

London Borough of Islington

**Licensing Sub Committee B - 2 July 2019**

Minutes of the meeting of the Licensing Sub Committee B held at Committee Room 4, Town Hall, Upper Street, N1 2UD on 2 July 2019 at 6.30 pm.

**Present:**      **Councillors:**      Phil Graham (Chair), Cutler (Vice-Chair) and Nathan

**Councillor Phil Graham in the Chair**

**44      INTRODUCTIONS AND PROCEDURE (Item A1)**

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

**45      APOLOGIES FOR ABSENCE (Item A2)**

There were no apologies for absence.

**46      DECLARATIONS OF SUBSTITUTE MEMBERS (Item A3)**

There were no declarations of substitute members.

**47      DECLARATIONS OF INTEREST (Item A4)**

There were no declarations of interest.

**48      ORDER OF BUSINESS (Item A5)**

The order of business would be as the agenda.

**49      MINUTES OF PREVIOUS MEETING (Item A6)**

**RESOLVED:**

That the minutes of the meeting held on the 5 March 2019 be confirmed as an accurate record of proceedings and the Chair be authorised to sign them.

**50      ISLINGTON SPORTS BAR AND GRILL, 274 HOLLOWAY ROAD, N7 7NE - PREMISES LICENCE VARIATION (Item B1)**

The licensing officer reported that additional information had been circulated. Photographs had been removed from the agenda as had been requested. The premises had been closed for two weeks for sound insulation works to be undertaken.

The licensing authority stated that the premises were in a cumulative impact area and it was expected that licensees would demonstrate high standards of management. The application would allow a pub style venue if granted. The temporary event notices had been used for the year. The licensee had put forward a detailed operating schedule. The licensing authority agreed that there was a need for a well-run pub in the area but considered that all works should be completed to ensure protection for residents. There was a fully functioning kitchen and food could be available at all times. A reduction in

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hours to framework hours could be considered. The Sub-Committee needed to be convinced that the licensee understood what is acceptable.

The interested party stated that this was the second variation application in just over a month. The applicant had not demonstrated a high standard of management. The noise team had witnessed contraventions. It was considered inconceivable that there would be no cumulative impact if food was not required with alcohol. Photos had been taken of customers outside with no food and it was stated that the licensee would not comply with his responsibilities. Drink promotions had been advertised and these would inevitably lead to drunkenness and anti-social behaviour issues. The interested party had received an abusive phone call and the police had stated that it had been linked to the premises. This raised serious concerns about the applicant. There had been an incident towards the end of April where the premises had been very noisy. The resident had been unable to contact the noise team and approached the bar. The designated premises supervisor (dps) had blamed the resident for having no carpet in his flat, which he did have. Rather than apologising, the dps had blamed the resident. It was considered that the licensee put profit before the licensing objectives. It was not considered there was a shortage of bars; there were 30 within one mile. It was in the public interest to have good responsible bars but the applicant was not able to abide by restrictions to the licence and it should be rejected.

The licensee's representative stated that the management of the premises and the cumulative impact had been considered at the last application. The noise team was now satisfied. The licensing authority had highlighted the cumulative impact. At the last application, the management team were in transition. The designated premises supervisor had run bars for the last 20 years and he was unproven at the time. Following numerous visits by the police and licensing team there had been no complaints. The resident had taken photographs of customers without food but it was stated that you could go in any restaurant and take photographs similar to this between courses. The sales of food were greater than drink. The police had investigated the telephone call to the resident and no action had been taken. There was a proposed condition relating to football away fans. There were also noise insulation works currently being undertaken. There had been no instances of crime. £200 000 had been spent on the premises in addition to soundproofing works. A number of bars had been changed into coffee shops along Holloway Road and they did not consider they would add to the cumulative impact. The number of patrons dispersing from the premises was insignificant in relation to the number dispersing from the stadium and the tube station. There were no public safety issues and they had fulfilled all their obligations regarding CCTV.

The manager stated that both her and the designated premises supervisor had run pubs together previously. Staff training and procedures had been implemented and there were no new customers after 10pm. Most of what the police had requested was already in place. There had been a huge improvement. She stated that the resident had come down to the bar at the end of April but she had made apologies and he had agreed at the time.

An interested party in support stated that he had been in the pub on approximately a dozen occasions, four on match days. He had not seen any trouble and there had been no indication that there would be. He considered the pub to be well run and managed and noise had not been excessive. He considered them to be a very well run pub and would support the application. Another interested party in support stated that she had been attending since it had opened and felt that it was a very friendly and comfortable environment.

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In response to questions it was stated that the premises had 12 staff, all sourced from previous sports bars which had experience of football crowds. A new security team had now been employed at the advice of the licensing team. In relation to the telephone call to the resident, it was initially considered to be a wrong number but personal details about him were detailed and police concluded it had been related to the premises. The resident had only just got back from holiday and had been working away during the week. The 5 July was the first day he could allow the noise team access to his property. The CCTV was looked after by a maintenance team and was remotely maintained. Challenge 25 was a daily issue and it was accepted by the manager that this could be included in the checklists. The temporary event notice that had not been applied for had been prior to the previous hearing. The licensing and police visits had shown general satisfactory compliance and it was considered that significant steps had been taken. It was noted that the premises did not have drink promotions and the website had not been updated.

In summary the interested party raised concerns about the drink promotions still being advertised and noted that there was no reference to any food in the twitter feed. He stated that this did raise concerns about the character of management. There were also comments about going to the 'pub' rather than the restaurant.

The licensee's representative stated that there had been a significant improvement since the last hearing. This was a well-managed bar/restaurant. This was previously a public house and then had been converted to a chicken shop. This could only run as a well-managed sports bar.

### **RESOLVED**

- 1) That the application for a new premises licence, in respect of Islington Sports Bar and Grill, 274 Holloway Road, N7 7NE be granted to allow:-
  - a) The sale of alcohol, Sunday to Thursday from 10:00 am until 11:00 pm and Friday and Saturday 10am until midnight.
  - b) The provision of late night refreshment from 11pm until midnight Friday and Saturday.
  - c) The premises to be open to the public from 10:00 am until 11:30 on Sundays to Thursdays and until half past midnight on Fridays and Saturdays.
- 2) That conditions detailed on pages 49-52 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 noted that the premises were in the Holloway Road and Finsbury Park cumulative impact area and that therefore there was a presumption that a variation which would have an impact on the licensing objectives would be refused.

The Sub-Committee took into account licensing policy 2 regarding potential impact on residents, past compliance history of current management, the proposed hours of operation and whether the licence holder was able to demonstrate commitment to a high standard of

management. Under licensing policy 3 the presumption can be rebutted if the applicant can demonstrate in the operating schedule that there will be no negative cumulative impact on any of the licensing objectives. The licensing authority also took into account that in the Holloway Road and Finsbury Park cumulative impact area the local authority is committed to working with existing licence holders to maintain a well-managed evening economy that meets residents and business needs whilst minimising any adverse impacts in terms of crime and disorder and anti-social behaviour.

The past compliance history of management prior to the previous hearing of an application to vary in March 2019 had been poor. However, there appeared to be a new management team and since the appointment of the new designated premises supervisor, there had been significant improvement. The management appeared conscious of their responsibilities and the effect of the cumulative impact policy and had operated successfully with TENs. Works to minimise nuisance from noise was being carried out and the premises would not operate until the works had been completed to the satisfaction of the responsible authorities. The Sub-Committee saw photographs taken by residents but also heard evidence from the applicant and the licensing authority that it was impossible to say with any certainty that people were consuming alcohol without food in breach of the current licence condition.

Under licensing policy 5 where representations were received, the local authority might restrict the hours of opening where it is appropriate to promote the licensing objectives. Home office guidance, April 2018, paragraph 9.42 states that licensing authorities are best placed to determine what actions are appropriate for the promotion of the licensing objectives in that area and all licensing determinations should be considered on a case by case basis.

The Sub-Committee concluded that with the amendment to the hours so that they were those specified in licensing policy 6 and the conditions agreed and put forward by the applicant and the responsible authorities there would be no adverse impact on the licensing objectives as a result of the variation. It was proportionate and appropriate to the licensing objectives and in the public interest to grant the variation with those conditions.

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**AFASIKA, 152 SEVEN SISTERS ROAD, N7 7PL - PREMISES LICENCE  
REVIEW (Item B2)**

The licensing officer advised that additional material had been circulated to members and some CCTV from the 5 November would be shown to members.

The police officer reported that he had worked for Islington for two years and had never seen this level of violence at a venue. He considered that the venue undermined three licensing objectives; the prevention of crime and disorder, prevention of public nuisance and protection of children from harm. There had been a violent incident in November and males had been seen fighting with planks of wood and sticks. The police had tried to engage with the designated premises supervisor on a number of occasions and on each visit a number of breaches of conditions had been highlighted but there had still been no improvement. Breaches had not been minor and included the lack of CCTV and ID data. He considered that the levels of violence were increasing. An agreement to limit hours was reached in October 2018 but a further incident took place in November 2018 with violence both inside and outside. There was also an incident where the door supervisor considered that there had been inappropriate touching and this should have been investigated by the police. The CCTV showed that there were a large number of males outside the premises drinking from bottles. The hours had already been reduced, he had zero confidence in the designated premises and sought revocation.

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The licensing authority stated that the premises licence had been previously reviewed. A decision was taken through a consent order because of previous assurances. There were significant breaches of conditions. The licensee had been invited to a PACE interview in February 2019. The designated premises supervisor (DPS) denied knowledge of the changes to the licence although the barrister had made it clear that these changes had been fully discussed with the licensee. Since the previous review there had been 7 reported incidents, 6 of these had been witnessed, there was no CCTV, activity after licensed hours and noise nuisance. There was an incident, following the review application on the 26 June, where tables and chairs had been thrown around. Management should be aiming at a very high level and the licensing authority considered that there was no other alternative to support revocation.

The Sub-Committee noted that a S 19 notice had not been served although it had been considered.

The noise officer reported that sound insulation works had been carried out and there had been fewer noise complaints. However, there had been four complaints since April so noise nuisance was still occurring.

The public health officer reported that there was a concentration of ambulance related callouts in the area around this premises and in the early hours of the morning. It was accepted that this could not be linked to the premises as names had not been given to the police.

In response, it was noted that the previous late licence had been restricted in hours following a review of the licence in March 2018. The decision to take a premises to review was not taken lightly and other opportunities would have been taken to reach an agreement with management. This was the second review of the premises and the DPS had been in charge since 2017. The police stated that this premises was exceptional in terms of the number of incidents and he would expect the manager to close down the violence quite quickly. It was noted that breaches of conditions had been explained on visits. Conditions had been put in place to protect the DPS and the customers of the premises. The police officer reported that he was surprised, with the weapons used that more serious injuries had not been caused. The DPS was not adhering to the court agreement and so it was considered that revocation was the only option. There were no other premises nearby that had these same issues.

The licensee's representative stated that the previous review was in relation to noise complaints. The main basis for this review was in relation to violence. The police review had been bolstered by incidents pre-dating the previous review and the only recent serious incident had been on the 5 November 2019. The incident was not disputed. The CCTV showed the DPS doing his best to quell the violence. Young Ethiopian men were asked to leave the venue after they caused trouble. They were not the regular clientele and once outside called a number of friends to the venue. A violent incident then erupted outside the venue and police and ambulance were called. The group had started other incidents across London and door supervisors shared this information to ensure that they did not gain entry into other bars. It would be unrealistic for the DPS to intervene safely in the circumstances. It was accepted that the ID scanner and the CCTV were not working in January 2019. This had now been resolved and a contract was in place. There was also an undertaking the CCTV would be installed outside the premises. Outside issues were being attributed to their premises.

It was stated that, following the Consent Order in 2018, terms had not been fully explained to the DPS by his legal team. There had been difficulties in communication and it was

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understood by the DPS that he would receive written notification. He did not receive written notification or details of the Dispersal Plan and this had led to breaches in conditions. The Dispersal Plan was now in place.

There had been five noise complaints since the beginning of January 2019 and it was stated that four of these had been unsubstantiated. It was also noted that a new calibration certificate had been completed and the pollution team could not understand why complaints were still being received. It was considered that these complaints were generalised complaints and may not be linked to any breach of licence conditions. This was a hub for older members of the community. It was stated that any incident relating to the 26 June was from travellers fighting outside and could not be attributed to Afasika. There had only been two incidents since the last review, in April and November. These had been caused by non-regulars. Any technical issues had now been resolved.

The door supervisor stated that there would still be problems in the road even without Afasika. He stated that in November four men entered the venue who had then caused trouble inside. When they were asked to leave they called on 20 or 30 other men with weapons and they assaulted him. He knew, through door supervisors in South London, that this group caused problems in other venues around London when they were rejected from premises. They needed help from the police and parkguard. If people had no ID they immediately fought once challenged. The premises do their best but the groups come back to fight. There had been an issue with the CCTV not working. The CCTV recorded for 6 or 7 days and it was accepted that most record for 30 days. Neighbours were not complaining about noise. He considered that they needed police help. Culprits needed to be punished enough to deter them. They were trying to close entry early and were closing the shutters so that people did not think they were open.

The designated premises supervisor stated that the one man in the crowd had hit the security guard and an older man inside the premises. Police had arrested some people but they had heard nothing further from them. The previous solicitor had not sent him anything regarding the change in hours or the dispersal policy. He had done his best. The ID scanner had a broken screen. The CCTV had an disc error. These had now been fixed.

In response to questions it was stated that the incident on the 5 November was the crux of the police submission. The DPS complied with the licence and had done all he could. Dispersal policy and technology was in place. This was all they needed to do as required by their licence. It was noted that two door supervisors would normally be the number for a venue of this size and if any more were required it would not necessarily be for the patrons in the premises. The door supervisor stated that he had made suggestions to the DPS regarding the hiring of staff, the CCTV and ID scanner but these had not been taken up. Members commented that the ID scanner was broken, but people were still allowed in and confirmation regarding the dispersal policy did not arrive by post and this had not been chased up.

In summary, the police stated that they did not recommend revocation lightly. They considered that changing the hours would not make a difference. Incidents were happening inside the venue. There was no evidence of a refusals log. Customers causing incidents were still allowed in venue. Of the seven arrests in November, five of these people had been inside the venue.

The licensing authority stated that whether or not the decision had been understood by the DPS it had been clearly explained on the 20 February and at multiple officer visits. There had been continual breaches of conditions and no improvements made. Engagement had been poor. The licensee had not been operating to the hours in any event so there was no confidence that there would be compliance if the hours were reduced. A noise complaint on

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the 26 May had been solved after a door had been closed. If it had been closed, as it should have been there would have been no complaint.

The licensee's representative stated that if the Sub-Committee considered that there had been no compliance with the DPS this was an option that was open to them. Police had been called two weeks previously but this was with regard to a traveller incident and was not in relation to the premises.

### **RESOLVED**

That the premises licence in respect of Afasika Bar and Restaurant, 152 Seven Sisters Road, N7 7PL be revoked.

### **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 licensing policy 2 which states that the licensing authority will take into account the proximity to residential properties and potential impact to residents living in close proximity to the premises, the views of responsible authorities, the past compliance history of current management and whether the applicant was able to demonstrate a commitment to a high standard of management. Under licensing policy 8 when assessing the licensee's ability to demonstrate commitment to a high standard of management, the licensing authority will take into account whether the licensee can demonstrate comprehensive knowledge of best practice, has sought advice from the responsible authorities, is able to understand verbal and written advice and legal requirements, can run a business lawfully and in accordance with good business practices and can demonstrate a track record and compliance with legal requirements. There had been substantial breaches of conditions that had been agreed as recently as October 2018. The premises had been serving alcohol to patrons outside the permitted hours on several occasions. The Sub-Committee did not accept the licensee's argument that witnesses had merely seen reflections in the window from the street and the premises were not actually open. Witnesses had been in the premises on a number of occasions and confirmed that the premises were indeed open. The licensee claimed, in February 2019, that his legal team had failed to explain that the agreed changes to his licence, including hours, had taken immediate effect with a consent order. It was put forward by his lawyer that language was the problem. This was not satisfactory and the licensee had been repeatedly warned by parkguard and the police that he was breaching his obligations. He seemed unable therefore to understand verbal and written advice and legal requirements. The police stated that they had no confidence in him as designated premises supervisor.

The Sub-Committee took into account licensing policy 14 to the effect that the licensing authority expects licensees to operate to high standards of management and to co-operate with responsible authorities to prevent alcohol induced crime, disorder and anti-social behaviour inside, outside and in the near vicinity of premises and drunkenness on premises. In particular, licensees are expected to work with the licensing authority and the police to minimise the risk of alcohol induced crime, disorder and anti-social behaviour. Where localised problems exist, licensees are expected to implement additional robust measures to minimise adverse impacts on residents and public services. The Sub-Committee was shocked by the violent disorder associated with Afasika, which included street fights with planks of wood and throwing furniture around inside Afasika, and felt that residents were being severely affected. The licensee argued that it was impossible to control the behaviour of gangs fighting outside where there was a hostility between different ethnic groups and moreover that it was impossible to prevent bad elements entering the club. Although they denied it was their patrons causing the problems, witnesses had seen heavily intoxicated

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patrons inside the premises on more than one occasion and what the licensee said contradicted the evidence of the police. The licensee was unable to indicate any measures that would prevent this sort of disorder continuing. They were already in breach of conditions requiring a street marshal after a certain time and had failed to cooperate with the police by producing CCTV and evidence that the ID scanner was being used effectively. Their explanation was that both were broken. The Sub-Committee noted that, following the incident on the 14 April involving 40 people fighting outside the premises, the designated premises supervisor and staff refused to make statements to the police and could not submit CCTV evidence, a refusals log or ID of patrons.

Under licensing policy 21, the licensing authority is committed to preventing public nuisance by protecting the amenity of residents and businesses in the vicinity of the licensed premises and expects licensees to implement measures to minimise public nuisance. It was clear that the licensee had failed to implement conditions on his licence or act on sensible recommendations, even from his own staff.

The Sub-Committee concluded that they had no confidence in management of Afasika and there were too many breaches of condition, too many seriously violent incidents and the management seemed unable or unwilling to take any steps to mitigate the problems. The licensee was already in breach of his conditions, including hours and the Sub-Committee considered that revocation was the only appropriate and proportionate response and in the public interest.

The meeting ended at 9.15 pm

**CHAIR**