

**Licensing Sub Committee D - 16 August 2016**

Minutes of the meeting of the Licensing Sub Committee D held at Committee Room 4, Town Hall, Upper Street, N1 2UD on 16 August 2016 at 6.30 pm.

**Present:**           **Councillors:**       Nick Wayne (Chair), Satnam Gill and Marian Spall.

**Councillor Nick Wayne in the Chair**

**133       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.

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

There were no apologies for absence.

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

There were no declarations of substitute members.

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

There were no declarations of interest.

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

The order of business was as the agenda.

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

**RESOLVED**

That the minutes of the meeting held on the 22 June 2016 be confirmed as a correct record and the Chair be authorised to sign them.

**139       BELLANGER, 9 ISLINGTON GREEN, N1 2XH - VARIATION OF PREMISES LICENCE (Item B1)**

The licensing officer reported that this application was to amend a condition of the licence to increase the number of customers in the seated bar area. Since the original application the applicant had withdrawn the proposal to remove the condition that there would be no vertical drinking in the premises. It was noted that Councillor Klute had withdrawn his representation following this amendment.

The licensing authority stated that they had concerns regarding the vertical drinking condition and accepted the application, now this request had been withdrawn.

The applicant stated that they had received a letter from one resident which stated they were no longer going to pursue their objection. He stated that there would be no vertical

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drinking in the premises and it was their hope that people seated in the bar area would then eat in the restaurant. Drinking without food would cease at 9pm.

### **RESOLVED**

1) That the application for a premises licence variation, in respect of Bellanger, 9 Islington Green, N1 2XH be granted to apply the following conditions to the existing licence:-

Amend Annex 2, condition 3 to read.

- The supply of alcohol shall be ancillary to the provision of a table meal to all customers seated at tables and served by a waiter/waitress save up to 40 persons seated at the bar counter or seated at the fixed seating shown in the hatched area of the attached plan until 21:00;

Add the following additional conditions:-

- There shall be a designated smoking area at the front of the premises. The number of people allowed at any one time to remain in the designated area to smoke shall be limited to 5 persons. The premises shall ensure that a member of staff regularly monitors the designated area to ensure that the maximum number of people is not exceeded.
- Folding windows to the frontage to be closed at 23:00.
- Notices to be displayed reminding patrons to respect the needs of local residents and to leave the premises and the area quietly.
- Any amplified music be limited to ambient background levels

### **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 Angel and Upper Street cumulative impact area. Licensing policy 2 creates a rebuttable presumption that applications for variations to 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.

It was noted that the application had been amended and the application to remove the vertical drinking condition had been withdrawn. As a result of the amended application the police and noise team had withdrawn their representations as had the local councillor. The licensing authority also withdrew their representation at the meeting when the applicant clarified that the condition regarding vertical drinking was not to be removed.

The Sub-Committee noted that the amended application did not seek to vary the hours that licensable activities were permitted but only sought to increase the number of people to whom alcohol could be served without food in the bar area. The Sub-Committee noted that there were no concerns with the management of the premises from the licensing authority or the police. The Sub-Committee noted the applicant's assurance that the premises would not be converted to a public house.

The Sub-Committee concluded that the grant of the application, with the agreed conditions, would promote the licensing objectives. The Sub-Committee considered licensing policies 9 and 10 in relation to high standards of management.

**140** **FOUR SEASONS EXPRESS, 239 CALEDONIAN ROAD, N1 1ED - NEW PREMISES LICENCE (Item B2)**

The licensing officer reported that the applicant had amended the application to bring the hours in line with those granted by planning permission.

In response to questions from the Sub-Committee, the licensing authority reported that this area was not the busiest end of Caledonian Road and that she did not believe that there were any problems in this part of Caledonian Road.

The applicant stated that he had run similar businesses for 16 years. He stated that he only wanted the licence for half an hour. There were other takeaways in the area that were open until 2am and the cumulative impact should apply to all businesses. He needed half hour to allow his business to be more successful.

In response to questions regarding noise and disruption, it was noted that he had signs in place, had CCTV and his staff were experienced and well trained. There was enough room outside to park motorbikes. It was noted that most of his business was delivery rather than customer collection. The additional half an hour would cover expenses as it was an expensive area to set up a business. The premises had been closed for many years and he had been there for eighteen months. There had been no issues or complaints from neighbours in the past six months.

**RESOLVED**

- 1) That the application for a new premises licence, in respect of Four Seasons Express, 239 Caledonian Road, N1 1ED, be granted to allow:-
  - a) Late night refreshment from 23:00 until 23:30 hours, Monday to Sunday.
  - b) Opening hours to be:- 11:00 hours until 23:30 hours, Monday to Sunday.
- 2) That conditions outlined in appendix 3 and detailed on page 59 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 fall under the Kings Cross 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.

There were three resident objectors. There had been no representations made by the responsible authorities.

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The Sub-Committee noted that the applicant had amended his application and was now only seeking a late night refreshment licence for half an hour each night of the week, in line with his planning consent.

The Sub-Committee heard evidence from the applicant that his business relied on his delivery service rather than customer collection. The Sub-Committee heard evidence that, in relation to the prevention of noise nuisance, there were signs on the premises, CCTV cameras and that the staff were all well trained and experienced.

The Sub-Committee noted that in the period that the applicant had been at the premises he had not received complaints from neighbours. The Sub-Committee noted the licensing authority's evidence that this premises was at the north end of Caledonian Road and that the busier area was the south area at Kings Cross.

The Sub-Committee noted that the hours sought were within the hours specified in licensing policy 8. The Sub-Committee also considered licensing policies 9 and 10 regarding standards of management.

The Sub-Committee concluded that the granting of the licence with the conditions attached would promote the licensing objectives. The Sub-Committee noted that there were no representations from any of the responsible authorities and particularly noted that the noise team was not concerned about any issues at the premises and concluded that a delivery based business with a licence for only half an hour would not add to the cumulative impact in the area.

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### **OTHER CAFE AND GALLERY, 48 BALLS POND ROAD, N1 4AP - NEW PREMISES LICENCE (Item B3)**

The licensing officer reported that three letters of support had been submitted by the applicant and he wished to call the supporters as witnesses. The objector was asked if he objected to the admission of these letters. The Sub-Committee noted that two other interested parties were not in attendance and therefore could not view the letters or object to them. The interested party present at the meeting did not object to the admission of the letters. The Chair stated that they would admit the letters of support and would consider what weight should be given to them.

In response to questions, the licensing authority informed the Sub-Committee that the premises were not in a cumulative impact area, the hours were within the licensing policy core hours and this was a small premises. There were no objections from the responsible authorities as police and noise conditions had been agreed.

The interested party stated that he was particularly concerned about the licensing objective for the prevention of public nuisance. He shared a party wall with the premises and when there had been a couple of temporary events at the premises, the music had been very loud through the living room and bedroom wall. He was concerned that there was no reference in the application that alcohol should be served alongside food. The bar area could be used for drinking only and DJs could play loud music. He stated that Balls Pond Road was a very narrow street and he had concerns that people would make noise when leaving and when congregating outside. He was concerned that this would exacerbate crime and disorder which already existed in the area.

In response to questions, the applicant stated that he had considered soundproofing measures. He played music upstairs and the wall to the adjoining property would be soundproofed. He would take measures if the premises were noisy. It was accepted by the neighbour that he had not been disturbed by noise escape for some time but that proposed

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condition 5 did not allay his concerns regarding noise escape and asked if there could be a further condition regarding insulation. He was also concerned about customers drinking and congregating on the narrow pavement outside.

The applicant stated that he had owned the café for the past five years and had served food until 6pm. He would like to extend these hours until 11pm and serve homemade wine from Sardinia. He had not received complaints from neighbours. Alcohol would be served with food. This was a restaurant and he would not expect to see drunk people congregating outside. The outside patio area would close at 9pm. He would soundproof one wall. He would not want to disturb his neighbour. There was an off licence across the road. Previous incidents had been at later hours than he was now applying for. The applicant's agent stated that insulation had been discussed. The applicant had a couple of parties with temporary event notices. People would not drink outside as it was not that sort of place. Background music would be background only. The conditions proposed would clear up any problems.

In response to questions it was noted that the letters of support came from neighbours including one living above the premises. The applicant considered the restaurant would benefit the community. He stated that he would install the soundproofing as soon as he obtained the licence. He would only have background music. Noise issues had been due to birthday parties. He had not had a quote for soundproofing but he knew people. There was a storage room for the alcohol downstairs and they would buy a new fridge to chill the alcohol. He would stock mainly wine and beer and not spirits. He did not consider that his premises would be an off licence but would enable customers to take alcohol away after a meal. He agreed to restrict off sales to customers who had purchased a table meal. The premises would seat 20 customers upstairs and 20 customers downstairs. He would not operate as a bar. He would have probably three staff and was located not far from Dalston Junction.

In summary, the interested party reiterated his concerns regarding sound proofing, off sales and the future of the premises licence as he stated that the applicant had tried to sell the lease over the past year. Licensing officers reported that a major variation to the licence would be advertised in the usual manner and the resident could call the licence in for review if necessary. The applicant asked that the licence be granted. He was not planning a bar and hoped to sell wine to customers and allow them to take a bottle home with them if they wished.

### **RESOLVED**

- 1) That the application for a new premises licence, in respect of Other Café and Gallery, 48 Balls Pond Road, N1 4AP, be granted to allow:-
  - a) The sale by retail of alcohol, on and off supplies, from 10:00 until 23:00 hours Monday to Saturday and from 10:00 until 20:00 hours on Sunday.
  - b) The premises to be open to the public from 10:00 until 23:00 hours Monday to Saturday and from 10:00 until 20:00 hours on Sunday.
- 2) That conditions outlined in appendix 3 and detailed on page 86 of the agenda be applied to the licence with the following additions:-
  - Within three months of the grant of the licence, the licensee shall employ a suitably qualified professional to install sound insulation to ensure that music from the premises does not cause a nuisance to residents. The scheme shall be approved by the Council and implemented to the satisfaction of the Council.

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- Condition 3 to read. The supply of alcohol at the premises, for both on and off sales, shall only be to a person seated taking a table or bar meal there and, in the case of on sales, for consumption by such a person as ancillary to their meal.

### **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.

There were three local resident objections. It was noted that the police and noise team representations were withdrawn following agreement of conditions by the applicant. The applicant produced letters of support from three neighbours and sought permission from the Sub-Committee for these to be admitted as evidence. The Sub-Committee noted that the one objector present did not object to the admission of the letters and decided that the letters would be admitted.

The Sub-Committee heard evidence from the objector that he was concerned with noise escape from the premises. He was concerned that music could be heard in his premises and that this was due to a lack of sound insulation in the premises. He was also concerned with noise from people congregating outside the premises or leaving the premises. The objector stated that the premises were on a very narrow street and that he was concerned that customers at tables outside could not be managed. The Sub-Committee also heard evidence from the objector as to his concerns regarding the application for an off licence, as the reason it was being requested was not clear from the application.

The Sub-Committee noted that the applicant was prepared to accept a condition that sound proofing would be installed at the premises. It was also noted that, following questions, the applicant agreed that he would accept a condition that off sales would only be made to customers buying a meal. The Sub-Committee heard evidence from the applicant that he planned to sell imported homemade Italian wines and that he sought an off licence for customers to take wine home with them if they had enjoyed it with their meal. The applicant stated that the capacity of the premises was 20 people seated upstairs and 20 downstairs. The applicant stated that he was not planning a late bar or club.

The Sub-Committee heard evidence from the licensing authority that the hours sought were within the hours specified in licensing policy 8 and that the premises were small. The Sub-Committee noted that alcohol sales would be ancillary to food for both on and off sales.

The Sub-Committee noted the agreed condition in relation to the use of the patio. The Sub-Committee concluded that the conditions agreed with the noise team and with the additional condition regarding sound insulation would prevent noise escape from the premises. The Sub-Committee concluded that due to the size and proposed use of the premises and the limited hours sought, with the addition of the conditions, particularly those in relation to sound insulation, the grant of the licence would promote the licensing objectives.

The Sub-Committee considered licensing policy 8 regarding licensing hours and licensing policies 9 and 10 regarding standards of management.

The meeting ended at 8.00 pm

**CHAIR**