

Licensing Sub Committee A - 5 November 2020

Minutes of the meeting of the Licensing Sub Committee A held by Zoom on 5 November 2020 at 6.30 pm.

Present: **Councillors:** Sheila Chapman (Chair), Marian Spall (Vice-Chair)
and Alice Clarke-Perry.

Councillor Sheila Chapman in the Chair

105 INTRODUCTIONS AND PROCEDURE (Item A1)

Councillor Chapman welcomed everyone to the meeting and introduced officers and members. The licensing officer introduced herself, the applicant and the interested parties. The procedure for the conduct of the meeting was outlined.

106 APOLOGIES FOR ABSENCE (Item A2)

None.

107 DECLARATIONS OF SUBSTITUTE MEMBERS (Item A3)

There were no declarations of substitute members.

108 DECLARATIONS OF INTEREST (Item A4)

There were no declarations of interest.

109 ORDER OF BUSINESS (Item A5)

The order of business would be as the agenda.

110 MINUTES OF PREVIOUS MEETING (Item A6)

RESOLVED:

That the minutes of the meeting held on 25 February 2020 be confirmed as an accurate record of proceedings and the Chair be authorised to sign them.

111 BUTCHER AND BREW, 267 UPPER STREET, N1 - NEW PREMISES LICENCE (Item B1)

The licensing officer reported that additional information had been circulated from the applicant in response to the objectors. This would be interleaved with the agenda papers.

Residents who lived in close proximity to the premises spoke against the application. It was stated that this was a residential part of Upper Street with no bars but with kitchen shops, clothes shops and dry cleaners. The rear of the premises was very quiet and this premises, that was proposing to sell alcohol from 7.30am to 11pm, sounded as though it would be a bar rather than a butchers shop. The shop was in a cumulative impact area and anti-social behaviour was a concern.

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The grant of the licence would be against the cumulative impact policy. All of the shops had two or three flats above with bedrooms that backed onto the gardens. If the outside space at the rear was used the noise from customers would be very loud. The bedrooms were at the rear and the volume of noise in the rear garden would increase with the drinking of alcohol. Safety concerns were also raised regarding access to the flat roof. It was stated that it was believed that the previous occupiers had removed the sound proofing in the ceiling and speakers had to be moved to the walls. A resident stated that she could hear the bass of music playing in her premises and with a 7.30am start would not get a lie in. A second resident stated that she would not want people eating in the rear garden, even during the day, as residents used the rear of their properties to work in. There were no other garden areas being used as a café. The premises was previously a hairdresser, then a gluten free bakery and now was being used as a bar/restaurant. The grant of this licence would be against the cumulative impact area policy. The applicant had stated that he had contacted residents but they stated that this had not been the case. This was a quiet space on a busy street and flats had been purchased above shops as they were more affordable. A bar was not in keeping with bedrooms above.

In response to questions, it was noted that the previous café did not have smoking at the rear but it was very noisy even so. The resident was able to hear every word and with the grant of this licence the noise could potentially wake her up. Another resident stated that she objected to the use of the rear garden at any time.

The applicant stated that this was not a bar but a butchers shop that sold cheese with craft beer and bio-dynamic wines. They would be opening at 7.30am for the butchery and to get set up for the day. Music would not be played at this time. This was not a bar and nor would they wish it to be. They had no issues in other premises that he managed. They required the 11pm terminal hour as payments could not be taken after this time but he had no intention of staying open that late. They hoped to be open for the breakfast trade and for parents passing by purchasing goods for the evening. Alcohol was not priced cheaply and it had been agreed that the rear garden would close at 8pm. He was happy to speak to residents about noise concerns and would offer his phone number. The 9pm food order would be the last order and if the rear garden was closed they would be closed at 10pm. The ceiling speakers had been disconnected and the sound proofing would be looked at again. He was willing to talk about the use of the garden with the residents. He wanted customers to sample small plates with a beer and wine pairing. In response to concerns regarding social distancing it was stated that a recent BBQ tasting had no public present and only staff who worked together all of the time. Alcohol was sold at a high price point and it was the intention to showcase British produce. He understood concerns but this was primarily retail/wholesale and not a pub or a bar and other premises he had across London had no issues. This shop was on a 15 year lease. A telephone number would be made available. Smoking would be prohibited at the rear and a smoking sign would be attached to the front window. Alcohol could be purchased from other butchers. He took his responsibilities seriously. All butchery was carried out downstairs and music would not be played until 9am.

In response to questions, it was noted that all customers would be seated and alcohol on the premises was available from 12 noon. The applicant offered to work with the resident living above the premises to discuss noise levels and he had used sound proofing in other premises which had worked well. He had not been aware that the sound proofing had been removed. He hoped that work could be undertaken in January 2021. Music would be at a low level from 9am. Work at 7.30am would be carried out in the basement. The rear garden would be closed at 8pm, breakfast served at 9am. The garden would get little use in the winter and heaters were not being used. The flat roof could not be accessed except via ladder and CCTV was in the garden. The rear gate needed policing and this had often been left open.

In summary, the offer about checking the sound through the ceiling was welcomed by residents but concerns remained regarding the noise from the rear garden, particularly at the weekends. This intrusive noise had not been addressed and would escape unless the area was enclosed.

The applicant stated that he could consider installing a pergola in consultation with the residents. The use of the garden was one of the main reasons that he had taken the lease but he was happy to work with residents regarding the noise issue.

RESOLVED

- 1) That the application for a new premises licence, in respect of Butcher and Brew, 267 Upper Street, N1 be granted to allow:-
 - a) the sale of alcohol, on and off supplies, Mondays to Sundays from 07:30 until 10:30pm
 - b) The premises to be open to the public, Mondays to Sundays from 07:30 until 11pm.
- 2) That conditions detailed on pages 44 to 47 of the agenda be applied to the licence with the following additional conditions:
 - No music to be played inside the premises before 9am.
 - There be no use of the rear garden before 10am at the weekends and 9am during the week.
 - No smoking in the rear garden of the premises.
 - Prior to March there be appropriate and effective sound proofing installed in the premises.

REASONS FOR DECISION

This meeting was held under regulations made under the Coronavirus Act 2020 and it was facilitated by Zoom.

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 Angel and Upper Street 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. Paragraph 47 states that applications with comprehensive operating schedules which are small premises of no more than 50 persons, or mixed use, or not alcohol led, with hours of operation consistent with the framework hours, may be regarded as exceptions to the special policies.

Twelve local resident objections had been received. Three residents attended the meeting. Conditions were agreed with the police and the noise team.

The Sub-Committee heard that this was a quiet residential area at the rear of the premises with bedrooms overlooking the garden and in proximity to a flat roof. People working all week looked forward to a long lie in the mornings at the weekend. The evidence was given by the neighbour directly above that the previous owners had ripped out the sound proofing and installed speakers in the ceiling. The effect of this was that she could hear everything from downstairs. The applicant emphasised that this was not a bar. It was a butchers shop selling cheese, charcuterie, craft beers and expensive bio-dynamic wines. The on licence was to enable customers to enjoy a plate of their produce and a glass of alcohol but not to get drunk. In fact, they would not be selling alcohol all the time. 9pm was for last orders and the door would be closed at 10pm. He required the extra hour in the evening to process payments through the till. He would be working in the basement, butchering until about 9am. He had disconnected the speakers and had not been previously aware of the issue with the sound proofing. However, he was willing to meet with the residents in January to discuss noise issues. In the garden there was no heating and they would only really be using it in the summer. Cameras would be used to monitor any trespassers on the flat roof. He considered constructing a pergola but this was a matter he would discuss with the residents.

The Sub-Committee concluded that, with conditions, including limiting the opening of the garden to 10am at weekends, the granting of the premises licence would be unlikely to add to the cumulative impact in the area. The Sub-Committee was satisfied that the applicant was engaging with neighbours and was interested in reducing any problems that there may be.

The Sub-Committee was satisfied that granting the premises licence was proportionate and appropriate to the promotion of the licensing objectives and in the public interest.

Note of the Committee

The Sub-Committee welcomed the fact that the applicant was engaging with the residents to minimise the impact of noise from the rear area.

112

ANAND NEWS, 42 EXMOUTH MARKET, EC1 - NEW PREMISES LICENCE (Item B2)

The licensing officer stated that the applicant had accepted all of the proposed conditions and had passed her personal licence accreditation.

The licensing authority had not withdrawn her representation as she considered that the application had not addressed the cumulative impact policy. She asked that the applicant tell the Sub-Committee how she would operate the premises and how the premises would not add to the cumulative impact.

The applicant's representative stated that the applicant would be happy to amend the hours further to close at 8pm on all days and to commence serving alcohol at 10am at the weekends. The licensee had passed her personal licence exam and taken a conflict management course. Following consultation with the police they had been satisfied by the hours and in this respect, Paragraph 9.12 in the Home Office guidance had been addressed. The police conditions had been incorporated into the licence. The licensee would have a thorough staff training programme and procedures in place and would not be selling alcohol to street drinkers. This shop was the only local co-operative in the area and conditions had been agreed with the police and the Environmental Health team. The hours of operation would be within framework hours, the premises were not alcohol led and there were high standards of management. There would be no high strength alcohol or single can sales. The licensee stated that this was primarily a grocery shop and she wished to sell alcohol. She had been there for three years and wanted to keep regular customers. Alcohol would be kept on display for 15% of the shop, it was not alcohol led and all staff would be trained. She had agreed all conditions and had amended the hours sought. She would not be selling single cans and did not wish to attract drunk customers but just wanted to add this additional service for her regular customers. She was aware of her responsibilities as a retailer. She would adhere to the four licensing objectives and was not trying to add to the cumulative impact.

In response to questions the licensee confirmed that the hours they were requesting were 8am to 8pm Monday to Friday and 10am to 8pm on Saturday and Sunday. The licensing authority confirmed that she was happy with the hours and the licensing authority representation could be withdrawn.

RESOLVED

- 1) That the application for a new premises licence, in respect of Anand News, 42 Exmouth Market, EC1, be granted to allow the sale of alcohol, off supplies, from 8am until 8pm Monday to Friday and from 10am to 8pm on Saturday and Sunday.
- 2) Conditions detailed on pages 110 and 111 of the agenda be applied to the licence.

REASONS FOR DECISION

This meeting was held under regulations made under the Coronavirus Act 2020 and it was facilitated by Zoom.

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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. Paragraph 22 states that the licensing authority recognises that it has to balance the needs of businesses with those of local residents. Clerkenwell has the highest number of complaints about drinking in the street of all the wards in the borough and residents continue to experience adverse impacts from late night licensed venues. However, paragraph 24, states that applications with comprehensive operating schedules, which are not alcohol led and supply alcohol for consumption off the premises within the framework hours may be regarded exceptions to the special policy.

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 operation schedule that there will be no negative cumulative impact on one or more of the licensing objectives.

Fourteen local resident objections had been received and an objection from a Housing Association but none attended. Conditions had been agreed with the police and the hours and conditions had been amended. The Licensing Authority remained concerned that the new licensee understood the licensing requirements, however, the applicant who had recently trained in conflict management and had passed her personal licence accreditation showed a good understanding of the licensing objectives. She stated that only 15% of the shop would be used for alcohol display however, she would not be selling single cans. She understood the area having worked there for three years in the shop and all staff would be trained in conflict management.

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

The Sub-Committee concluded that, with the robust conditions there would be no negative cumulative impact on any of the licensing objectives.

113

4 YOU EXPRESS, 1 CHADWELL STREET, EC1 - NEW PREMISES LICENCE
(Item B3)

The licensing officer stated that several people had written in support of the application. The Licensing Authority had now withdrawn their representation. An additional paper had been circulated from the applicant detailing their response to the interested parties. This would be interleaved with the agenda papers. The applicant had used temporary event notices over the last three weekends and had received no complaints. Three residents maintained their objections.

The applicant stated that she was running a small shop with her husband. She had accepted framework hours. The premises was a convenience store that sold groceries with a small amount of alcohol placed behind the till. The premises was not alcohol led. She had received a lot of support from neighbours and had opened a 'next door' app for Islington where residents could post about local crime and businesses. The hours requested were within framework hours and alcohol would not be sold after 8pm on Fridays and Saturdays. CCTV was installed which showed views of the street and could evidence anti-social behaviour. They had a log book for refusals. She knew the area well. She had received the training about a couple of months ago. This was a quiet area and she had the support of local businesses.

In response to questions, it was noted that it was a very small shop and only two customers could enter at one time. Only a small amount of alcohol would be stocked.

RESOLVED

- 1) That the application for a new premises licence, in respect of 4 You Express, 1 Chadwell Street, EC1 be granted to allow:-
 - a) The sale of alcohol, off supplies only, from 8am until 11pm Monday to Thursday, from 8am until 8pm on Friday, from 10am until 8pm on Saturday and from 10am until 11pm on Sunday.
 - b) Opening hours from 8am until 1am Monday to Saturday and from 8am until midnight on Sunday.
- 2) Conditions detailed on pages 146 to 148 of the agenda shall be applied to the licence.

REASONS FOR DECISION

This meeting was held under regulations made under the Coronavirus Act 2020 and it was facilitated by Zoom.

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.

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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. Paragraph 22 states that the licensing authority recognises that it has to balance the needs of businesses with those of local residents. Clerkenwell has the highest number of complaints about drinking in the street of all the wards in the borough and residents continue to experience adverse impacts from late night licensed venues. However, paragraph 24, states that applications with comprehensive operating schedules, which are not alcohol led and supply alcohol for consumption off the premises within the framework hours may be regarded exceptions to the special policy.

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 operation schedule that there will be no negative cumulative impact on one or more of the licensing objectives.

Three local resident objections had been received but none attended. Conditions had been agreed with the police, trading standards and the noise team. The Licensing Authority withdrew its objection before the hearing. Several letters of support had been received from local residents. The applicant explained that she had made efforts to communicate with residents by a next door app, which she had introduced to Islington.

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

The Sub-Committee heard evidence that it was a very small shop with only room for two customers. All alcohol would be displayed behind the till and in a fridge. The applicant had been operating under TENs for the past three weeks without complaints. CCTV had been installed showing the street and shop. There was a log book and refusal book. It was basically a convenience store. She was keen to maintain good relations with the local community.

The Sub-Committee concluded that the granting of the licence with the agreed conditions would promote the licensing objectives. The Sub-Committee noted that the hours sought were within the hours specified in licensing policy 5 and 6. The Sub-Committee was satisfied that the operating schedule demonstrated high standards of management and that it was unlikely that granting the premises

licence would add to the cumulative impact on one or more of the licensing objectives.

The Sub-Committee was satisfied that granting the premises licence was proportionate and appropriate to the promotion of the licensing objectives and in the public interest.

114 TETTOS ITALIAN KITCHEN,, 313 Highbury Park, N5 - New Premises Licence (Item B4)

The licensing officer reported that a letter from the applicant, in response to resident concerns, had been circulated. This would be interleaved with the agenda papers.

This application had been made as the applicant wanted a new licence with less licensable activities. They had not applied for a music licence or dancing but only for the sale of alcohol. Many representations had been submitted for their previous application but they had only received two objections from interested parties for this application. No vertical drinking would be permitted. All other issues had been resolved. Most customers lived on the local estate. The premises was managed professionally, they had been visited by officers on a couple of occasions. This was a large venue which could operate a one-way system and customers could remain inside when waiting for a taxi.

In response to questions, it was noted that there were two door supervisors, staff were fully trained and retrained every six months. They did not offer drink promotions. Alcohol sold was not cheap but their food cost was set at a reasonable level. There were three levels of supervision. Orders were taken by a waiter, there was a floor manager and then the main manager who would manage customers. There was space for 30/40 people to remain inside whilst waiting for their taxi and this would prevent outside noise nuisance. There was no loud music and notices were posted inside warning customers about making too much noise. Rubbish had been an issue for one week and the applicant explained that he had 12 bins per week but the general public attending the park during lockdown had begun using these bins during the good weather. The manager then locked their bins but this created rubbish on the green. He therefore increased bin capacity to 18 a week, at a cost of £700, and left them open for the general public to use. There had not been an issue since this. It was noted that the premises was large enough to hold 180 people seated but to allow social distancing there was only capacity for 100 people. The Sub-Committee noted that a planning consultant was present should the Sub-Committee have any planning queries. The applicant stated that he was working with planning officers. This had not been easy to complete all works due to the three month lockdown but they wished to comply with the planning issues as soon as possible.

RESOLVED

- 1) That the application for a new premises licence, in respect of Tetto's Italian Kitchen, 313 Highbury New Park, N5, be granted to allow:-

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- a) the supply of late night refreshment on Friday and Saturday from 11pm to midnight.
 - b) the supply of alcohol on the premises on Sunday to Thursday from 10am to 11pm and on Friday and Saturday from 10am to midnight.
 - c) the premises to be open to the public on Sunday to Thursday from 10am to 11.30pm and on Friday and Saturday from 10am to half past midnight.
- 2) Conditions detailed on pages 187 to 190 of the agenda shall be applied to the licence.

REASONS FOR DECISION

This meeting was held under regulations made under the Coronavirus Act 2020 and it was facilitated by Zoom.

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.

Two local resident objections had been received and a comment from the planning team had been received about enforcement issues. No residents attended. No other responsible authorities had raised objections.

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

The Sub-Committee heard evidence from the applicant that this was a family restaurant with many customers from the estate. The Sub-Committee had read the representations of the residents concerning issues of public nuisance with queues and rubbish being dumped over the summer lockdown period. The applicant explained that this was unprecedented and due to extraordinary circumstances. With the help of the local authority he had resolved these problems. The rubbish being dumped was not entirely due to his restaurant but because of members of the public going to the park and using his bins. He had increased bin collections to 18 each week. Inside his restaurant he was able to maintain social distancing because the premises were so large and he detailed the procedure for approving alcohol sales and avoiding serving intoxicated customers or allowing them in through the door.

The Sub-Committee was satisfied that the applicant was able to maintain good standards of management at the premises and accepted what he said about the unusual situation during the summer.

The Sub-Committee concluded that the granting of the licence with the conditions proposed would promote the licensing objectives. The Sub-Committee noted that the hours sought were within the hours specified in licensing policy 5 and 6. The Sub-Committee was satisfied that the operating schedule demonstrated high

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standards of management and that the proposed use, with the conditions put forward, meant that the premises would not add to the cumulative impact.

The Sub-Committee was satisfied that granting the premises licence was proportionate and appropriate to the promotion of the licensing objectives and in the public interest.

Note of the Sub-Committee

The Sub-Committee understood that there were planning issues outstanding that needed to be resolved separately through the planning process which the Licensing Sub-Committee had not taken into account when making their decision.

The meeting ended at 8.45 pm

CHAIR