

Licensing Regulatory Committee - 11 June 2019

Non-confidential minutes of the meeting of the Licensing Regulatory Committee held at Islington Town Hall, Upper Street, N1 2UD on 11 June 2019 at 4.00 pm.

Present: **Councillors:** Nurullah Turan (Chair), Marian Spall (Vice-Chair)
and Michelline Safi-Ngongo

Councillor Nurullah Turan in the Chair

13 APOLOGIES FOR ABSENCE

Received from Councillor Kat Fletcher.

14 DECLARATION OF SUBSTITUTE MEMBERS

None.

15 DECLARATIONS OF INTEREST

None.

16 MINUTES OF THE PREVIOUS MEETING

RESOLVED:

That the minutes of the meeting held on 4 February 2019 be confirmed as an accurate record of proceedings and the Chair be authorised to sign them.

17 MEMBERSHIP, TERMS OF REFERENCE AND DATES OF MEETINGS OF THE LICENSING REGULATORY COMMITTEE IN 2019/2020

RESOLVED:

That the membership of the Licensing Regulatory Committee, appointed by the Council on 16 May 2019, its terms of reference and dates of meetings for the municipal year 2019/20, as detailed in Appendix A of the report of the Interim Corporate Director of Resources, be noted.

18 RENEWAL OF SPECIAL TREATMENT LICENCE APPLICATION - LONDON GRACE, 35 CAMDEN PASSAGE, N1 8EA (Item B1)

In his introduction and welcome to the meeting, the Chair informed all present that Committee members had read all of the written material presented to them with the agenda, including additional emails, one dated 3 June 2019, from Mr Philip Day of Laceys Solicitors, representing the applicant, and the other from one of the objectors and dated 11 June 2019.

The Licensing Officer reminded the Committee of the background to this application, when the Committee had granted a Special Treatments Licence to the

applicant on 4 February 2019. Referring to page 26 of the agenda, he noted that there had been two complaints made to the Council's ASB Team since February 2019, when the Committee had last considered an application for a Special Treatment Licence for this premises. The first complaint was dated 23 May 2019 and the next complaint had been received on 8 June 2019, logged at 4.40pm. The ASB Team had contacted the complainant at 5.45pm, when the complainant had said that the odour had cleared, but that they wanted the complaint recorded for the record. In response to a question as to whether there had been any further complaints, the Licensing Officer said that there had been localised complaints and that was why these had been contained in the exempt appendix, since it had not been possible to redact the paperwork without identifying the residents.

The applicant asked whether any odours had been witnessed since 4 February 2019 and the Licensing Officer confirmed that there had not.

One of the complainants asked whether the Council had sufficient services in place to ensure that complaints of odour could be witnessed in the future. The Licensing Officer confirmed that there were sufficient services in place and that the Council's ASB Team had responded to and witnessed odour complaints at the premises in the past.

The applicant stated the grounds for her application, stating that she was keen to work with the Council to understand the issues of which the objector had complained. She had spent time and money on the premises to put things right. She was grateful that a Special Treatments Licence had been granted in February 2019 and that no odours had been witnessed since that time. Her colleague, who managed the premises, said that she too was keen to work with the Council to ensure that there were no issues and had engaged with the Angel Business Improvement District, who had shared with them the costs of installing smell sensors in the basement of the premises and with wifi costs. The sensors would be able to receive and record data on odour.

In response to a question from a member of the Committee as to whether there was a system in place for the upstairs residents to complain if the odour was too strong, the applicant said that both residents had their email addresses. She added that there had been a complaint about noise, but not about odour.

A member of the Committee asked whether it might be possible to have odour sensors installed in the hallway of the flat above the premises. The applicant thought that it would be possible, as the Angel Business Improvement District would be open to residents' requests for the sensors.

A member of the Committee asked whether there had been any developments about the issue of the situation of the gas meter. The applicant confirmed that there had not. A notice had been served on the landlord. The applicant had paid to have the meter boxed in, which was as much as they could do. The member of the Committee asked whether it was possible that the fumes were emanating from the

dry cleaners' premises nearby. The applicant stated that she had asked that that possibility be looked at but was not sure of the current position.

One of the objectors stated that the odour from the nail bar was an ongoing problem and that "it was no-one's fault". It could be due to the structure of the building. She acknowledged the work that the applicant had carried out. Fumes continued to enter her flat through the windows. The objectors were also keen to see the issue of the positioning of the gas meter resolved, but this was a matter for the landlord and they were waiting to hear from the landlord on the matter. She maintained that she did not own anything outside of her own flat. She thought that the installation of odour measuring devices in her flat, such as those installed in the nail bar, would be helpful. She then went on to quote from Environment Agency guidance on odours, which stated that it was not enough to rely on toxicity and that matters such as strength, frequency, intensity, offence and location had also to be taken on board. Long term intermittent exposure to odour constituted a nuisance. It was extremely difficult to get someone to witness odour immediately and it took time. The odour nuisance she had complained about was classed as frequent, due to the number of calls she had had to make to the Council's ASB Team.

The other objector to the application said that the premises being discussed were not a bakery. He and his sister were dealing with acetone fumes. He described the physical effects he had suffered as a result of the acetone fumes, which he described as a "constant stressor" on their wellbeing. It was as though all the surfaces in their flat had been wiped with bleach. They had no wish to be in contact with the business every time they could smell the acetone odour. The gas meter was not theirs, as they were not the freeholders and it was owned by the landlord. The nail bar owners had access to the gas meter. The dry cleaners did not use acetone, so was therefore not affecting them. The extractors in the business premises downstairs were pulling out air from the premises, which then rose up through the windows of the flat above where he lived. They could not open their bedroom or kitchen windows because of this. The thousands of pounds already spent by the premises' managers to try to rectify the nuisance caused the objectors in the flat above more pressure. They could not live like this.

A member of the Committee asked how often the odour was present in the flat and whether it was a daily occurrence, and whether it was worse on some days than others. The objector stated that it was due to acetone use by the premises. The premises opened at 9.00am to 9.15am each day and the smell occurred in their flat above the premises. It was a daily odour and smelt of musty nail polish. In response to a question about their communications with the business downstairs, the objector said that when they first opened they had had a party and he had had to ask them to turn their music down and that they were laughed at. The objectors informed the Council and the freeholder and asked them to get in touch. He stated that he was living in the midst of a nuisance. The other objector said that it was not personal against the present downstairs occupiers. However, they did not want to be affected, as they had been, in that environment. It appeared that it could be due to a structural fault.

The objectors were asked for their views on how the nuisance might be stopped. One of the objectors said that the use of acetone should be ceased altogether. As residents, they were living under much stress and wanted to live in peace. He felt as though he was being forced to become a part of the ongoing dialogue with the premises below with regard to the odour nuisance. The nuisance suffered by the objectors had been documented multiple times. He maintained that, if it was not serious, the Council would not be taking the premises' managers to Court.

In response, the applicant stated that the issue in understanding the problem was to understand that they used such small amounts of acetone in their daily work that it was difficult to see how that could be the cause of the problems. Referring to the objectors' diary of nuisance events, she noted that on all of the dates referred to, there had never been more than four clients on the premises. One client usually took one hour for treatment. Less than 5ml of acetone was used for each treatment and, with the operation of the extractor fans 24/7, it was hard to understand how it could be the cause of any nuisance to the upstairs premises. Acetone was heavier than air, so she failed to see how it could rise to the flat above.

The manager of the premises queried how the objectors could know that the odour in their flat was acetone. There were 120 staff employed across her business premises, with many women, four or five of whom were pregnant. She herself had had a baby and worked in one of the nail bar premises. There had been no complaints from any of their staff or clients about an odour. They did not use acrylics or gels and some even brought children to have a nail polish treatment. Seven other stores were situated under residential premises, most of which were older buildings.

She added that she personally was working to develop a product to remove nail polish which was 49% acetone-free. She hoped that the first batch would be available for use in 6-8 weeks' time.

In response to a further question, the applicant replied that her employees' work hours were varied, but could range up to 45 hours per week.

RESOLVED:

That, subject to the Standard Conditions for Special Treatment Premises and Standard Conditions for Premises Providing Nail Treatments, together with the additional conditions on the current licence at Appendix 2 of the agenda, viz:

1. Odour from the business shall not cause nuisance to the occupants in the vicinity
2. That the extractor fan ventilation system be operated 24/7 and maintained as such

the application from Ms Kirsten White for the renewal of a Special Treatment Licence in Islington, for the purposes of manicures and pedicures only, in the premises known as London Grace, at 35 Camden Passage, N1 8EA, be approved for a period of 18 months.

Reason for decision

The Committee considered all of the written and oral evidence.

The Committee noted that there had been only two complaints since 4 February 2019, which had been logged but not witnessed by Environmental Health.

The Committee was satisfied that London Grace had taken reasonable steps to carry out remedial works to allay the odour issues and complaints and had taken on board recommendations and suggestions made by the Council's Environmental Health Team. The Committee noted that the applicant was being proactive by installing odour sensors on the premises and developing an alternative to acetone.

19 **RENEWAL OF SPECIAL TREATMENT LICENCE APPLICATION - LONDON GRACE, 35 CAMDEN PASSAGE, N1 8EA - EXEMPT APPENDIX (Item E1)**
RESOLVED:

That the contents of the exempt appendix be noted.

The meeting ended at 5.20 pm

CHAIR