

Licensing Sub Committee D - 27 September 2018

Minutes of the meeting of the Licensing Sub Committee D held at Committee Room 4, Town Hall, Upper Street, N1 2UD on 27 September 2018 at 6.30 pm.

Present: **Councillors:** Nick Wayne (Chair), Marian Spall (Vice-Chair) and Kadeema Woodbyrne

Councillor Nick Wayne in the Chair

- 8 **INTRODUCTIONS AND PROCEDURE (Item A1)**
Councillor Nick Wayne welcomed everyone to the meeting and officers and members introduced themselves. The procedure for the conduct of the meeting was outlined.
- 9 **APOLOGIES FOR ABSENCE (Item A2)**
None.
- 10 **DECLARATIONS OF SUBSTITUTE MEMBERS (Item A3)**
There were no declarations of substitute members.
- 11 **DECLARATIONS OF INTEREST (Item A4)**
There were no declarations of interest.
- 12 **ORDER OF BUSINESS (Item A5)**
The order of business would be Item B2, B1 and B3.
- 13 **MINUTES OF PREVIOUS MEETING (Item A6)**
RESOLVED
That the minutes of the meeting held on the 17 July 2018 be confirmed as a correct record and the Chair be authorised to sign them.
- 14 **ELITE CAFE, 177-187 WHITECROSS STREET, EC1Y 8QP - NEW PREMISES LICENCE (Item B1)**
A local resident spoke against the application. He raised concerns about the cumulative impact of the licence, particularly regarding the late hours of opening. He stated that he would have no objection if the hour for the sale of alcohol was reduced to 10.30pm during the week. He also raised concerns regarding hours on Sundays as other local premises were not open on this day and this was the one night that was quiet. He asked that the premises close at 10.30 pm on a Sunday or preferably in the afternoon and open for lunch only. He did not consider that there needed to be another licensed premises in the area and was concerned about the number of covers which he said would be 50 or more.

In response to questions the local resident stated that he had known the applicant for over ten years and believed he was a fit and proper person to manage the business but considered that an earlier closing time would be preferable. It was noted that there was a small pub that was quite far away but the nearest pub was very large but was not open on a Sunday.

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The applicant's representative stated that he would modify the application for the sale of alcohol to end at 10.30pm with a closing time of 11pm Monday to Sunday. The applicant managed a number of premises and had been a licence holder for 13 years. Proposed conditions 17 and 18 addressed resident concerns and ensured that alcohol would only be served with a table meal. The applicant would be the designated premises supervisor and the application proposed comprehensive conditions. There would be about 35-40 covers. The application fell within the framework hours detailed in the licensing policy, fell within the exceptions to the Bunhill cumulative impact policy and complied with licensing policy 2. The applicant's representative also advised that the Home Office guidance be considered when making the decision.

In response to questions it was noted that there would be no delivery service. The nature of the business was not expected to change although it was the intention to serve burgers in the evening and alcohol would be sold with those meals. The premises were open until 4.30pm currently but with alcohol these hours would be extended. The applicant modified the application for Sunday and reduced the hour for the sale of alcohol to 9.30 pm.

In summary, the local resident stated that it would not want the hours to be too long and on Sundays the area was very quiet with only one public house open. Tables and chairs were near to a residential area and could cause disturbance. He welcomed the reduction in hours on a Sunday but would prefer the closing hour to be earlier. The applicant advised that the closing time on Sunday was proposed to be 10pm and stated that this was not a precedent as all cases would be considered on their merits.

RESOLVED

- 1) That the application for a new premises licence, in respect of Elite Café, 187 Whitecross Street, EC1V 8QP be granted to allow:-
 - a) The sale by retail of alcohol, on supplies only, from 10 am until 10:30 pm Monday to Saturday and on Sundays from 10 am until 9pm.
 - b) The premises to be open to the public from 6am to 11pm Monday to Saturdays and from 6am to 9.30pm on Sunday.
- 2) That conditions detailed on pages 35 and 36 of the agenda shall be applied to the licence.

REASONS FOR DECISION

The Sub-Committee listened to all the evidence and submissions and read all the material. The Sub-Committee reached the decision having given consideration to the Licensing Act 2003, as amended, and its regulations, the national guidance and the Council's Licensing Policy.

The Sub-Committee took into consideration Licensing Policies 2 & 3. The premises fall within the Bunhill cumulative impact area. Licensing policy 3 creates a rebuttable presumption that applications for the grant or variation of premises licences which are likely to add to the existing cumulative impact will normally be refused following the receipt of representations, unless the applicant can demonstrate in the operation schedule that there will be no negative cumulative impact on one or more of the licensing objectives.

Six local resident objections had been received. There had been no representations made by the responsible authorities. Conditions had been agreed with the Noise Team.

One resident made oral submissions at the hearing and requested the hours applied for be reduced to 10.30pm for last sales and to 11pm for closure.

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The applicant agreed to this at the hearing and went further by amending the application such that the time for last sales would be 9.30pm and closure at 10pm on a Sunday.

The Sub-Committee noted that the hours sought were within the hours specified in licensing policy 6.

The Sub-Committee concluded that the applications should be granted subject to the conditions set out in the application papers and agreed to with the Noise Team. In addition, the Sub-Committee concluded that last sales should be at 9pm and closing time be at 9.30pm on a Sunday.

15 NEW WOKS KITCHEN, 334-336 CALEDONIAN ROAD, N1 1BB - NEW PREMISES LICENCE (Item B2)

The applicant requested an adjournment as a solicitor had just been engaged and further time was required.

RESOLVED that the application be adjourned to a future meeting.

16 AJ NEWS, 127 WHITECROSS STREET, EC1Y 8PU - REVIEW OF PREMISES LICENCE (Item B3)

The licensing officer reported that there had been a site visit by the licensing team on the 27 September 2018 and there had been some improvements. A refusals record was now being kept, efforts had been made to keep invoices in an orderly fashion and the CCTV seemed to be in operation although this could not be operated by the member of staff present.

In response to questions the trading standards officer stated that no invoices had been produced for the illicit alcohol and only some invoices over the past two months had been produced. There did not appear to be the amount of invoices available for the amount of stock on the premises.

The trading standards officer referred to her report and stated that condition 5 of the licence required that stock should be easily traceable. The illicit alcohol on the shelves could not be easily traced. There was a large quantity of polish alcohol on the premises that was not intended for sale in the UK.

In response to questions, the trading standards officer reported that in 2015, illegal alcohol was seized from the premises and conditions were added to the licence by an officer panel. It was also stated that officer seized alcohol on the 7 June 2018 and, only one week later, on the 15 June, another large quantity of alcohol not intended for the UK market was seized. At the first visit on the 7 June, it was made clear that the sale of this alcohol was a breach of condition and a visit report was also left to explain why the alcohol could not be sold.

The licensing authority highlighted the report on pages 79-81 of the agenda and stated that, although there had been some improvement, it had taken some time to get to this point. Alcohol sold should not be above 6.5 abv and the Chair considered that condition 14 of the current licence be reworded to avoid confusion.

The police stated that they supported the review submitted. They had other matters of concern in relation to the premises which were not licensing matters but were outlined in the papers.

The licensee's representative stated that this was a very small shop and a very busy family business. Insufficient care and attention had been paid to the conditions on the licence and

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illicit alcohol had been sold on the premises. There had now been significant progress made in addressing these issues. New CCTV had been installed, the refusals book was now up to date, the Challenge 25 notices were on display. The licensee had brought all invoices to the Sub-Committee. They were being put into categories. He needed to undertake a stock take and was currently working on till prompts. This improvement had happened and a short suspension should not be a punishment. He agreed that condition 14 could be reworded and he considered that there should be an acknowledgement of improvements made and that a suspension was not necessary.

In response to questions it was noted that the licensee was gathering receipts so that they would be complete from now on. It was accepted that there had been a historic lack of care. It was noted that there were four staff on the premises. It was noted that receipts were now more organised, staff had received mandatory training and were still to receive training in the CCTV system and would need to be able to retrieve invoices. It would take about one more week to teach staff the items outstanding. The licensee stated that he had always bought alcohol from a cash and carry. The polish beer had been purchased five years ago from another shop and had been in the basement. When asked why illicit alcohol was still on the shelves after the 7th June the licensee said that the cash and carry had said the alcohol would be fine to sell. The licensee stated that he would be able to show all the invoices for the past two months.

In summary, the trading standards officer stated that no invoices had been produced for the brands listed in the report. Some of those brands would have had English writing on but some not. The licensing authority and the police stated they had nothing further to add. The licensee's representative stated that there had been significant progress and there had been a consistent application of the conditions of the licence over the past few weeks. He accepted that there had been non-compliance in the past. He agreed that there be an amendment to condition 14. The focus was now on the future of the business. He considered that a period of suspension was not an appropriate solution and was unnecessary in the circumstances.

RESOLVED

That the premises licence, in respect of AJ News, 127 Whitecross Street, EC1Y 8PU be suspended for a period of six weeks and modified as follows:-

- Condition 14 be amended to read:-

No high strength beer, lager or cider of 6.5% abv or above shall be sold.

REASONS FOR DECISION

This was an application to review the licence in question. The review was brought by Trading Standards.

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.

Verbal representations were received by Trading Standards, the Licensing Authority, the Police and the Respondent's representative.

The Sub-Committee heard evidence that there had been two recent occasions, on 7th June 2018 and 15th June 2018, Trading Standards Officers seized quantities of cans of alcohol that were not permitted to be sold in the UK. The licensee ignored the warning given by the Trading Standards Officer on 7th June and continued to display illegal alcohol for sale.

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The licensee had not managed to have his documentation/invoices in order and this was still the case on 27th September 2018, the date of the hearing, when the premises were visited for a third time by Trading Standards Officers. There were however some improvements in the management of the premises since the last visit on 15th June 2018.

The Sub-Committee did not believe the version supplied by the licensee that he purchased the illicit alcohol from Bestway Cash and Carry.

The Sub-Committee had serious concerns about the management of the premises and the ability of the licensee to comply with the licence conditions. The Sub Committee was concerned that despite the licensee having had a considerable period of time to make the necessary improvements, breaches were still occurring and it had little confidence that there would not be further breaches.

The Sub-Committee further noted that none of the Responsible Authorities asked for revocation of the licence.

Taking all the above factors into account the Sub-Committee decided to suspend the licence for 6 weeks. This period to be utilised by the licensee to properly train his staff and to ensure that all his invoices and sale records were in order.

The Sub-Committee concluded that a suspension of 6 weeks was proportionate and reasonable given the facts of this matter.

The meeting ended at 8.15 pm

CHAIR