

Licensing Sub Committee D - 10 October 2019

Minutes of the meeting of the Licensing Sub Committee D held at Committee Room 4, Town Hall, Upper Street, N1 2UD on 10 October 2019 at 6.30 pm.

Present: **Councillors:** Joe Caluori, Paul Convery and Kadeema Woodbyrne.

**Councillor Paul Convery
in the Chair**

69 INTRODUCTIONS AND PROCEDURE (Item A1)

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

70 APOLOGIES FOR ABSENCE (Item A2)

Apologies for absence were received from Councillor Nick Wayne.

71 DECLARATIONS OF SUBSTITUTE MEMBERS (Item A3)

Councillor Kadeema Woodbyrne substituted for Councillor Nick Wayne.

72 DECLARATIONS OF INTEREST (Item A4)

There were no declarations of interest.

73 ORDER OF BUSINESS (Item A5)

The order of business would be as the agenda.

74 MINUTES OF PREVIOUS MEETING (Item A6)

RESOLVED:

That the minutes of the meetings held on 1 and 6 August 2019 be confirmed as an accurate record of proceedings and the Chair be authorised to sign them.

**75 WILMINGTON ARMS, 69 ROSEBERY AVENUE, EC1R 4RL - PREMISES
LICENCE VARIATION (Item B1)**

The licensing officer reported that the applicant had emailed additional conditions in response to the interested parties. These were tabled and would be interleaved with the agenda.

The interested parties raised concerns that the rooms proposed to be licensed would be next to the bedrooms on adjacent buildings, that the outside space would not be able to support an additional number of people in the smoking area and also that the waste area in Yardley Street was frequently overloaded. Concerns regarding the use of the roof area were also raised and residents stated that a plan of the proposal was not available so residents were unable to obtain an idea of numbers and the number of toilets available to patrons. It was considered that noise from the roof area would carry to neighbouring properties.

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The applicant stated that the flat roof was not going to be used and the rear of the building would not be accessible to patrons. Their waste was not disposed of in Yardley Street and the overflowing rubbish did not belong to them. There would be two rooms on the first floor set out in the middle of the premises and not adjacent to residential properties. There would be no change to the hours or the licensable activities and additional conditions had been proposed in addition to those detailed in the report. Previously, the premises had been a live music venue which had caused nuisance to residents but it was now a gastropub with a 45% drink and 55% food sales ratio. On the ground floor there were 80 seats available for dining and 70 standing on a very busy night. Customers were managed as best as possible with 3 to 7 staff on duty on a Friday. The hours of 5 to 7pm were the busiest with 2 or 3 staff dedicated to the outside space at this time. If any customer had been caught urinating outside the premises they would be barred. The rooms were to be used as a private dining facility with some daytime use for management meetings. The dining room could hold 14 people and it was expected that there would only ever be one event between the two rooms except at Christmas. When two rooms were used it was expected that one room would be used for pre and post drinks. This was not an overspill for the public house and it was expected that existing patrons would be those making bookings for the upstairs facility. There would be a modest increase in capacity. Conditions put forward by the noise team and trading standards had been agreed. They would not have DJs and live music would be limited to 1 or 2 musicians and would likely be just a few times a year. Management plans would be drawn up for the first floor rooms and the outside area. Dining was limited to 14 persons. Customers were not permitted to use the rear of the building. Most food bookings would end at 10pm but the applicants would prefer the flexibility of later hours. There was a very small area for vertical drinking. The applicant referred to the Home Office guidance which stated in paragraph 14.44 that a small restaurant may not add to the cumulative impact and the grant of the application would not undermine the licensing objectives.

In response to questions it was noted that all windows had keys and would be locked from 7pm. The bedroom next to the dining room was used by an employee. There would be 14 people dining on one table and the second room would be for pre and post drinks. If the dining room was used for meetings during the day, the second room could be used for a break out area. 40 people upstairs would be the maximum. It was considered that the reality would be that the rooms would be used for dining and pre-greet. Room 1 could hold 20 people and Room 2 had a fixed dining table which could hold 15 or 16. The maximum numbers would be, for example, a canapé party in Room 1 with a full dining room in Room 2. The Sub-Committee noted that core hours were less than those hours proposed. Tables and chairs outside the premises were on their own curtilage.

In summary the resident stated that outdoor furniture was loose and did block the pavement.

The applicant agreed to a maximum 28 capacity in the upstairs rooms and hours in line with the licensing policy core hours:- to 11pm Monday – Thursday, midnight Friday and Saturday and on Sunday to 10.15/10.30pm. It was noted that there would be a management plan for the outside space and there would be no live music amplification for these rooms.

RESOLVED

- 1) That the application for a new premises licence, in respect of Wilmington Arms, 69 Rosebery Avenue, EC1R 4RL be granted to allow:-

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- a) To add a function and dining area to the first floor area with the following hours.
 - The provision of films, live music and recorded music from 8pm until 11pm Monday to Thursday, from 8pm until midnight Fridays and Saturdays and from 12 noon until 10.30pm on Sundays.
 - Late night refreshment from 11pm until midnight on Fridays and Saturdays.
 - The sale by retail of alcohol for consumption on and off the premises from 8am until to 11pm on Monday to Thursday, from 8am to midnight on Friday and Saturday and from 10am until 10.30pm on Sunday.
 - Amplified live music to be excluded from the provision on the first floor.
- 2) That conditions detailed on page 61 of the agenda shall be applied to the licence with the following additional conditions as tabled at the meeting.
 - a) The management will draw up and implement a private dining room policy (the policy) for the first floor rooms. The policy will include reference to any conditions on the premises licence that relate to the use of the first floor dining rooms and any management procedures to be implemented to ensure compliance. Copies of the policy will be retained on site and available for inspection to the responsible authorities on request.
 - b) The management will draw up and implement an outside area management plan (the plan). The plan will include reference to any conditions on the premises licence that relate to the use of the external area and management of customers outside. Copies of the plan will be retained on site and available for inspection to the responsible authorities on request.
 - c) The first floor rooms will be used solely for pre-booked functions requiring a paid deposit.
 - d) With the exception of 1 November to 1 January, bookings will only be permitted for a single party to use the first floor at any one time.
 - e) Between the 2 January and 31 October there will be no more than 20 guests permitted to use the first floor rooms at any one time. Between 1 November to 1 January, the maximum capacity for guests of the first floor will be 28.
 - f) Customers will not be permitted access to the rear of the building (unless in an emergency) and will not be able to use the first floor roof (unless in an emergency). Emergency doors will be alarmed.
 - g) When in use the first floor rooms will be serviced by a dedicated member of staff overseen by a manager.

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 Clerkenwell 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.

Nine local resident objections had been received. There had been no representations made by the responsible authorities.

The Sub-Committee heard from the interested parties that the public house was in a residential area. They raised concerns that the rooms which were proposed to be licensed were next to bedrooms in adjacent buildings. The outside space would not be able to support the additional patrons and that waste in Yardley Street was frequently overflowing. They also raised concerns regarding the use of the roof.

The Sub-Committee noted that the hours requested were outside core hours and the applicant agreed to bring them in line with the core hours detailed in licensing policy 6.

The Sub-Committee heard evidence from the applicant that the flat roof was not going to be used. The proposal was to licence two small rooms upstairs. The most common use proposed was to use one as a dining room which would hold 14 patrons seating and the other to be used for pre-drinks or post drinks for those diners. The applicant accepted a 28 maximum capacity in response to concerns raised rather than the 40 maximum proposed. The applicant also stated that it was proposed that there would be a management plan to manage the outside space and that the rubbish in Yardley Street was not the area that their rubbish was kept.

The Sub-Committee was satisfied that the licensing objectives would be promoted and concluded that with the reduction in hours and with the additional conditions proposed, it was proportionate and reasonable to grant the application.

76 **THE GOOD OLD DAYS, 37/39 EXMOUTH MARKET, EC1R 4QL - NEW LICENCE APPLICATION (Item B2)**

The licensing officer reported that an email had been received from the applicant which stated that there were no plans to place tables outside the premises. It was intended to place two two-person benches outside with a maximum of 10 people standing outside.

A local resident raised concerns regarding the cumulative impact. He stated that three out of nine premises would be bars. In terms of planning use, the ground floor was A3 with A4 at the basement. He was concerned about the planning situation for the outside space. He stated that microbreweries had been granted B2 planning use in other areas and this application did state that the premises was a brewery. When patrons stood outside, residents had to walk in the road and many cyclists used the road. The resident was concerned that the benches outside would not leave room for pedestrians and stated that there should be conditions to manage the outside area if the application was granted.

The applicant stated that the premises were too small for a brewery and in terms of planning use they would not be distributing any alcohol and were therefore not viewed as a factory. They expected their clientele to be older people. There would be no tables but would have two x two person benches outside to accommodate smokers. They expected patrons to focus on their experience. At their other branch they had door staff on Friday and Saturday until half an hour after close. Conditions had been agreed with the police and noise teams. Challenge 25 would be implemented.

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In response to questions, particularly regarding cumulative impact, it was noted that the premises would sell 20 different beers in small sizes. The applicant stated they were bringing a different concept to the area. They were not a classic pub or restaurant but a premises offering tasting experiences. They had a rotating menu of beers. Staff would be fully trained and customers would not be making a nuisance on the streets. CCTV had been installed to monitor the outside area. A water drinking station was installed in the premises. Beer enthusiasts would travel the world to experience the Mikkeller brand. There were a number of tables and seating within the venue and most customers sat down. Customers walked in and would know the Mikkeller brand. They had tried to work with the community and taken the essence of the area to make their concept fit and to benefit the area. They would be offering danish open sandwiches and coffee. This would be a place where people could work.

The applicant agreed a commencement hour of 11am.

In summary, the resident was concerned that they had not undertaken market research with the community. Their measures such as CCTV only recorded issues after the event and residents should not have to be inconvenienced. This would add to the cumulative impact and 3 out of 9 premises would be licenced.

The applicant stated that they had been considering the area for about a year.

RESOLVED

- 1) That the application for a new premises licence, in respect of The Good Old Days, 37/39 Exmouth Market, EC1R 4QL be granted to allow:-
 - a) The provision of films from 11am to 11pm Monday to Wednesday and from 1pm until 10pm Thursdays to Sundays.
 - b) The provision of live music from 11am until 10pm Monday to Sunday.
 - c) The provision of recorded music from 11am until 11pm Monday to Thursday and from 11am until midnight Friday to Sunday.
 - d) The on and off sales of alcohol from 11am until 11pm Monday to Thursday, from 11am until midnight Friday and Saturday and from 11am until 10pm on Sunday.
- 2) That conditions detailed on pages 140-142 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 Clerkenwell 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.

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Five local resident objections had been received. There had been no representations made by the responsible authorities.

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

The Sub-Committee heard concerns from the interested party regarding the cumulative impact. He stated that if this licence was granted there would be three bars in a stretch of nine properties. He also raised concerns regarding patrons outside the premises spilling out into the road and general public nuisance.

The Sub-Committee heard evidence from the applicant there were no plans to place any tables outside the premises other than two x two person benches and it was not expected that there would be more than 10 people standing outside at any given time. They considered they would be bringing a different concept to the area with small servings of beer in a speciality venue. This was not a classic pub or restaurant but was a premises that offered patrons tasting experiences with different beers. Staff would be fully trained and CCTV would be installed. The Mikkeller brand was internationally acclaimed. There would be a number of tables and seats in the venue and most patrons sat down in their venues to enjoy the experience. It was not a vertical drinking experience. Food and a drinking water station would be available at the premises for patrons as well as a coffee machine.

The Sub-Committee took into account licensing policy 2 and the views of the responsible authorities, the proposed hours of operation, the type of customer likely to attend the premises and the potential impact on residents living in close proximity to the premises. The Sub-Committee was satisfied that the applicant had rebutted the presumption against granting the licence by demonstrating that, with the additional conditions agreed with the responsible authorities, there would be no negative cumulative impact on the licensing objectives through the grant of the licence. It was appropriate to the licensing objectives, proportionate and in the public interest to grant the premises licence.

The meeting ended at 8.00 pm

CHAIR