



conditions, the applicant had amended the hours and conditions. She explained that Shell was a highly experienced company and the concerns raised by the resident would not occur.

In response to questions from members, the applicant's legal representative advised that the application was in the name of Shell. The premises was operated by a franchisee. Shell operated a yellow and red card system in the event of any problems. A red card resulted in instant dismissal. Shell held the licences so it could protect its brand and sites.

Members raised concern that the applicant had not adequately demonstrated that there would be no negative cumulative impact on one or more of the licensing objectives. The applicant's legal representative stated that following the amendment of hours sought to within framework hours and the acceptance of conditions requested by the responsible authorities, the responsible authorities had withdrawn their representations. This meant they were satisfied that the application would not add to the cumulative impact. In addition, she stated that the resident had not raised concern about cumulative impact.

The applicant's legal representative stated that cumulative impact related to people congregating to drink and causing noise or crime and disorder after drinking. She stated that most people who bought alcohol from a petrol station usually left in a vehicle and took it home to consume.

In response to a question from the Chair as to the applicant's response if the sub-committee restricted the sales of alcohol to those purchasing fuel or visiting the petrol station in a vehicle, the applicant's legal representative expressed concern and stated she had never seen this condition on any licence.

In response to members' concerns about pre-loading being a problem in the area due to the high prices of alcohol in nearby clubs, the applicant's legal representative stated that Shell petrol stations were not the cheapest places to buy alcohol, Shell had CCTV, experienced and trained staff and a Challenge 25 policy in place.

**RESOLVED:**

That the application for a new premises licence in respect of Shell Service Station, 198-208 Old Street, EC1V 9FR be granted

- 1) to allow the sale of alcohol, off sales, from 08:00 to 23:00 Mondays to Sundays,
- 2) to allow the provision of late night refreshment, from 23:00 to 05:00 Mondays to Sundays; and
- 3) to allow the premises to be open to the public, from 00:00 to 00:00 Mondays to Sundays.

Conditions detailed on pages 49 and 50 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 operating schedule that there will be no negative cumulative impact on one or more of the licensing objectives.

The Sub-Committee took into consideration Licensing Policy 4. The Council has adopted a special policy relating to cumulative impact in relation to shops and other premises selling alcohol for consumption off the premises. Licensing policy 4 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 or subject to certain limitations, following the receipt of representations, unless the applicant can demonstrate in the operating schedule that there will be no negative cumulative impact on one or more of the licensing objectives.

One local resident objection had been received that focused on the original application hours. The representations made by the responsible authorities had been withdrawn following the amendment of the application for off sales within framework hours of 8am until 11pm.

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

The Sub-Committee noted the conditions proposed by the responsible authorities that had been accepted by the applicant. The Sub-Committee also noted the provisions within the applicant's operating schedule.

The Sub-Committee concluded that although the responsible authorities had initially raised concerns that the applicant had not addressed the potential impact on the local area, the operating schedule and the amendment to framework hours would mean that the licensing objectives would be promoted.

The Sub-Committee noted the possible exceptions set out in the Bunhill cumulative impact policy and were satisfied that the applicant demonstrated that there would be no negative cumulative impact on one or more of the licensing objectives. In relation to licensing policy 4, the Sub-Committee noted that the premises was within an area based cumulative impact area. However, it was satisfied that with the

operating schedule and the agreed conditions, the applicant had demonstrated that there would be no negative cumulative impact on the licensing objectives.

The Sub-Committee therefore concluded that it was reasonable and proportionate to grant the application.

**34 THE REAL HELLENIC TASTE, 167-169 FARRINGDON ROAD, EC1 - NEW PREMISES LICENCE (Item B2)**

The Chair asked for confirmation that the applicant was applying for off sales only when the plan showed a restaurant. The applicant stated that the plan was an old one and the restaurant no longer existed; it had been replaced by shelving, refrigerators and freezers. The licensing officer stated that if the entrance, exits, fire arrangements and emergency lighting was correct, there were no serious licensing impacts however this would represent a licensing variation. Although the plan could be altered without a whole new consultation, residents should be given 7 days to view the plan before the application should be determined. The legal advisor stated that the plan was inconsistent with the business operation.

**RESOLVED:**

That this item be adjourned to a future meeting.

**REASONS FOR DECISION:**

The applicant was agreeable to an adjournment in light of the inaccurate plan that was submitted as part of the application. The applicant accepted that a new plan reflecting the layout of the premises as currently operated was required before the licensing sub-committee could consider the application.

**35 2 NORTHDOWN STREET, LONDON, N1 9BG - PREMISES LICENCE VARIATION (Item B3)**

A member raised concern as to whether the premises had planning permission as this was a requirement of Licensing Policy 1. The applicant advised that she did not know when planning permission had been given.

The applicant was given time to make enquiries while the next application was being determined.

When the consideration of this item resumed, the applicant had not been able to clarify the position regarding planning permission but referred to legal advice she had been given that licensing and planning should be considered separately, that the licensing sub-committee should only be considering the licensing objectives and that licensees could get either a licence or planning permission first. She advised of two high court cases which supported this and stated that council policy could not override high court authority.

The Chair advised the applicant that council policy was for planning permission to be obtained prior to the application for a licence and that adjourning the consideration of this item would enable the planning status to be established. If

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planning permission was in place, the application could be reconsidered at the next sub-committee meeting.

The chair sought advice from the sub-committee's legal advisor on whether to proceed with the hearing or adjourn it. The legal advisor stated that as the licensing sub-committee was not looking to make a determination on the basis of the planning status and instead considered that it would be helpful to have the planning status clarified, the hearing could be adjourned if the sub-committee decided.

The applicant raised concern that she had previously asked for the hearing to take place on the date now being suggested for the new hearing and she had been told this was not possible. She also raised concern that the sub-committee's concern about planning permission had not been raised in advance of the hearing.

The chair stated that members could raise matters of concern at licensing hearings and it could be prudent to adjourn the hearing.

### **RESOLVED:**

That the consideration of this case be adjourned.

### **REASONS FOR DECISION:**

The Sub-Committee decided to adjourn the application as it considered this to be necessary for its consideration of the planning implications and for the applicant to establish the planning status of the premises in accordance with Licensing Policy 1.

The meeting ended at 7.50 pm

**CHAIR**