

Licensing Sub Committee A - 1 August 2017

Minutes of the meeting of the Licensing Sub Committee A held at Committee Room 4, Town Hall, Upper Street, N1 2UD on 1 August 2017 at 6.30 pm.

Present: **Councillors:** Gary Poole (Chair), Michelline Ngongo (Vice-Chair) and Rakhia Ismail

Councillor Gary Poole in the Chair

174 INTRODUCTIONS AND PROCEDURE (Item A1)

Councillor Gary Poole welcomed everyone to the meeting and officers and members introduced themselves. The procedure for the conduct of the meeting was outlined.

175 APOLOGIES FOR ABSENCE (Item A2)

None.

176 DECLARATIONS OF SUBSTITUTE MEMBERS (Item A3)

None.

177 DECLARATIONS OF INTEREST (Item A4)

None.

178 ORDER OF BUSINESS (Item A5)

The order of business would be as the agenda.

179 MINUTES OF PREVIOUS MEETING (Item A6)

RESOLVED

That the minutes of the meeting held on the 1 June 2017 be confirmed as a correct record and the Chair be authorised to sign them.

180 CREPE AFFAIR, 47-53 CAMDEN PASSAGE, LONDON, N1 8EA - NEW PREMISES LICENCE (Item B1)

The interested parties stated that although conditions had been agreed with the police this did not address the issue of cumulative impact. They said that the premises were a chain operation and the planning application had stated that they made food off site and reheated it. They considered that a meal sold at £5 - £6.50 could not be considered a substantial meal. They did not believe that the tables and chairs outside were licensed. The area for seating outside was unsuitable as it was narrow. Alcohol hours should be restricted if granted but a licence was not appropriate for that site. The premises were too small for 8 people standing. If the licence was granted from 8am to 8pm with standing this would determine the use for the future. Residents lived nearby and there would be alcohol served to people on the benches outside and a total of 9 people at the tables and chairs.

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Residents asked the applicant if they could see the licence for the tables and chairs. The strength of alcohol had not been addressed. There was not another 12 hour licence in Camden Passage and the hours were considered excessive. It was considered that there should be no drinking outside, no off sales and no vertical drinking. There was nothing to restrict a breakfast club or 5-7 happy hour. It was considered that this was just the wrong application in this area. It was stated that any additional licence would add to the existing impact. Camden Passage already had 10-12 licensed premises and no further licences should be granted. It was considered that the business was a useful addition to the area but did not need alcohol. There should be clear restrictions for off sales if granted.

The applicant understood the concern about the cumulative impact. There was a chain of Crepe Affairs and the majority of them sold alcohol with food. This would not be a bar but would sell low alcohol ciders/wine and beer and exclusively with the sale of a crepe. All measures for the sale of alcohol would be in place. Staff would be well trained. There had never been any problems at other premises. It was at the discretion of staff to refuse alcohol to customers who were already drunk. Binge drinking would be prohibited. He was sympathetic to the concerns regarding the early morning hour and offered a start time of 11:30am to 12 noon. When the market was open there would be no serving of alcohol to the benches. The premises would be managed in a sensible manner. Staff would try to avoid customers from being drunk. Customers would not be allowed to bring their own alcohol. Staff would be trained to avoid the cumulative impact. He would want to be a friendly neighbour.

In response to questions the applicant stated that they would not serve customers if they were drunk. This was a small premises and all customers could be seen. Staff would call the police if necessary although they had never had alcohol related problems. This was a French concept and galettes were often served with a glass of wine or small bottles of beer or cider in France. The premises would be selling a limited range of alcohol and drinks would be limited to one. He considered that there should be fewer than 8 people standing, perhaps 4 or 5. The majority of customers would have a non-alcoholic drink. The applicant stated that there were 35 seats inside with 3 customers on the benches and 9 at the tables and chairs. They were happy with the location and there would be no reason to leave this area soon. The business had a long term objective in mind. He did not consider that the business was a financial challenge if alcohol was not sold but this was a French concept and other locations did sell alcohol with crepes. He stated that there was always more than one member of staff in the premises except when the premises were first opened in the morning. He did have a policy for the management of the external tables. Alcohol for off sales would be ancillary to hot food.

In summary, the local residents considered that there would be about 59 covers including those on the outside tables and 8 vertical drinkers on the premises. Residents were fairly sure that the outside tables did not have permission and considered that the Sub-Committee needed the correct facts. The applicant had only just received retrospective planning permission. There was a cumulative impact on residents and premises were unable to control all customers. Drinkers had already been seen on the benches which indicated that management was already not being strict enough. Any further alcohol in the area added to the existing level and the Sub-Committee were asked to take the cumulative impact zone seriously. The applicant stated this was a concept and would be well controlled. He stated that staff would monitor the use of the benches in the future. He appreciated the cumulative impact zone but would ensure that the correct controls would be applied.

RESOLVED

- 1) That the application for a new premises licence, in respect of Crepe Affair, 47-53 Camden Passage, N1 8EA be granted to allow:-

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- a) The sale of alcohol, for consumption on and off the premises from 11:30 am until 20:00 hours Monday to Sunday.
- 2) That conditions outlined in appendix 3 and detailed on page 51 of the agenda be applied to the licence with the following amendments:-

Condition 8 to read. There shall be no vertical drinking in the venue save for a maximum of 4 persons waiting to be seated for a full table meal.

Additional condition. During any period where there are licensable activities at the premises, staff shall regularly monitor the outside area to ensure that there is no public nuisance caused by the use of the outside seating.

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 within the Angel and Upper Street 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 noted that the applicant had agreed conditions with the metropolitan police.

The Sub-Committee heard evidence from local residents that any new alcohol licence would add to cumulative impact in the area. Residents were concerned about the seated area in the narrow passage and stated that people had been seen drinking wine on the benches outside the premises. Residents were also concerned that the premises could offer a happy hour or unlimited drinks offers. The Sub-Committee noted residents' concerns that the premises were totally inappropriate for a 12 hour licence. Residents also expressed concern regarding noise and a rise in anti-social behaviour.

The Sub-Committee heard evidence from the applicant that he runs a number of crêperies, the majority of which sell alcohol in conjunction with food. The applicant emphasised that the premises was not a bar and would only sell low alcohol ciders, beer and wines exclusively with the sale of crepes. The applicant stated that his staff were well trained and know when to intervene and not to sell to people who are intoxicated. The Sub-Committee noted that the applicant offered reduced hours with a start time of 11.30am. The applicant also offered an amended condition of only four or five vertical drinkers waiting for tables. The applicant stated that 95% of drinks sold were non-alcoholic. The applicant confirmed that there would never be only one member of staff on duty and that he had a policy for the oversight of the external tables.

The Sub-Committee noted that the hours sought were within the hours specified in licensing policy 8. The Sub-Committee further noted that the premises had less than 50 covers and were not alcohol led and so fell within the exception set out in licensing policy 2. The Sub-Committee was satisfied that with the reduced hours, conditions relating to vertical drinking and the sale of alcohol as ancillary to a meal, together with an additional condition relating to the use of the outside area, the licensing objectives would be promoted.

The Sub-Committee concluded that the management of the premises was of a sufficiently high standard that with the hours and conditions attached, the premises would not adversely impact on the cumulative area or otherwise impact adversely on the promotion of the licensing objectives.

When making their decision the Sub-Committee considered licensing policy 2 in relation to cumulative impact, licensing policy 8 in relation to licensing hours and licensing policy 10 in relation to high standards of management.

181

YUM YUM, 379 ST JOHNS STREET, EC1V 4LD - NEW PREMISES LICENCE (Item B2)

The licensing officer reported that Parkguard had visited the premises on the 28 July and the licensee had been found operating after hours.

The licensing authority reported that the premises had been found operating beyond 11pm without a licence. Officers warned the licensee and he made an application for a licence. He was then visited on the 28 July 2017 and found to be operating after 1am. The licensee had also not responded to enquiries about timings. He had run the premises for at least a year without a licence and the licensing authority recommended refusal.

The police reported that following the application for a licence they had contacted the licensee by email and had received a short response. The police requested further information about his previous experience and received no further response. A copy of the licence is supposed to be at the venue which it was not. They considered his ability to manage was in question. He informed officers that he had previously run a venue in Westminster but police licensing officers at Westminster had not heard of the venue.

The applicant stated that he was very quiet before 11pm and needed a late licence for more custom. He did not have a late licence in Westminster and sold the premises in 2012. He stated that he had one 50cc scooter so did not make much noise and had helped the police when phones had been snatched. If he was operating CCTV it would help reduce crime. He had received no complaints. He was shocked that he had no licence. He had a small cooker. He needed the licence for a take away and was not serving any alcohol. He stated he was struggling financially.

In response to questions that there was information on the website that stated the premises was operating up until 12 midnight he stated that he had financial problems. The student population had reduced. He had received penalty tickets for rubbish but he was away and nobody had informed him. The solicitor had informed him that he had a licence. He stated that a licensing objective meant that you needed a licence after 11pm. He had not had training. He was closing at 11.30 up until June but now his wife could not work and he needed to work later hours to pay for another member of staff. The Sub-Committee informed the licensee that his need could not override standards of management. He stated that he could not take a salary. His ventilation was provided by a window. The next door premises operated until 1.30 am. He used one scooter and two bicycles so did not make a noise nuisance.

In summary, the licensing authority said that the business was being advertised until midnight on a delivery service website and this would still require a licence. The police stated that despite a warning the licensee had continued to operate the business without a licence which was a sign of poor management. There had been no response from the second email sent. The applicant had not worked with the responsible authorities. The applicant had stated he had been misled but he did not try and obtain a duplicate licence.

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The police considered he would operate as he wanted to and they still considered that the licence be refused.

The applicant stated that he did his best to respond to the police but he was not in the country at the time. The additional hours would not create a disturbance. There would be no sales of alcohol. He had been misled by the solicitor and believed that he had a licence.

RESOLVED

That the application for a new premises licence, in respect of Yum Yum, 379 St John Street, EC1V 4LD, 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 within the Clerkenwell 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 licensing authority that the premises were found to be operating beyond 11pm without a licence. The licensing authority was informed by the applicant that he thought that he had a licence because this is what his solicitor told him when he bought the business. The licensing authority informed the applicant that this was not the case, but this only came to light when the applicant applied to vary the licence that he thought he had. The licensing authority confirmed that the applicant was warned not to operate after 11pm. The Sub-Committee noted the evidence from the licensing authority that after this warning the applicant was again found to be operating the premises without a licence, the most recent incident being on the 28 July. The Sub-Committee noted that fixed penalty notices had been issued against the applicant in relation to littering, and that these remained unpaid.

The Sub-Committee heard evidence from the police that when they contacted the applicant they received only a short reply that did not answer the questions asked. The police confirmed that they contacted the applicant again and received no reply. The Sub-Committee noted the police concerns that any reasonable licensee should want to see a copy of their licence, especially as it is a mandatory condition that the licence be displayed at the premises. The fact that this applicant had not done this raised concerns that standards of management were not what the police would expect from a responsible licensee. The Sub-Committee heard evidence that the police contacted their colleagues in Westminster in relation to the premises that the applicant claimed to have run in that area. Police in Westminster had not heard of the venue.

The applicant stated that he had big financial problems. The applicant stated that he had only operated without a licence since June because his wife was pregnant and could no longer work for him, meaning that he had been forced to employ a new member of staff and so had to open later. The applicant stated that he had only two bicycle drivers and one 50cc scooter barely making any noise. The applicant stated that there had been no complaints against him since he opened up and that there was barely any noise or inconvenience to neighbours. The applicant confirmed that he had not had any licensing training.

The Sub-Committee noted the objections of the local residents as set out in the papers.

The Sub-Committee concluded that if this licence was granted it would not promote the licensing objectives. The Sub-Committee was very concerned that the applicant took no steps to confirm that the premises had a licence or to obtain a copy for display. The Sub-Committee was also concerned that the applicant had operated without a licence since at least June. Whilst the Sub-Committee took into account the financial difficulties suffered by the applicant the Sub-Committee also had to balance the need to promote the licensing objectives and the impact of poorly managed premises in the local area. The Sub-Committee concluded that the poor standards of management displayed by the applicant so far outweighed the applicant's financial need for a licence.

The Sub-Committee was concerned that the applicant had not properly engaged with responsible authorities, nor had he fully taken on board the noise complaints of local residents. As the premises were in a cumulative impact area and the applicant was seeking hours outside the core hours set out in the policy, this was particularly concerning. The Sub-Committee concluded that even with the addition of conditions, to grant the licence would not promote the licensing objectives and that the refusal of the application was therefore reasonable and proportionate.

The Sub-Committee considered licensing policy 2 in relation to cumulative impact, licensing policy 8 in relation to licensing hours and licensing policies 9 and 10 in relation to standards of management.

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BOROUGH WINES, 344-346 ESSEX ROAD, N1 3PD - PREMISES LICENCE VARIATION (Item B3)

The licensing officer reported that the applicant had engaged with the responsible authorities and the licensing authority and the noise team had withdrawn their representations. Following further correspondence with the interested parties, one had withdrawn, one had not responded and another was involved in an exchange of emails with the applicant. Plans of the premises and amended conditions were tabled and would be interleaved with the agenda.

The applicant stated that the shop had been run for just over a year and during this time they had become involved in local events. This application was in order to use the basement for tasting events, learning to brew, wine or beer tastings which would be pre-booked ticketed events. They had run temporary event notices and there had been no noise issues around these events. The numbers were limited and the shop would not be open during these events. Patrons would be leaving between 9.30 to 11pm and they would be responsible operators.

In response to questions it was noted that all events would be run by themselves. It would not be a wedding or party venue. They were engaging with residents and served coffee as well as alcohol. They offered low key events. The fire door would not be used for entry/exit purposes. They had held an open day at Christmas and invited local residents. They considered that the premises would have a positive impact on the community.

RESOLVED

- 1) That the application for a new premises licence, in respect of Borough Wines, 344-346 Essex Road, N1 3PD, be granted to allow:-
 - a) The provision for off and on sales of alcohol in the basement from 10 am until 11pm Monday to Saturday and from 11am until 10pm on Sunday.

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- b) The provision of recorded music on Mondays to Friday from 4pm until 11pm, on Saturday from 10am until 11pm and on Sunday from 11 am until 10pm.
 - c) Opening hours to be 9am to 11pm Monday to Saturday and from 10am until 11pm on Sunday.
- 2) That conditions outlined in appendix 4 and detailed on page 117 of the agenda shall be applied to the licence with the following amendments:-
- The deletion of condition 6.
 - Condition 12 to read as follows:-

Consumption of alcohol in the basement shall be limited to tasting and food pairing events. These events shall be pre-booked or ticketed and be in a controlled environment for promoting education around drinks and food. Numbers shall be limited to these events and shall not exceed 40 covers. Events without food shall be limited to measures of 25ml for wine, or 50ml for beer and cider. Events with a substantial food offering shall be limited to measures of 125ml for wine and ½ pint for beer and cider.

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 noted that the applicant had agreed conditions with the licensing authority and noise team and that one of the local residents had withdrawn their representation in light of the conditions agreed.

The Sub-Committee heard evidence from the applicant that the premises consisted of a small shop with a large basement area. The shop had been running for just over a year and the applicant was keen to become part of the community. The applicant wished to use the basement for wine tasting and other education events. The applicant stated that they already had a licence for a nano-brewery and that people could come and learn to brew. The applicant emphasised that they did not intend to use the basement as a bar. They had already operated some TENs for tasting menus with up and coming young chefs or tasting events with wines or beers from a particular area. These events were always ticketed and there had been no complaints or issues. The applicant confirmed that they would not hire the space out, it was not a restaurant, bar or party venue.

The Sub-Committee concluded that with the conditions agreed the grant of the variation would promote the licensing objectives. The applicant was not seeking late hours and had agreed conditions limiting use of the basement to specific events such as wine tasting. The Sub-Committee noted that there had been no issues or complaints with the premises and that the applicant had engaged with responsible authorities. The Sub-Committee considered the representations from local residents but was of the view that the conditions agreed should deal with concerns relating to noise and public nuisance.

The Sub-Committee therefore concluded that the application should be granted.

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The meeting ended at 8.30 pm

CHAIR