

**Licensing Sub Committee B - 8 March 2016**

Minutes of the meeting of the Licensing Sub Committee B held at Committee Room 4, Town Hall, Upper Street, N1 2UD on 8 March 2016 at 6.30 pm.

**Present:**           **Councillors:**           Raphael Andrews, Alex Diner and Paul Smith.

**Councillor Alex Diner in the Chair**

- 99**            **INTRODUCTIONS AND PROCEDURE (Item A1)**  
Councillor Diner welcomed everyone to the meeting, asked members and officers to introduce themselves and outlined the procedures for the meeting.
- 100**           **APOLOGIES FOR ABSENCE (Item A2)**  
Apologies for absence were received from Councillors Spall and Khan.
- 101**           **DECLARATIONS OF SUBSTITUTE MEMBERS (Item A3)**  
Councillor Raphael Andrews substituted for Councillor Marian Spall and Councillor Paul Smith substituted for Councillor Robert Khan.
- 102**           **DECLARATIONS OF INTEREST (Item A4)**  
None.
- 103**           **ORDER OF BUSINESS (Item A5)**  
The order of business was as the agenda. Item B4, Mamma Mia, Holloway Road had been adjourned to a future meeting.
- 104**           **MINUTES OF PREVIOUS MEETING (Item A6)**  
**RESOLVED**  
That the minutes of the meeting held on the 12 January 2016 be confirmed as a correct record of proceedings and the Chair be authorised to sign them.
- 105**           **MCDONALDS, 23 HIGHGATE HILL, N19 5LP - NEW PREMISES LICENCE (Item B1)**  
The licensing officer reported that the police had withdrawn their objections following the agreement of the conditions at pages 36 and 37 of the agenda.

The licensing officer had reported that she had seen the DVD enclosed with the application. She considered that the cumulative impact only applied to the sale of alcohol in this area and not late night refreshment but would prefer the core hours in the licensing policy to be maintained. She had concerns about where their customer base would be from in the early hours of the morning. She welcomed the agreement of the condition regarding SIA operators.

In response to questions it was noted that there were other McDonalds with SIA operators in Kings Cross and Chapel Market. This had been as a result of anti-social behaviour and where further conditions had been added to the licence following discussions between the authority and the applicant. It was noted that core hours were up to 1am. There were four licensed premises in the area that closed between midnight and 3am. The Kings Cross and Chapel Market premises were open 24 hours although there would be more late night licensed premises in those areas. Following the staffing by SIA operators, things had improved in those premises.

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The applicant's representative welcomed that the licensing authority had agreed that the cumulative impact policy did not apply in this instance as licensing police 3 referred to the management of alcohol, particularly in relation to off sales. This premises did not impact negatively. There were a number of fast food premises in the area that were open until 4 or 4.30 am. These were detailed at page 83 of the agenda. McDonalds offered seating which the other premises didn't and also provided a safe warm environment. McDonalds would be the safer place where customers could sober up if necessary. The franchisee was experienced and already managed a 24 hour premises. The audio visual monitoring station was detailed and it was considered that 70% to 80% of anti-social behaviour had been reduced with its use. The premises would be of a benefit to the local community who would be the principle users. There had been no resident objections and the representation from the Better Archway Forum detailed an increase in alcohol hours which had not been applied for. The representation from Councillor Burgess did not refer to the licensing objectives. There was a nightclub opposite the premises which closed at 4am. McDonalds would not be looking for this custom and would be closing before dispersal from the nightclub. The police had withdrawn their objection and the representative asked that the Sub-Committee consider the Home Office guidance that stated that the police were the main source of advice relating to the promotion of the crime and disorder objective. During the operation of temporary event notices over ten weekends there had been no incidents.

In response to questions it was noted that the temporary event notices ran from 5am to 3am. Customers were not generally from clubs but were local residents. Observations were carried out on two of the evenings. It was considered that there was a higher level of anti-social behaviour at 3pm to 4pm following the end of the school day. It was considered by the applicant's representative that there would not be an increase in footfall but there would just be a greater choice for customers. With reference to the incidents referred to in the police representation, it was reported that when these incidents were looked at in more detail they did not necessarily relate to McDonalds. The police welcomed the condition regarding SIA supervision and it was stated that this may also help control problems in other venues.

In summary, it was stated by the applicant's representative that although planning and licensing were two separate regimes and in November 2015 the planning authority extended planning hours and had no issues with the hours applied for.

### **RESOLVED**

1) That a new premises licence in respect of McDonalds, 23 Highgate Hill, N19 5LP be granted:-

- i) To permit the provision of late night refreshment from 23:00 to 02:00 Sunday to Thursday and from 23:00 until 03:00 Friday and Saturday.
- ii) To permit one hour to be added to the start of British Summertime.
- iii) To permit the premises to operate from the end of permitted hours on New Year's Eve until 05:00 on the morning of New Year's Day.
- iv) Opening hours from 23:00 to 02:00 Sunday to Thursday and from 23:00 until 03:00 Friday and Saturday.

2) That conditions as outlined as detailed on page 36 and 37 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

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2003, as amended, and its regulations, the national guidance and the Council's Licensing Policy.

The Sub-Committee noted that the police conditions were agreed and the police representation was consequently withdrawn. In particular, the Sub-Committee noted a stringent condition in relation to door supervisors had been agreed. The Sub-Committee heard from the licensing authority that other McDonalds premises within the Borough used to cause problems late at night but that had improved following staffing by SIA operators.

The Sub-Committee heard evidence that McDonalds operated a staff safe monitoring system including audio and visual monitoring and that training sessions had been run in the use of this system. The Sub-Committee noted that the premises had been operated under a series of TENs with no incidents.

The Sub-Committee took into consideration Licensing Policy 3 but noted that this related to alcohol led premises and not those only seeking late night refreshment. The Sub-Committee also took into account 9 and 10 regarding the standards of management.

The Sub-Committee concluded that the grant of the licence with the additional agreed conditions would promote the licensing objectives. The Sub-Committee was of the view that although the hours sought were outside the core hours favoured in licensing policy 8, the grant of the licence was unlikely to create additional footfall in the area and the additional security could benefit the local community.

### **106 UNICO ITALIAN CAFE, 156A SEVEN SISTERS ROAD, N7 7PS - NEW PREMISES LICENCE (Item B2)**

The Sub-Committee moved into private session under paragraph 1, of Part 1 of Schedule 12A of the Local Government Act 1972 to consider this item.

#### **RESOLVED**

That the application for a new premises licence in respect of Unico Italian Café, 156a Seven Sisters Road, N7 7PS 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 Finsbury Park 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. The Sub-Committee also considered licensing policies 9 and 10 regarding high standards of management.

The Sub-Committee heard evidence from the police that the current applicant was linked to the previous licensee and that it was his belief that the previous licensee would still be involved in the running of the premises which he considered would return to its previous state. The Sub-Committee noted the applicant's concerns that the police did not provide any extra information prior to the hearing.

The Sub-Committee noted the police concerns that the applicant had never run a restaurant before and could not demonstrate any licensing experience.

The Sub-Committee heard evidence from the applicant that the premises would be a family restaurant and that alcohol would only be served with a full table meal with no vertical drinking. The applicant stated that while he knew the previous licensee they were not best friends and he did not know him well. The applicant's representative clarified that the maximum capacity was 50 persons and submitted that with the hours sought in a family run restaurant there would be no negative impact from noise and disturbance.

The Sub-Committee noted that, upon being asked about his understanding of the area, the applicant stated that there were no issues although his representative then discussed conditions to tackle street drinking.

The Sub-Committee was concerned that the granting of the new licence would undermine the licensing objectives.

In accordance with licensing policy 2, the Sub-Committee was satisfied that the grant of the application would undermine the licensing objectives. The Sub-Committee was of the view that the applicant had not demonstrated sufficient understanding of the cumulative impact policy and the area in which the premises were located. Although it was noted that the applicant was seeking hours within the core hours of licensing policy 8, and although the premises would have capacity for only 50 persons, the Sub-Committee was concerned that the applicant had no experience of operating licensed premises. These premises were in an area recognised to be saturated with licensed premises and that featured prominently in alcohol related crime datasets. The applicant had failed to demonstrate that he would be able to provide a sufficiently high standard of management 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.

In the circumstances, the Sub-Committee formed the view that refusing the application was appropriate to promote the licensing objectives.

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**B AND D SUPERMARKET, 156 SEVEN SISTERS ROAD, N7 7PL, - REVIEW OF PREMISES LICENCE (Item B3)**

The licensing officer reported that additional papers had been circulated from Trading Standards. These would be interleaved with the agenda papers.

The trading standards officer reported that there had been a large seizure of illicit goods in 2014. Written advice had previously been sent to the licensee and if this advice had been followed, the licensee would have recognised that the alcohol was illicit. The licence could have been reviewed at this time but it was agreed that additional conditions be added to the licence. Following a tip off, the premises were visited in November 2015 and illegal tobacco was found and Romanian beer. The licensee stated that some of the beer had been purchased from a caller to the shop, as was the case when goods were seized in 2014. The licensee was unwilling to take steps to prevent this from happening. There were no concerns regarding underage sales. He considered the licensee to be dishonest and not suitable to be a licensee in Islington.

In response to questions it was noted that at the first visit in 2014, 39.4 litres of spirits, 65 bottles of cheap Italian wine and ½ kilo of shisha tobacco were seized. If advice had been followed, this would have been recognised as being illicit. Training was attended in November 2014 and the decision was taken not to review the licence. A variation to the licence was made in summer 2015 and then there was a further seizure in November 2015.

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The police stated that he fully supported the review of the licence. Management standards were not as required. Recent training had taken place. He did not consider that additional conditions would help.

In response to questions the police stated that following the first seizure and the training advice he would not expect illegal tobacco to be on the premises. There could be a misunderstanding on the first instance but not following the training and high input given by trading standards following the first seizure. The licensee claimed that the tobacco was for personal use. At interview he had stated that he had hidden them under the counter as he did not want his staff to smoke or sell them. There were 18 packets of cigarettes found. This was considered to be a legitimate amount if buying from duty free but not for personal use.

The licensee's representative stated that there was no issue with the facts. Cigarettes had been found which were for personal use and these should not have been stored in the shop. There was a reason for a lack of confidence in the designated premises supervisor. The licensee realised the serious mistake he had made and in order to protect the livelihoods of four staff he had decided to sell the business. He had found a potential buyer to buy the leasehold and the business. The sale was anticipated to go through in another two months. One employee was a licence holder and would work under the new designated premises supervisor. The licensee's representative asked that the licence be suspended for three months for the sale to proceed and prevent hardship to employees. He stated that the Sub-Committee could have confidence that the new designated premises supervisor would comply with the licence conditions.

In response to questions it was stated that the licensee was not anticipating that he would have any involvement in the business. The licensee had indicated that the cigarettes were for personal use but accepted that they should have been stored elsewhere. When asked for details of the management regime that would be in place after the business was sold, the licensee's representative commented that the person purchasing would have to apply to become the designated premises supervisor and that he was not acting for the new proposed designated premises supervisor.

In summary, the trading standards officer stated that the licensee had stated he only smoked at work and not at home. He had informed them that he had not considered keeping the cigarettes in the car. The officer still recommended revocation, however, should there be a suspension of the licence he asked that a condition also be added to the licence stating that the licence would only be valid once the proof of sale was shown to the satisfaction of the licensing authority.

The police stated that he agreed with the trading standards officer and reported that the licensee had not been thinking of his staff with his previous actions.

The licensee's representative stated that the licensee would be willing to comply with the proposed condition and following a three month suspension, the designated premises supervisor would be managing the premises and this would not be the current licensee.

### **RESOLVED**

That the premises licence in respect of B and D Supermarket, 156 Seven Sisters Road, N7 7PL be revoked.

### **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

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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 initially came to their attention in September 2014 when a large amount of illicit alcohol was seized from the premises. Following this, the licensee was given an opportunity to improve his management of the business and was given advice and training. The licensee sought and was granted a variation of the licence to add further conditions and reduce the hours during which the sale of alcohol was permitted. The Sub-Committee heard evidence that despite these measures, in November 2015, illicit tobacco and beer was found on the premises and numerous breaches of the licence conditions were noted. The Sub-Committee noted that the licensee admitted buying goods from a man in a van, the licensee was unable to produce paperwork for the beer, an employee stated that he had not received proper training and appropriate notices were not displayed as required.

The Sub-Committee noted that the licensee did not dispute the facts as described by trading standards and accepted that the tobacco should not have been stored where it was. The Sub-Committee heard evidence that in order to protect his staff he had found a buyer for the business and that the purchase should proceed in the next two months. The Sub-Committee noted the licensee's submission that the licence could be suspended for three months and that the designated premises supervisor could be replaced. The Sub-Committee asked the licensee's representative about the proposed purchaser and the representative was unable to provide any information.

The Sub-Committee noted the police support for the trading standards review.

The Sub-Committee was concerned that the licensee and his staff had taken no steps to ensure that the licensing objectives were promoted following the seizure of illicit goods in 2014. The licensing authority provided advice and training and yet there was a further seizure of illicit goods. The Sub-Committee noted that further conditions were added to the licence following the 2014 seizure but these had not been sufficient to promote the licensing objectives and improve management at the premises. The Sub-Committee was of the view that the licensee had failed to demonstrate his ability to properly manage the premises and promote the licensing objectives.

The Sub-Committee was not satisfied that the addition of further conditions or a cut in hours would promote the licensing objectives. Both of these measures had been tried before and failed. The Sub-Committee was not satisfied that the removal of the designated premises supervisor or a suspension of the licence pending the sale of the business would promote the licensing objectives. No evidence was submitted as to the suitability of the purchaser; nothing was said of the purchaser's experience in the field of licensing or management of off licence premises.

In the circumstances the Sub-Committee formed the view that a revocation of the licence was appropriate and proportionate to the promotion of the licensing objectives.

The Sub-Committee took into account Licensing policies 9 and 10 regarding standards of management and policy 30 in relation to reviews. The Sub-Committee also took into account the Home Office guidance particularly paragraphs 11.18 to 11.23, 11.27 and 11.28.

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### **MAMMA MIA, 12 HORNSEY ROAD, N7 7BP - NEW PREMISES LICENCE (Item B4)**

The Sub-Committee noted that this item had been adjourned to a future meeting at the request of the applicant.

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The meeting ended at 8.25 pm

**CHAIR**