

London Borough of Islington

Licensing Sub-Committee B – 11 November 2013

Minutes of the meeting of Licensing Sub-Committee B held at the Town Hall, Upper Street, N1 2UD on 11 November 2013 at 6.30 pm.

Present: Councillors: Mouna Hamitouche, Phil Kelly and Gary Poole.

COUNCILLOR GARY POOLE IN THE CHAIR

182. INTRODUCTIONS AND PROCEDURE (ITEM A1)

Councillor Gary Poole welcomed everyone to the meeting and asked members and officers to introduce themselves. The Chair outlined the procedures for the meeting and informed the public that the procedures were on page 4 of the agenda papers.

183. APOLOGIES FOR ABSENCE (ITEM A2)

Apologies were received from Claudia Webbe and George Allan.

184. DECLARATION OF SUBSTITUTE MEMBERS (ITEM A3)

Councillor Kelly substituted for Councillor Webbe and Councillor Hamitouche substituted for Councillor Allan.

185. DECLARATIONS OF INTEREST (ITEM A4)

None.

186. ORDER OF BUSINESS (ITEM A5)

The order of business would be as the agenda.

187. SYDNEY FOOD LIMITED, 49 CLERKENWELL GREEN, EC1 - APPLICATION FOR A NEW PREMISES LICENCE UNDER THE LICENSING ACT 2003 (Item B1)

The licensing officer reported that a revised report had been circulated.

The licensing authority reported that their representation was at page 59 of the agenda papers and there was nothing further to add to this.

The noise officer was present at the meeting to answer questions on the acoustic report if required.

Dan Neidle, Clerkenwell Preservation Society spoke against the application. He reported that the premises was too large as it had 98 covers. The entrance was in a very quiet street. The premises would attract more pedestrians throughout the day creating disturbance and noise to residents and changing the character of the area. Other licensed premises had created more footfall but were smaller and away from residential premises. He considered that the premises

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would add to the cumulative impact and noted that the noise levels in the area were generally above those referred to in the World Health Organisation guidelines. He considered that coffee shops would be an exception to the cumulative impact policy whilst this was more alcohol led. He considered that the applicant had failed to assess the noise the premises would create and that the restaurant was the wrong type of place in the wrong area. In response to questioning he informed the Sub-Committee that he would wish the application to be refused, however, should the licence be granted he would wish the hours restricted as detailed in their representation.

Local resident Fiona Renfrew, spoke in support of the application. She informed the Sub-Committee that she was keen to see the area preserved. She considered that high quality restaurants would improve local facilities and she had spoken to a number of residents who were excited that this restaurant would be coming to the area. She considered that the premises would make a negligible impact on the area and the owners would have more of a stake in the area than a multi-national chain. She reported that not allowing the licence would not resolve the issues already present in the area. The application had been significantly amended and the Licensing Act allowed for a review if there were problems with the restaurant. Applications should not be refused because of fears of what might happen. The applicant operated a good restaurant in Westbourne Grove.

Gary Grant, barrister, informed the Sub-Committee that planning permission had been granted for a restaurant. Other chains such as Nandos or McDonalds could move into the premises without a licence or Mr Granger could provide a restaurant with a 'bring your own' policy. There were no issues regarding public nuisance or crime and disorder at the Westbourne Grove restaurant. Hours requested were limited and the conditions proposed were probably the most robust in London. He considered it to be better to have a licence granted that have an unregulated business in the area. He highlighted a letter of support on page 58 of the report which stated that the building was open to tenants 24 hours a day, had a legal capacity of several hundred people many of whom would prefer to have a restaurant on-site. Tenants would then remain in the building rather than go outside to another restaurant creating more disturbance to residents. He considered that Granger was perfect for the area. The clientele at the Westbourne Grove restaurant was around 28 years of age and alcohol was served when patrons were seated and having a full table meal. Alcohol accounted for 12% of sales and this was a food led premises. There were no objections from the police or the noise team and hours had been amended to comply with the licensing policy. He reminded members of the Thwaites case which stated that cases should be considered on an evidential basis and not on speculative fears and there should be no blanket ban on licences, even where there was a cumulative impact policy.

Mr Anderson, the acoustic consultant, informed members that this area was not a sleepy village location. The application was for a restaurant and people would not be leaving in groups or when drunk and there would not be high levels of music noise. Patrons leaving or arriving would cause the same noise as people leaving or arriving for work. Mr Neidle reported that it was hard to understand that 100 covers in a restaurant would not add additional noise to the area. This was a quiet area and the expectation was that patrons would leave the restaurant along St James Walk.

Mr Grant reported that following the revised application the majority of residents were now in support of the application. There were 41 objections to the original application. This had now changed to 18 against and 25 in support of the application. Mr Granger informed the Sub-Committee that he would not wish to alienate local residents and hoped that they would be reassured by the way they conducted themselves. Management always worked quickly with

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residents to ensure they were a good neighbour.

In response to questions it was noted that people would be held inside when queuing for a table. It was not considered that many of the patrons would be smokers and an amendment to the number of smokers outside was offered, to be reduced to five, on that basis. Staff would ensure that there was no loitering. They had proposed a condition that management would not call for taxis for customers at the suggestion of a resident but would be happy to withdraw this if it was considered necessary. In response to concerns regarding deliveries and rubbish collections it was noted that there were conditions proposed that restricted times of deliveries. It was noted that the position of the loading bay would have been considered in the planning consent. It was noted that drinking outside the premises and the control of smokers was not a problem at the Westbourne Grove premises. It was also noted that a resident did not wish a member of staff to be present at the exit and that had been reflected in the conditions proposed.

In summing up, Mr Neidle did not consider that Nandos occupying the premises was a realistic risk. Staff would not go hungry if the licence for the restaurant was not granted. The example of the Westbourne Grove restaurant was not relevant to this application. There was a cumulative impact policy and it was a matter of common sense that diners would create additional noise by walking past residential premises. This area was a small quiet local community and 98 covers was outside an example for an exception to the policy. He was concerned regarding the additional noise and disruption that would be created.

Mr Grant informed the Sub-Committee that there were both letters against and in support of the application with more letters of support. This was not an alcohol led premises and did not have disruptive customers. If this type of application was rejected there would be no competition for other drink led venues in the area. It was expected that this type of application would improve the area. The acoustic report was evidence based on vast experience which was preferable to speculative fears. If this was unlike other Granger restaurants then residents could call a review. There was a balance to be struck and he asked that the Sub-Committee consider the robust conditions and hours and consider that the application fell within the exception. The application was for a food led restaurant and was below the core hours.

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

RESOLVED:

- a) That the amended application for a new premises licence in respect of Sydney Food Limited, 49 Clerkenwell Green, EC1 be granted
 - i) to permit the premises to sell alcohol, on supplies only, Mondays to Saturdays from 11:00 and 22:30 hours and on Sunday from 11:00 until 17:00 hours
 - ii) to note that the proposed opening hours would be 08:00 to 23:00, Mondays to Saturdays and 10:00 to 18:00 on Sundays.

- b) That conditions as outlined in appendix 3 as detailed on pages 153/156 of the revised report shall be applied to the licence subject to the following amendments:-

Condition 12 to read 'Prominent, clear and legible notices shall be displayed at the public exits to the premises requesting the public to respect the needs of local residents and to leave the area quietly. A member of staff of the licence holder shall be present at the exit from 22:00 to 23:00 Monday to Saturdays to direct patrons to the nearest transport links and to ensure that

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patrons do not create a disturbance or loiter outside or adjacent to the premises. The licence holder shall not call, or otherwise arrange, directly or indirectly through the reception of No 49, taxis for any patrons’

Condition 13 to read ‘Patrons shall be actively prevented from drinking outside the premises and no drinks may be removed to, or consumed, outside the premises. No more than five (5) patrons or staff shall be permitted to smoke outside the premises at any one time and shall only be permitted to smoke in an area designated between the Sekforde Street entrance to the premises and the main entrance to No 49. No smoking outside the premises shall be permitted after 22:00. The licence holder shall ensure that the area outside the premises are swept and cleaned at 15:00 and 22:00 every day and all cigarette butts removed and disposed of in the premises’.

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 Bunhill and Clerkenwell 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 Sub-Committee heard evidence from the Clerkenwell Green Preservation society that the premises were too large for the area and that residents had concerns regarding noise and footfall. The preservation society believed that footfall and noise were inevitable and that the premises would not be able to avoid adding to the cumulative impact in the area. The preservation society did not consider that the premises fell within any of the exceptions in the licensing policy.

A local resident, speaking in support of the application, said that she was keen to see the area preserved but that many people were excited about the new restaurant and she believed that this restaurant would have a greater involvement in the community than a large chain and would help a village atmosphere.

The Sub-Committee heard evidence from the applicant that the premises would not be alcohol led, in existing premises in Westbourne Grove the sale of alcohol comprised only 12% of sales and would only ever be served with a meal. The applicant also stated that the police and noise team had not objected to the application. The Sub-Committee also heard evidence from an acoustic consultant that the premises were unlikely to have any additional noise impact in the area.

The Sub-Committee noted that the applicant had offered stringent conditions in relation to deliveries, rubbish collections, smokers and queuing patrons. The Sub-Committee also noted the reduced hours sought by the applicant following resident concerns.

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The Sub-Committee was satisfied that the granting of the new licence with the conditions would promote the licensing objectives. In accordance with Licensing Policies 2 and 7, the Sub-Committee noted the cumulative impact but were satisfied that any impact would be mitigated by the conditions and hours offered by the applicant. Although the premises had a capacity of over 50 persons they were not alcohol led and are within the framework hours set out in licensing policy 8. The Sub-Committee noted condition 9 on page 154 of the revised report offered by the applicant regarding the serving of alcohol with food.

The Sub-Committee noted conditions 6, 7, 8, 10, 11, 12, 13 and 14 offered by the applicant to mitigate any noise disturbance. The Sub-Committee further noted conditions 3 and 20, offered by the applicant, showing how the applicant intended to ensure that residents communicate any concerns they may have regarding the operation of the premises.

The Sub-Committee were satisfied that the applicant rebutted the presumption that the application if granted, would add to the cumulative impact area. The Sub-Committee were satisfied that with the conditions and hours sought the applicant had shown exceptional circumstances as to why the Sub-Committee should grant the application. The Sub-Committee were satisfied that the application with the conditions and hours would promote the licensing objectives.

The meeting ended at 8.00 pm

CHAIR