

Licensing Sub Committee B - 14 October 2015

Minutes of the meeting of the Licensing Sub Committee B held at Committee Room 4, Town Hall, Upper Street, N1 2UD on 14 October 2015 at 6.30 pm.

Present: **Councillors:** Alex Diner (Chair), Aysegul Erdogan and Flora Williamson

Councillor Alex Diner in the Chair

56 INTRODUCTIONS AND PROCEDURE (Item A1)

Councillor Alex Diner welcome everyone to the meeting, asked members and officers to introduce themselves and outlined the procedures for the meeting.

57 APOLOGIES FOR ABSENCE (Item A2)

Apologies were received from Councillor Khan and Councillor Spall.

58 DECLARATIONS OF SUBSTITUTE MEMBERS (Item A3)

Councillor Williamson substituted for Councillor Spall and Councillor Erdogan substituted for Councillor Khan.

59 DECLARATIONS OF INTEREST (Item A4)

None.

60 ORDER OF BUSINESS (Item A5)

The order of business was as the agenda. Items B1 – B3 were taken together at the meeting although each decision was made separately.

61 MINUTES OF PREVIOUS MEETING (Item A6)

RESOLVED

That the minutes of the meeting held on the 4 August 2015 be confirmed as an accurate record of proceedings and the Chair be authorised to sign them.

62 6A AND 6B ESTHER ANNE PLACE, N1 1WL - APPLICATION FOR A PROVISION STATEMENT (Item B1)

Items B1-B3 were taken together as one item although decisions on each item were made separately.

The licensing officer reported that two documents had been circulated separately. These were the applicant's response to objections from residents and in return the response from residents to this document. These would be interleaved with the agenda papers. The noise officer had withdrawn their objections and the metropolitan police had also withdrawn their representation following conditions put forward by the applicant.

Local residents representing Almeida Street, Moon Street, Studd Street and Theberton Street resident associations spoke against the application. It was reported that planning consent had been granted until only 23:00 hours each day and that exit from the mall area should be to Upper Street only. Residents were concerned about noise disturbance and loitering. There would be 66 flats along the Central Avenue. They considered that there should be no off sales or sales of take away food. There should be no disturbance from live

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music after 10pm. It was understood that the planning status of A1 and A3 development was flexible but it was considered that there should be some limit to the use of A3. They stated that the access doors to Central Avenue should be closed at 10pm and patrons directed and encouraged to leave via Upper Street. Signage was not enough. There should be no new customers after 10pm. If possible, there should be a ban on smoking in Central Avenue but if not, a set limit to the number of smokers and tables and chairs outside the premises should be fenced off. The dedicated phone number for complaints should be advertised on their website. It was reported that bottling out had been covered in the planning consent and was to be carried out internally. No taxis or private hire vehicles should pick up from Esther Anne Place. Customers using the gym should be discouraged from smoking outside and taxis should be restricted from picking up outside the premises.

Patrons should leave by Upper Street. It was reported that this was a saturation area with a high volume of anti-social behaviour following the consumption of alcohol.

The applicant informed the Sub-Committee that this was an application for a provisional statement and the premises would not be occupied until 2017. A tenant would need to apply for a premises licence and he considered that licensing policy 6, regarding planning consent did not apply to provisional statements.

A ten minute adjournment was held for the Sub-Committee to take legal advice as to whether licensing policy 6 applied to provisional statements.

Upon return, the legal officer reported that she had advised the Sub-Committee members that licensing policy 29, in relation to provisional statements, stated that the Sub-Committee should, as far as reasonably practicable apply the same standards to provisional statements as to premises licences. She stated that licensing policy 6 was therefore still relevant although she had also reminded members that planning and licensing were separate regimes.

The applicant asked the Sub-Committee to consider the weight they would give to the planning consent hours.

The applicant showed a map of the development and reported that the majority of patrons would exit onto Upper Street to local transport. A pop-up restaurant had been provided with a licence under delegated powers and had operated without complaint. Conditions agreed now would be passed onto any premises licence unless there was a substantial change in the application. The bar in the gym was in the basement and was not considered a bar in the strictest sense. This would be a family gym. Restaurants would have a small bar area but most patrons would be seated having a table meal. They would not be fast food restaurants. Outside tables and chairs would be removed and rendered unusable by 10pm. They did not consider that there should be a condition regarding doors and windows as noise escape would be dealt with. It was not necessary to have a condition regarding no further admissions after 10pm. When considering the cumulative impact policy, the Sub-Committee would consider the views of the responsible authorities, the proposed hours, the type and number of customers, the conditions and the standards of management to ensure premises did not have a negative impact on the cumulative impact policy. The development would promote mixed use of the premises and it was expected to have local exhibitions and art and cultural activities. Tables and chairs outside would be properly managed and would have the benefit of encouraging continental, family style dining. Regarding the conditions suggested by the residents he stated that it would not be necessary to restrict the number of smokers as meals would not take a long time, it would not be possible to enforce a condition moving patrons to a specific direction and no new entry to patrons after 10pm was not necessary. Regarding off sales the applicant stated that it was acceptable that off sales be limited to part bottles of wine consumed with the meal. Live music was not a licensable

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activity until 11pm. After 11pm music was background and if there was disturbance the licence could be reviewed or notice served. The applicant would be unable to prevent taxis coming into the development but would not encourage them to do so. It was not considered appropriate or proportionate that all customers had to leave the premises by 11pm.

In response to questions it was noted that the applicant had no objection to a drinking up time in the bar area. It was noted that usually 15% of floor space would be taken up by an ancillary bar. There would be approximately 165 covers in each restaurant, although it was difficult to calculate at this early stage. However, residents were protected if there was a material change and if covers increased to 250-330. This was a restaurant and Challenge 25 would be onerous on the licensee. There would be lighting at either end of the mall and good signage and lighting throughout. There could be a number of smokers walking along Esther Anne Place so it would not be appropriate to restrict smokers outside the premises. The development would be controlled by 24 hour CCTV and security and the two restaurants and the gym would be a small part of the total offer. Concern was raised that the applicant had not completed the section in the application form asking the applicant to describe the steps that would be taken to promote the licensing objectives. The applicant stated he had produced a proposed schedule of conditions and had not wanted to put waffle on the form. He undertook to complete the form more fully for future applications. It was noted that the bar in the gym was more a lounge than a bar. Gym members would need to go through a reception area and it was effectively a private club.

In summary, the residents reported that a premises in the development was already operating without planning permission. A condition had been imposed on the Grangers licence in Clerkenwell regarding table meals. Not allowing re-entry after 10pm was considered reasonable. Tables outside should be fenced off. Smokers should be restricted. Taxis should be discouraged and security at the development could refuse access except for disabled passengers. Residents considered that there be no vehicular access. They stated that taxis already created a parking problem in Theberton Street.

The applicant stated that a no entry policy after 10pm was not appropriate and it would be difficult to micro manage access and egress. The Sub-Committee should consider the weight it gave to the planning consent in the context of hours of operation. The applicant had until 2017 to make amendments to the planning permission. Any licence would not be able to be operated later than the planning consent in any event. Any applicant for a premises licence would not benefit from a provisional statement if there was a material change in the application. Traffic had been considered at the planning stage and it was not considered appropriate to condition.

RESOLVED

a) That the provisional statement in respect of 6a and 6b Esther Anne Place, N1 be granted:-

- i) To permit the premises to sell alcohol, on and off supplies only, on Sundays to Thursdays from 10:00 until 23:00 and Fridays and Saturdays from 10:00 until midnight.
- ii) To allow the provision of late night refreshment, Fridays and Saturdays from 23:00 until midnight.
- iii) Opening hours to be Sundays to Thursdays from 08:00 until 23:00 and Fridays and Saturdays from 08:00 until midnight.

b) Conditions proposed by the applicant and the following additions/amendments shall be applied to the licence.

- Condition 3 proposed. The outside tables shall be cleared of patrons and rendered unusable by 10pm.

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- The bar area be not more than 15% of the total restaurant/bar floor space.
- No drinks shall be served in the bar area within the last 30 minutes of the closing time of the premises.
- No more than 10% of the total capacity of the restaurant shall be permitted to smoke outside the premises at any one time.

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 29. Licensing policy 29 states that in considering applications for a provisional statement the Sub-Committee will as far as reasonably practicable apply the same standards as required for the grant of the premises licence.

Under Licensing policy 2, the premises fall into the Angel and Upper Street cumulative impact area. Licensing policy 2 creates a rebuttable presumption that applications for new and 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.

The Sub-Committee heard evidence from local residents representing Almeida Street, Moon Street, Studd Street and Theberton Street resident associations. The Sub-Committee noted resident's concerns about noise disturbance and loitering. Residents stated that there would be at least 66 flats and so the future residents above the premises should be considered. Residents were concerned that the hours sought in relation to the premises differed from the planning consent. Residents did not want take aways of food or drink, live music, any new customers after 10pm or any taxi drop offs. Residents were concerned that access should only be via the arcades and Upper Street. Residents were concerned about the number of smokers and the outside seating area and suggested that a contact number should be available for resident's complaints.

The Sub-Committee noted that the police and noise conditions had been agreed and the representations withdrawn. The Sub-Committee heard evidence from the applicant's representative that, in applying for a provisional statement, the applicant was trying to get the best template that their future tenant would have to abide by. The Sub-Committee heard that the hours sought by the applicant were within the core hours set out in licensing policy 8. The Sub-Committee heard that the proposed restaurants were not fast food outlets and that the whole tone was more aspirational. The applicant had offered a condition that outside tables and chairs be rendered unusable by 10pm. The applicant's representative asked that there be no condition in relation to new customers after 10pm and stated that it would not be practicable to have a member of staff directing customers to Upper Street after 10pm, although there would be signage. The Sub-Committee heard that the restaurant would not add to the cumulative impact due to the type of premises, location, hours, types and numbers of customers and the high standards of management. The Sub-Committee noted that the applicant is promoting a mixed use for the development which includes the old Almeida Theatre, rehearsal rooms and hopefully local exhibitions. The applicant's representative confirmed that the bar area would be no bigger than 15% of the floor space. It was noted that the development would have 24 hour CCTV and security.

The Sub-Committee was satisfied that, with the conditions proposed and the additional conditions, the premises would not add to the cumulative impact in the area. The Sub-Committee noted that if the applicant's future tenants applied for a premises licence that was substantially different, new objections could be raised. The Sub-Committee noted the applicant's assurances that the premises would not be operated outside the remit of the planning consent. The Sub-Committee noted that the applicant had met with police and agreed comprehensive conditions. The Sub-Committee noted that the premises were an integral part of the development which would benefit the area.

The Sub-Committee took into account licensing policies 2, 8, 18, 20 and 29 and concluded that, in granting the provisional statement with the comprehensive conditions attached, the licensing objectives would be promoted.

63

15 ESTHER ANNE PLACE, N1 1UL - APPLICATION FOR A PROVISIONAL STATEMENT (Item B2)

The licensing officer reported that two documents had been circulated separately. These were the applicant's response to objections from residents and in return the response from residents to this document. These would be interleaved with the agenda papers. The noise officer had withdrawn their objections and the metropolitan police had also withdrawn their representation following conditions put forward by the applicant.

Local residents representing Almeida Street, Moon Street, Studd Street and Theberton Street resident associations spoke against the application. It was reported that planning consent had been granted until only 23:00 hours each day and that exit from the mall area should be to Upper Street only. Residents were concerned about noise disturbance and loitering. There would be 66 flats along the Central Avenue. They considered that there should be no off sales or sales of take away food. There should be no disturbance from live music after 10pm. It was understood that the planning status of A1 and A3 development was flexible but it was considered that there should be some limit to the use of A3. They stated that the access doors to Central Avenue should be closed at 10pm and patrons directed and encouraged to leave via Upper Street. Signage was not enough. There should be no new customers after 10pm. If possible, there should be a ban on smoking in Central Avenue but if not, a set limit to the number of smokers and tables and chairs outside the premises should be fenced off. The dedicated phone number for complaints should be advertised on their website. It was reported that bottling out had been covered in the planning consent and was to be carried out internally. No taxis or private hire vehicles should pick up from Esther Anne Place. Customers using the gym should be discouraged from smoking outside and taxis should be restricted from picking up outside the premises.

Patrons should leave by Upper Street. It was reported that this was a saturation area with a high volume of anti-social behaviour following the consumption of alcohol.

The applicant informed the Sub-Committee that this was an application for a provisional statement and the premises would not be occupied until 2017. A tenant would need to apply for a premises licence and he considered that licensing policy 6, regarding planning consent did not apply to provisional statements.

A ten minute adjournment was held for the Sub-Committee to take legal advice as to whether licensing policy 6 applied to provisional statements.

Upon return, the legal officer reported that she had advised the Sub-Committee members that licensing policy 29, in relation to provisional statements, stated that the Sub-Committee should, as far as reasonably practicable apply the same standards to provisional statements as to premises licences. She stated that licensing policy 6 was therefore still relevant

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although she had also reminded members that planning and licensing were separate regimes.

The applicant asked the Sub-Committee to consider the weight they would give to the planning consent hours.

The applicant showed a map of the development and reported that the majority of patrons would exit onto Upper Street to local transport. A pop-up restaurant had been provided with a licence under delegated powers and had operated without complaint. Conditions agreed now would be passed onto any premises licence unless there was a substantial change in the application. The bar in the gym was in the basement and was not considered a bar in the strictest sense. This would be a family gym. Restaurants would have a small bar area but most patrons would be seated having a table meal. They would not be fast food restaurants. Outside tables and chairs would be removed and rendered unusable by 10pm. They did not consider that there should be a condition regarding doors and windows as noise escape would be dealt with. It was not necessary to have a condition regarding no further admissions after 10pm. When considering the cumulative impact policy, the Sub-Committee would consider the views of the responsible authorities, the proposed hours, the type and number of customers, the conditions and the standards of management to ensure premises did not have a negative impact on the cumulative impact policy. The development would promote mixed use of the premises and it was expected to have local exhibitions and art and cultural activities. Tables and chairs outside would be properly managed and would have the benefit of encouraging continental, family style dining. Regarding the conditions suggested by the residents he stated that it would not be necessary to restrict the number of smokers as meals would not take a long time, it would not be possible to enforce a condition moving patrons to a specific direction and no new entry to patrons after 10pm was not necessary. Regarding off sales the applicant stated that it was acceptable that off sales be limited to part bottles of wine consumed with the meal. Live music was not a licensable activity until 11pm. After 11pm music was background and if there was disturbance the licence could be reviewed or notice served. The applicant would be unable to prevent taxis coming into the development but would not encourage them to do so. It was not considered appropriate or proportionate that all customers had to leave the premises by 11pm.

In response to questions it was noted that the applicant had no objection to a drinking up time in the bar area. It was noted that usually 15% of floor space would be taken up by an ancillary bar. There would be approximately 165 covers in each restaurant, although it was difficult to calculate at this early stage. However, residents were protected if there was a material change and if covers increased to 250-330. This was a restaurant and Challenge 25 would be onerous on the licensee. There would be lighting at either end of the mall and good signage and lighting throughout. There could be a number of smokers walking along Esther Anne Place so it would not be appropriate to restrict smokers outside the premises. The development would be controlled by 24 hour CCTV and security and the two restaurants and the gym would be a small part of the total offer. Concern was raised that the applicant had not completed the section in the application form asking the applicant to describe the steps that would be taken to promote the licensing objectives. The applicant stated he had produced a proposed schedule of conditions and had not wanted to put waffle on the form. He undertook to complete the form more fully for future applications. It was noted that the bar in the gym was more a lounge than a bar. Gym members would need to go through a reception area and it was effectively a private club.

In summary, the residents reported that a premises in the development was already operating without planning permission. A condition had been imposed on the Grangers licence in Clerkenwell regarding table meals. Not allowing re-entry after 10pm was considered reasonable. Tables outside should be fenced off. Smokers should be restricted. Taxis should be discouraged and security at the development could refuse

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access except for disabled passengers. Residents considered that there be no vehicular access. They stated that taxis already created a parking problem in Theberton Street.

The applicant stated that a no entry policy after 10pm was not appropriate and it would be difficult to micro manage access and egress. The Sub-Committee should consider the weight it gave to the planning consent in the context of hours of operation. The applicant had until 2017 to make amendments to the planning permission. Any licence would not be able to be operated later than the planning consent in any event. Any applicant for a premises licence would not benefit from a provisional statement if there was a material change in the application. Traffic had been considered at the planning stage and it was not considered appropriate to condition.

RESOLVED

a) that the application for a provisional statement in respect of 15 Esther Anne Place, N1 1UL be granted:-

- i) To permit the premises to sell alcohol, on supplies only, Sundays to Thursdays from 10:00 until 23:00 and Fridays and Saturdays from 10:00 until midnight.
- ii) To allow the provision of late night refreshment, Fridays and Saturdays from 23:00 until midnight;
- iii) Opening hours to be: Sundays to Thursdays from 08:00 until 23:00 and Fridays and Saturdays from 08:00 until midnight.

b) That conditions proposed by the applicant with the following amendments shall be applied to the licence.

- Condition 13 to read. The premises shall operate a Challenge 25 scheme, all staff to be trained accordingly and a refusals book kept.

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 29. Licensing policy 29 states that in considering applications for a provisional statement the Sub-Committee will as far as reasonably practicable apply the same standards as required for the grant of the premises licence.

Under Licensing policy 2, the premises fall into the Angel and Upper Street cumulative impact area. Licensing policy 2 creates a rebuttable presumption that applications for new and 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.

The Sub-Committee heard evidence from local residents representing Almeida Street, Moon Street, Studd Street and Theberton Street resident associations. The Sub-Committee noted resident's concerns about noise disturbance and loitering. Residents stated that there would be at least 66 flats and so the future residents above the premises should be considered. Residents were concerned that the hours sought in relation to the premises differed from the planning consent. Residents stated that there should be a 30 minute drinking up time and smoking should be discouraged in Central Avenue. Residents were

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concerned that access should only be via the arcades and Upper Street and taxis dropping off in Central Avenue.

The Sub-Committee noted that the police and noise conditions had been agreed and the representations withdrawn. The Sub-Committee heard evidence from the applicant's representative that, in applying for a provisional statement, the applicant was trying to get the best template that their future tenant would have to abide by. The applicant's representative stated that it was a family gym and that there would be a discreet lounge area where alcohol would be sold. It would not be a bar in the strictest sense but more a catering area where people could order juice and food as well as alcohol.

The applicant had offered a condition that alcohol shall only be sold to members of the gymnasium and their bona fide guests or persons attending a private function. Anyone wishing to purchase alcohol would have to pass through reception first. The Sub-Committee noted that the applicant is promoting a mixed use for the development which includes the old Almeida Theatre, rehearsal rooms and hopefully local exhibitions. It was noted that the development would have 24 hour CCTV and security.

The Sub-Committee was satisfied that, with the conditions proposed and the additional conditions, the premises would not add to the cumulative impact in the area. The Sub-Committee noted that if the applicant's future tenants applied for a premises licence that was substantially different, new objections could be raised. The Sub-Committee noted the applicant's assurances that the premises would not be operated outside the remit of the planning consent. The Sub-Committee noted that the applicant had met with police and agreed comprehensive conditions. The Sub-Committee noted that the premises were an integral part of the development which would benefit the area.

The Sub-Committee took into account licensing policies 2, 8, 18, 20 and 29 and concluded that, in granting the provisional statement with the comprehensive conditions attached, the licensing objectives would be promoted.

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116N UPPER STREET, N1 1QP - APPLICATION FOR A PROVISIONAL STATEMENT (Item B3)

The licensing officer reported that two documents had been circulated separately. These were the applicant's response to objections from residents and in return the response from residents to this document. These would be interleaved with the agenda papers. The noise officer had withdrawn their objections and the metropolitan police had also withdrawn their representation following conditions put forward by the applicant.

Local residents representing Almeida Street, Moon Street, Studd Street and Theberton Street resident associations spoke against the application. It was reported that planning consent had been granted until only 23:00 hours each day and that exit from the mall area should be to Upper Street only. Residents were concerned about noise disturbance and loitering. There would be 66 flats along the Central Avenue. They considered that there should be no off sales or sales of take away food. There should be no disturbance from live music after 10pm. It was understood that the planning status of A1 and A3 development was flexible but it was considered that there should be some limit to the use of A3. They stated that the access doors to Central Avenue should be closed at 10pm and patrons directed and encouraged to leave via Upper Street. Signage was not enough. There should be no new customers after 10pm. If possible, there should be a ban on smoking in Central Avenue but if not, a set limit to the number of smokers and tables and chairs outside the premises should be fenced off. The dedicated phone number for complaints should be advertised on their website. It was reported that bottling out had been covered in the planning consent and was to be carried out internally. No taxis or private hire vehicles

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should pick up from Esther Anne Place. Customers using the gym should be discouraged from smoking outside and taxis should be restricted from picking up outside the premises.

Patrons should leave by Upper Street. It was reported that this was a saturation area with a high volume of anti-social behaviour following the consumption of alcohol.

The applicant informed the Sub-Committee that this was an application for a provisional statement and the premises would not be occupied until 2017. A tenant would need to apply for a premises licence and he considered that licensing policy 6, regarding planning consent did not apply to provisional statements.

A ten minute adjournment was held for the Sub-Committee to take legal advice as to whether licensing policy 6 applied to provisional statements.

Upon return, the legal officer reported that she had advised the Sub-Committee members that licensing policy 29, in relation to provisional statements, stated that the Sub-Committee should, as far as reasonably practicable apply the same standards to provisional statements as to premises licences. She stated that licensing policy 6 was therefore still relevant although she had also reminded members that planning and licensing were separate regimes.

The applicant asked the Sub-Committee to consider the weight they would give to the planning consent hours.

The applicant showed a map of the development and reported that the majority of patrons would exit onto Upper Street to local transport. A pop-up restaurant had been provided with a licence under delegated powers and had operated without complaint. Conditions agreed now would be passed onto any premises licence unless there was a substantial change in the application. The bar in the gym was in the basement and was not considered a bar in the strictest sense. This would be a family gym. Restaurants would have a small bar area but most patrons would be seated having a table meal. They would not be fast food restaurants. Outside tables and chairs would be removed and rendered unusable by 10pm. They did not consider that there should be a condition regarding doors and windows as noise escape would be dealt with. It was not necessary to have a condition regarding no further admissions after 10pm. When considering the cumulative impact policy, the Sub-Committee would consider the views of the responsible authorities, the proposed hours, the type and number of customers, the conditions and the standards of management to ensure premises did not have a negative impact on the cumulative impact policy. The development would promote mixed use of the premises and it was expected to have local exhibitions and art and cultural activities. Tables and chairs outside would be properly managed and would have the benefit of encouraging continental, family style dining. Regarding the conditions suggested by the residents he stated that it would not be necessary to restrict the number of smokers as meals would not take a long time, it would not be possible to enforce a condition moving patrons to a specific direction and no new entry to patrons after 10pm was not necessary. Regarding off sales the applicant stated that it was acceptable that off sales be limited to part bottles of wine consumed with the meal. Live music was not a licensable activity until 11pm. After 11pm music was background and if there was disturbance the licence could be reviewed or notice served. The applicant would be unable to prevent taxis coming into the development but would not encourage them to do so. It was not considered appropriate or proportionate that all customers had to leave the premises by 11pm.

In response to questions it was noted that the applicant had no objection to a drinking up time in the bar area. It was noted that usually 15% of floor space would be taken up by an ancillary bar. There would be approximately 165 covers in each restaurant, although it was difficult to calculate at this early stage. However, residents were protected if there was a

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material change and if covers increased to 250-330. This was a restaurant and Challenge 25 would be onerous on the licensee. There would be lighting at either end of the mall and good signage and lighting throughout. There could be a number of smokers walking along Esther Anne Place so it would not be appropriate to restrict smokers outside the premises. The development would be controlled by 24 hour CCTV and security and the two restaurants and the gym would be a small part of the total offer. Concern was raised that the applicant had not completed the section in the application form asking the applicant to describe the steps that would be taken to promote the licensing objectives. The applicant stated he had produced a proposed schedule of conditions and had not wanted to put waffle on the form. He undertook to complete the form more fully for future applications. It was noted that the bar in the gym was more a lounge than a bar. Gym members would need to go through a reception area and it was effectively a private club.

In summary, the residents reported that a premises in the development was already operating without planning permission. A condition had been imposed on the Grangers licence in Clerkenwell regarding table meals. Not allowing re-entry after 10pm was considered reasonable. Tables outside should be fenced off. Smokers should be restricted. Taxis should be discouraged and security at the development could refuse access except for disabled passengers. Residents considered that there be no vehicular access. They stated that taxis already created a parking problem in Theberton Street.

The applicant stated that a no entry policy after 10pm was not appropriate and it would be difficult to micro manage access and egress. The Sub-Committee should consider the weight it gave to the planning consent in the context of hours of operation. The applicant had until 2017 to make amendments to the planning permission. Any licence would not be able to be operated later than the planning consent in any event. Any applicant for a premises licence would not benefit from a provisional statement if there was a material change in the application. Traffic had been considered at the planning stage and it was not considered appropriate to condition.

RESOLVED

a) That the provisional statement in respect of 116N Upper Street, N1 1QP be granted:-

- i) To permit the premises to sell alcohol, on and off supplies only, on Sundays to Thursdays from 10:00 until 23:00 and Fridays and Saturdays from 10:00 until midnight.
- ii) To allow the provision of late night refreshment, Fridays and Saturdays from 23:00 until midnight.
- iii) Opening hours to be Sundays to Thursdays from 08:00 until 23:00 and Fridays and Saturdays from 08:00 until midnight.

b) Conditions proposed by the applicant and the following additions/amendments shall be applied to the licence.

- Condition 3 proposed. The outside tables shall be cleared of patrons and rendered unusable by 10pm.
- The bar area be not more than 15% of the total restaurant/bar floor space.
- No drinks shall be served in the bar area within the last 30 minutes of the closing time of the premises.
- No more than 10% of the total capacity of the restaurant shall be permitted to smoke outside the premises at any one time.

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 took into consideration Licensing policy 29. Licensing policy 29 states that in considering applications for a provisional statement the Sub-Committee will as far as reasonably practicable apply the same standards as required for the grant of the premises licence.

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The Sub-Committee heard evidence from local residents representing Almeida Street, Moon Street, Studd Street and Theberton Street resident associations. The Sub-Committee noted resident's concerns about noise disturbance and loitering. Residents stated that there would be at least 66 flats and so the future residents above the premises should be considered. Residents were concerned that the hours sought in relation to the premises differed from the planning consent. Residents did not want take aways of food or drink, live music, any new customers after 10pm or any taxi drop offs. Residents were concerned that access should only be via the arcades and Upper Street. Residents were concerned about the number of smokers and the outside seating area and suggested that a contact number should be available for resident's complaints.

The Sub-Committee noted that the police and noise conditions had been agreed and the representations withdrawn. The Sub-Committee heard evidence from the applicant's representative that, in applying for a provisional statement, the applicant was trying to get the best template that their future tenant would have to abide by. The Sub-Committee heard that the hours sought by the applicant were within the core hours set out in licensing policy 8. The Sub-Committee heard that the proposed restaurants were not fast food outlets and that the whole tone was more aspirational. The applicant had offered a condition that outside tables and chairs be rendered unusable by 10pm. The applicant's representative asked that there be no condition in relation to new customers after 10pm and stated that it would not be practicable to have a member of staff directing customers to Upper Street after 10pm, although there would be signage. The Sub-Committee heard that the restaurant would not add to the cumulative impact due to the type of premises, location, hours, types and numbers of customers and the high standards of management. The Sub-Committee noted that the applicant is promoting a mixed use for the development which includes the old Almeida Theatre, rehearsal rooms and hopefully local exhibitions. The applicant's representative confirmed that the bar area would be no bigger than 15% of the floor space. It was noted that the development would have 24 hour CCTV and security.

The Sub-Committee was satisfied that, with the conditions proposed and the additional conditions, the premises would not add to the cumulative impact in the area. The Sub-Committee noted that if the applicant's future tenants applied for a premises licence that was substantially different, new objections could be raised. The Sub-Committee noted the applicant's assurances that the premises would not be operated outside the remit of the planning consent. The Sub-Committee noted that the applicant had met with police and agreed comprehensive conditions. The Sub-Committee noted that the premises were an integral part of the development which would benefit the area.

The Sub-Committee took into account licensing policies 2, 8, 18, 20 and 29 and concluded that, in granting the provisional statement with the comprehensive conditions attached, the licensing objectives would be promoted.

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ANGEL BEST MANGAL, 60 PENTON STREET, N1 - APPLICATION FOR A NEW PREMISES LICENCE (Item B4)

The licensing officer reported that the noise officer had withdrawn their representations following agreement with conditions. A document proposing additional conditions and amended hours, had been circulated by the applicant which would be interleaved with the agenda papers.

The police objected to the application based on the cumulative impact policy. The officer reported that there were 34 licensed premises within a 250m radius of the venue and 240 allegations of crime in the ward. He did not consider that the premises being situated next door to a police station would prevent crime and disorder or public safety. He had concerns regarding the completion of the operating schedule and there was nothing in the application that had allayed his fears.

The applicant informed the Sub-Committee that hours were amended for the sale of alcohol for Sundays to Thursdays to 11pm and Fridays and Saturdays to 11:30 pm. Late night refreshment would be to 11.30 pm on Fridays and Saturdays only. There would be no off sales of alcohol. The police were unable to attribute any crime to the venue. There would be no vertical drinking. Drinking in a restaurant was at a much slower pace than a bar or pub. It was not considered that the premises would add to the cumulative impact with the conditions. The fumes from the chimney stack mentioned in the local resident representation were not from this premises.

In response to questions it was noted that there were 34 covers. The applicant had run an off licence for ten years and had now been managing the restaurant for five months. The premises would not add to the cumulative impact policy. The applicant was happy to agree a condition regarding high strength beers to discourage street drinkers. There would be no off sales.

In summary, the police stated that they had concerns regarding the take away aspect of the application. It was stated that patrons entering at 9 or 10 pm may already be drunk and could cause problems. To refuse to sell alcohol to patrons who were already drunk would need strong management. This venue would attract this type of patron.

The applicant reported that a late night refreshment licence was only required for one hour on Fridays and Saturdays. There was a review procedure if there were problems but the agent did not consider that the applicant would be reviewed.

RESOLVED

a) That The Sub-Committee have decided to grant the application for a new premises licence in respect of Angel Best Mangel, 60 Penton Street, N1 9PZ

- i) To permit the premises to sell alcohol, on supplies only, Sunday to Thursday from 11:00am until 11pm and Fridays and Saturdays from 11am until 11:30pm.
- ii) To allow the provision of late night refreshment on Friday and Saturday from 23:00 until midnight.
- iii) Opening hours to be Monday to Saturday from 11:00 am until midnight and on Sundays from 11am until 11pm.

b) Conditions as outlined in appendix 3 as detailed on page 205 of the agenda, the additional conditions tabled by the applicant with the following additions shall be applied to the licence.

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- There be no beers/cider and lagers higher than 6.5% abv sold on the premises.
- A phone number for the designated premises supervisor shall be visible from outside 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 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.

The Sub-Committee heard evidence from the police that within a radius of 250m of the premises there were 34 other licensed premises. The police were concerned that in the application the applicant on more than one occasion cited the fact that the premises were next to the police station, but this was not enough to show why there would be no crime and disorder. A nearby late night refreshment venue had a huge amount of anti-social behaviour and they did not have an alcohol licence. Although the applicant may manage his premises differently, the nature of the premises would attract drunken people. It would have to have exceptionally strong management and this was not illustrated in the operating schedule. The Sub-Committee noted that the noise team conditions had been agreed and the representation withdrawn.

The Sub-Committee noted that the hours sought had been reduced. The applicant had ten years' experience in the off licence trade. The Sub-Committee noted the conditions offered by the applicant including that alcohol would be ancillary to food, the premises would operate Challenge 25, there would be CCTV to home office standards, there would be regular staff training, there would be an incident book, no under eighteens would be allowed to drink alcohol on the premises and there would be no more than six smokers permitted at a time. The applicant stated that, with the reduced hours and these conditions, the premises would not add to the cumulative impact. The Sub-Committee noted that there were only 34 covers.

The Sub-Committee noted that there were to be no off sales and that drinking was only permitted with a table meal. The applicant indicated that he would be happy with a condition relating to high strength ales and beers and that it was believed that with these measures the premises would not add to any street drinking problems in the area. The Sub-Committee noted the applicant's comments that the chimney stack was brand new and that any fumes encountered by neighbouring properties could not be from his stack.

The Sub-Committee took into account licensing policies 2, 8 and 11.

The Sub-Committee were satisfied that, with the addition of the stringent conditions, the grant of the premises licence would not add to the cumulative impact and would promote the licensing objectives.

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The meeting ended at 9.15 pm

CHAIR