that the premises licence holder had relayed the position accurately to Trading Standards. The premises licence holder had subsequently attended an interview and had given honest answers. He had attended training at the first available opportunity. Trading Standards officers had visited the premises on a later occasion and had found things to be in order. They had viewed CCTV footage and noted that no alcohol had been on sale at the premises for a period of time. In the circumstances, the Trading Standards Officer suggested that a period of suspension might be appropriate, to emphasise the seriousness of the matter and to act as a deterrent to the premises owner and other licensees against future mis-management. However, he suggested that it would also be legitimate for the Committee to consider the premises owner's self-imposed suspension to be sufficient for these purposes and that, subject to the imposition of the additional conditions in Annex 3, the licensing objectives would be met.

The Licensing Authority noted the seriousness of the incidents which had taken place in December 2013 and 2015 and how the position seemed to have improved since that time. It was noted that the premises licence holder had attended training sessions and passed the associated tests. The Licensing Authority concurred with the view of the Trading Standards Officer and suggested that, with the addition of the additional conditions, the Committee might consider that there was no need for a suspension of the licence on this occasion.

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The Police Authority's representative stated that there had been no problems of crime and disorder associated with these particular premises, though there were ongoing problems around the Marquess Estate generally. The Police expected high levels of management from all premises licence holders but, on this occasion, concurred with Trading Standards that there was no need for a suspension of the licence. In response to a question, the Police's representative confirmed that there had been no reports of crime and disorder connected to the sale of alcohol from these premises in the past six months.

RESOLVED:

That conditions 1 – 11 of Annex 3 to the premises licence be replaced with the conditions set out on page 117 and 118 of the report and that there be no further sanction on this 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 heard evidence from Trading Standards that the premises had come to their attention in December 2013 when the licensee had failed to operate the "Challenge 25" policy, which was a breach of condition 8 on the licence. A similar breach of condition 8 had occurred at a further inspection in December 2015. During that later visit, Trading Standards had carried out a comprehensive check of alcohol and tobacco on the premises and found a large amount of alcohol which was identified as non-UK duty paid and therefore seized. The Sub-Committee noted that the licensee was unable to produce paperwork for the alcohol, though he had provided an explanation of where the spirits came from which was plausible, but could not be fully verified. However, the licensee had subsequently attended training for Off Licence managers at the first available opportunity and, on subsequent Trading Standards inspections, had been found to be fully complying with the conditions of the licence. In fact, the licensee had ceased to sell alcohol for a period of time of his own volition. Trading Standards reported that, given the licensee's self-imposed suspension from selling alcohol, and his compliance with the conditions of his licence and the Council's Licensing Policy, they suggested that neither a revocation of the licence, nor a suspension, was appropriate.

The Licensing Authority noted the seriousness of the incidents in December 2013 and December 2015 when non-UK duty paid alcohol had been seized from the premises. However, they acknowledged the improvements in the operation of the business since that time and concurred with the Trading Standards team that suspension or revocation of the licence would not be considered appropriate.

The Police representative stated that there had been no problems of crime and disorder associated with this particular premises. These types of problem were ongoing problems around the Marquess Estate. The Police expected high standards of management from premises licence holders. They supported the Trading Standard team view with regard to sanctions against the licence holder. In response to a question, the Police representative confirmed that there had been no reports of crime and disorder connected to the sale of alcohol from these premises.

The licensee's representative confirmed that the licensee accepted and would comply with the conditions proposed on pages 117 and 118 of the report.

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In the circumstances the Sub-Committee formed the view that a suspension or revocation of the licence would not be an appropriate and proportionate response and, in view of the licensee's self-imposed suspension and compliance with the conditions of his licence since January 2016, that there be no further sanction on his licence. The Sub-Committee were of the view that, with the new conditions imposed on the licence, that the licensing objectives would be promoted.

The meeting ended at 7.45 pm

CHAIR