

**London Borough of Islington**  
**DRAFT**  
**Licensing Sub-Committee 'D' – 10 September 2013**

Minutes of the meeting of Licensing Sub-Committee 'D' held at the Town Hall, Upper Street, N1 2UD on 10 September 2013 at 6.30 pm

Present: Councillors: Raphael Andrews, Troy Gallagher and Tracy Ismail.

**COUNCILLOR TROY GALLAGHER IN THE CHAIR**

**176 INTRODUCTIONS (Item A1)**

Councillor Troy Gallagher welcomed everyone to the meeting and officers and members introduced themselves. The procedure for the conduct of the meeting was outlined and those present were informed that the procedure was detailed on page 5 of the agenda.

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

Councillor Wilson.

**178 DECLARATION OF SUBSTITUTE MEMBERS (Item A3)**

Councillor T Ismail substituted for Councillor Wilson.

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

None.

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

The order of business would be as the agenda.

**181 MINUTES (Item A6)**

That the minutes of the meetings held on 9 July 2013 be confirmed as an accurate record of proceedings and the Chair be authorised to sign them.

**182 BUDGEN'S OF ANGEL, 42-49 PACKINGTON STREET, N1 7FZ - APPLICATION FOR A NEW PREMISES LICENCE UNDER THE LICENSING ACT 2003 (Item B1)**

The licensing officer reported that the applicant had confirmed that recorded music was to be deleted from the application. The health and safety representation had been withdrawn as works had now been completed.

The police officer reported that the police representation had been withdrawn as following discussions with the applicant he did not consider that there would be any problems with the premises.

Ellis Sarfen, representing the applicants Prateeu Shukla and Anand Lavingia, reported that the premises would sell a full range of groceries as well as alcohol. He informed the Sub-Committee about their previous experience and also outlined the conditions that would be placed on the licence. Staff were currently being trained at another branch of Budgens and would be fully trained when the shop opened. He reported that many of the objections were regarding the cumulative impact area and this premises was outside the zone.

In response to questions it was noted that the alcohol would be in lockable fridges. Additional papers in support of the application from Packington Square Board had been copied to members of the Sub-Committee and it was noted that these had been submitted for the planning application and not the licensing application.

Members of the Sub-Committee left the room to deliberate before returning to announce their decision.

**RESOLVED:**

- a) That the new premises licence in respect of Budgen's of Angel, 42-49 Packington Street, N1 7FZ be granted to permit the premises to sell alcohol on Mondays to Saturdays from 10:00 to 23:00 hours and on Sundays from 10:00 until 22:30.
- b) That it be noted that opening hours would be from 07:00 until 23:00 hours, seven days a week.
- c) That conditions as outlined in appendix 3 as detailed on pages 65-67 of the agenda shall 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 paragraph 1.17 of the Home Office guidance which stated that each application must be considered on its merits.

The Sub-Committee heard evidence from the applicant about the management standards and experience of the operators. Evidence was given that new staff would be trained at another Budgen's and only experienced staff would be at the Islington store from the beginning. There were satisfactory policies in place to avoid underage sales and there was no reason to suppose that there would be problems with underage sales. The Sub-Committee was satisfied that, in response to questions, the alcohol would be kept in lockable fridges and would be well managed.

The Sub-Committee noted that the premises were not situated in a cumulative impact zone and that there was no representation from the licensing authority. The police had withdrawn their representation after visiting the premises and speaking to the applicant and the noise team had withdrawn their representation after it had been agreed to include condition 24 relating to times of deliveries of licensable goods.

**183 VIVO RESTAURANT, 57-58 UPPER STREET, N1 0NY – APPLICATION FOR A PREMISES LICENCE VARIATION UNDER THE LICENSING ACT 2003 (Item B2)**

The licensing officer reported that recorded music would be removed from the licence if the variation was granted.

The Sub-Committee noted that conditions from the noise team had been agreed by the applicant and the police had not made a representation.

Local resident, A Meredith, raised concerns that the premises would be used mainly by drinkers and was concerned that the premises was open from 7 am in the morning.

Michael Watson representing the applicant, Will Thompson spoke in support of the variation. He reported that there was already an existing premises licence and the applicant was not seeking additional hours. Only one local representation had been received. The work undertaken to the roof terrace had been carried out in consultation with the noise team and noise conditions were attached to the licence to ensure there was no noise breakout from the roof terrace. The applicant agreed to an additional condition relating to off sales.

Members of the Sub-Committee left the room to deliberate before returning to announce their decision.

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### **RESOLVED:**

a) That the premises licence variation in respect of Vivo Restaurant, 57-58 Upper Street, N1 0NY be granted to allow:-

- i) Off sales of alcohol by retail to persons seated at the authorised tables and chairs outside the premises;
- ii) Alterations to the plan of the premises as follows:
  - Changes to the internal layout including relocation of the bar, enlargement of the kitchen and the addition of a food counter;
  - The inclusion of a roof terrace to the rear and
  - The reconfiguration of the toilets.
- iii) the deletion of recorded music from the licence.

b) That the following condition shall be applied to the licence:-

- i) Conditions of the current premises licence.
- ii) Conditions as outlined in appendix 3 as detailed on page 104 of the agenda with the following addition.
  - That the off sales licence be restricted to the tables and chairs outside the premises and the roof terrace.

### **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 002. The premises fall under the Angel and Upper Street cumulative impact area. Licensing policy 002 creates a rebuttable presumption that applications for new or variations to premises licences that are likely to add to the existing cumulative impact will normally be refused. However, it noted that there were no representations from the police or the licensing authority, the noise team were satisfied that with the conditions proposed, there would be no nuisance. The Sub-Committee considered that the roof terrace was designed to avoid any nuisance from noise or smoking and that there would be no additional impact on Upper Street by allowing sales of alcohol to designated tables and chairs within the curtilage.

The Sub-Committee therefore concluded that the application for a variation was not likely to add to the existing cumulative impact in the area and therefore an exception would be made in this particular case.

### **184 LA FORCHETTA, 92 COWCROSS STREET, EC1 - APPLICATION FOR A PREMISES LICENCE VARIATION UNDER THE LICENSING ACT 2003 (Item B3)**

The licensing officer reported that the resident representation had been withdrawn and the police representation had been withdrawn following agreed conditions. This item had therefore been agreed with additional conditions.

### **185 MORRISONS, 67-83 SEVEN SISTERS ROAD, N7 6BU - APPLICATION FOR A NEW PREMISES LICENCE UNDER THE LICENSING ACT 2003 (ITEM B4)**

The licensing officer reported that crime statistics from the police had been circulated which was supporting evidence for the MAGPI representation. These would be interleaved with the agenda papers.

Betul Baris from MAGPI referred members to the representation made by the MAGPI team and reported that she was particularly concerned about the location of the premises.

In response to questions, Betul Baris reported that there had been a problem with street drinkers in the area which caused a problem for businesses and passers-by. Nags Head was the highest crime generated area in the Borough. She considered that Morrisons commitment to the

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partnership had not been forthcoming until after the representation to the application had been made. The team were concerned as they considered that, with the opening of the premises, the number of street drinkers in the area would increase.

Philip Kolvin, QC, reported that the premises were on a site that was now standing idle. It would be one of the smaller units in the Morrisons chain and only 15% of sales would be alcohol. He considered that the management standards for Morrisons were well beyond the standards of other retailers in the area. He reported that the rebuttable presumption for cumulative impact areas in licensing policy 2 was not absolute and that if an application be refused the Sub-Committee would need to show that the grant would undermine the licensing objectives and that conditions would be an ineffective solution. He reported to members that the hours requested fell into the guideline hours outlined in licensing policy 8. He reported that products would not be alluring for street drinkers. He reported bad practice in a number of local premises eg low pricing structures, the sale of single cans and the sale of beers with a high alcohol content that would encourage street drinking. He reported that this premises would not be operating on this basis. He went through the proposed conditions included in the report and it was noted that these went further than existing licences and advised that members could add others if considered relevant. He noted that street drinking had been an issue but had decreased since the borough wide DPPO had been brought in and changes to benches located nearby. He understood that tree canopies could be raised and undertook to manage this if it was considered necessary. He reported on the crime statistics and it was noted that security guards would be in attendance on the premises.

In response to questions it was noted that the number of security guards would be constantly reassessed. Members noted that the current risk assessment provided for seven hours cover, seven days a week. Members also noted that responsibility for the height of the tree canopy would lie with Transport for London. Morrisons had a strict training programme for underage sales. They appointed an independent company who carried out test purchases and reported back. Where the stores failed, all staff were retrained.

### **RESOLVED:**

That the new premises licence in respect of Morrisons, 67-83 Seven Sisters Road, N7 6BU 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 002. The premises fall under the Holloway and Finsbury Park cumulative impact area. Licensing policy 002 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 applicant failed to rebut the presumption that the application if granted, would add to the cumulative impact area. The applicant did not show any exceptional circumstances as to why the Sub-Committee should grant the application.

Although the applicant argued that standards of other licensed establishments in the area were poor and that the standards of the premises would be higher, the Sub-Committee was not satisfied that the applicant had demonstrated in his operating schedule that there would be no negative cumulative impact on the licensing objectives.

The Sub-Committee was particularly concerned about the location of the premises and the localised problems with crime and anti-social behaviour. These were small premises and unlikely to have the resources available in terms of staff. Although there was a condition proposed for sales of cans of beers in packs, thus preventing single can purchases, the Sub-Committee considered that there was nothing to prevent a pack of four being purchased and being shared amongst

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people outside the premises or indeed being drunk one after the other.

The Sub-Committee was not satisfied that the proposals for countering underage sales would be effective particularly in relation to self-service tills or shoplifting, which was known to be a problem in the area and they also considered that the security proposals were insufficient.

The Sub-Committee concluded that the operation of the premises would be likely to impact adversely on the licensing objectives of protection of children from harm, public nuisance and crime and disorder and would add to the cumulative impact of licensed premises in the area.

### 186 **DIPS OFF LICENCE, 67-83 SEVEN ROAD, N7 6BU - APPLICATION FOR A PREMISES LICENCE REVIEW UNDER THE LICENSING ACT 2003 (ITEM B4)**

The trading standards officer reported that there had been three underage sales at the premises, there had been a seizure of illicit alcohol, there had been non-compliance with the licence conditions and an inexperienced 17 year old had been left in charge of the shop. The continued use of the back room for smoking demonstrated a disregard for the law. The Sub-Committee were asked to consider the Home Office guidance which stated that the authority should consider revocation of the licence if this was considered appropriate.

The business had not engaged with or contacted trading standards except for a letter sent after the third underage sale in February 2013. The revocation was supported by the licensing authority and the Better Archway Forum.

Tauqeer Tanveer, prospective purchaser of the premises and Mr Yatin Raikundalia, spoke against the review of the licence. Mr Tanveer reported that he intended to buy the premises. The Sub-Committee noted that the designated premises supervisor was not in attendance but were assured by Mr Raikundalia that he could respond to questions on her behalf.

In response to questions from the Sub-Committee Mr Raikundalia confirmed that he had been given the pack supplied by trading standards. He reported that he had health issues and wished to sell the premises. Mr Tanveer reported that there had been no problems in the shop when he was the designated premises supervisor. Mr Raikundalia and Mr Tanveer were unable to answer questions about the licensing objectives.

#### **RESOLVED:**

That the premises licence for Dips Off Licence, 67-83 Seven Sisters Road, N7 6BU be revoked.

#### **REASONS FOR DECISION**

The Sub-Committee considered the written and oral submissions put forward by the responsible authorities and the licensee.

The Sub-Committee noted that the review was brought following smuggled alcohol found at the premises by the responsible authorities and also three sales of alcohol to underage children. The Home Office guidance at paragraphs 11.27 and 11.28 identified criminal activity which the Secretary of State considered should be treated particularly seriously. This included the sale of smuggled and counterfeit alcohol and sales of alcohol to minors. In addition paragraph 11.30 states that in determining a review following persistent sales of alcohol to children, the authority should consider revocation of the licence if this was considered appropriate.

The Sub-Committee considered that the crime prevention objective was undermined through the premises being used for the sale of illicit alcohol and persistent sales of alcohol to children.

The Sub-Committee noted that there had been three underage sales in three attempts. On one of those occasions the person who sold the alcohol was himself 17 years old and was alone in the shop. More recently a quantity of illicit alcohol was seized which comprised of 21 x 70cl bottles of Glens vodka, 2 x 35cl bottles Smirnoff vodka and 1 litre bottle of whisky. There had been on-going breaches of licence conditions. Officers suspected the use of the back room for smoking and, although this was not a licensing consideration, it did show that the licensee had a disregard for the

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law. Guidance that had been offered by trading standards had been ignored resulting in these offences. The representatives of the designated premises supervisor, who was not present, showed no understanding of the licensing objectives when questioned although they had all been involved in the management of the shop at various times. Home office guidance, paragraph 11.22 was noted as it was clear that poor management was a direct reflection of poor practices and revocation was the only appropriate response in order to promote the licensing objectives of protection of children from harm and crime and disorder.

In making it's decision the Sub-Committee also took into consideration licensing policies 25, 26, 10 and 30 as detailed in the licensing authority's representation.

The meeting ended at 9pm

**CHAIR**