

Licensing Sub Committee A - 5 May 2021

Minutes of the meeting of the Licensing Sub Committee A held by Zoom on 5 May 2021 at 6.30 pm.

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

Councillor Sheila Chapman in the Chair

- 126 **INTRODUCTIONS AND PROCEDURE (Item A1)**
Councillor Sheila Chapman welcomed everyone to the meeting and officers and members introduced themselves. The procedure for the conduct of the meeting was outlined.
- 127 **APOLOGIES FOR ABSENCE (Item A2)**
None.
- 128 **DECLARATIONS OF SUBSTITUTE MEMBERS (Item A3)**
There were no substitute members.
- 129 **DECLARATIONS OF INTEREST (Item A4)**
There were no declarations of interest.
- 130 **ORDER OF BUSINESS (Item A5)**
The order of business would be as the agenda.
- 131 **MINUTES OF PREVIOUS MEETING (Item A6)**
RESOLVED:
That the minutes of the meeting held on 16 March 2021 be confirmed as an accurate record of proceedings and the Chair be authorised to sign them.
- 132 **URBAN SOCIAL COFFEE, GROUND FLOOR, 236 UPPER STREET, N1 1RU -
NEW PREMISES LICENCE (Item B1)**
The licensing officer reported that hours had been amended in line with planning consent and therefore the application for late night refreshment had been withdrawn. Documents from interested parties had been circulated to members of the Sub-Committee.

A local resident stated that the premises was in the Upper Street and Angel cumulative impact area and there was a presumption to refuse unless the application was considered an exception. He considered that this was not an exception and was similar to many other premises. The premises had been trading as a sandwich shop and over the past three or four years was being changed to a

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restaurant with no planning consent and creating noise nuisance. The applicant only sought planning consent when challenged. There was music noise from the premises as the construction was not of a sufficient standard to prevent noise escape. The applicant was looking to provide alcohol without food and he considered that if the licence was granted alcohol should be served ancillary to substantial food or a table meal. The applicant had not demonstrated compliance and had caused noise nuisance in a cumulative impact zone which had flats directly above. A sign had been placed outside the entrance to the flats above and there were no staff available to check that customers did not block the entrance to the door. A video had been circulated indicating the noise of music through the floorboards to the flat above. He also had concerns about nuisance on match days. He considered that this premises was no exception to the cumulative impact policy but, should the licence be granted there should be no off sales and the area outside the front entrance door to the upstairs accommodation should not be included in the licensed area.

In response to questions, it was noted that the resident living above had been approached by the applicant and it had not been a friendly encounter. An additional resident stated that the applicant had not engaged with planning or licensing officers and had not built a co-operative relationship with residents.

The applicant's representative stated that the applicant had taken over the business after construction of the rear terrace and the company incorporated in 2019. The planning application had been made retrospectively to rectify the situation. Two Directors had been trained in June 2020. There was no room for standing in the premises and it was a small premises with no more than 50 people. This was a continental café. The kitchen was too small to be a restaurant. Alcohol was sold ancillary to the sale of food and soft drinks. This was not a bar. They would look at the noise nuisance experienced by the residents above and ensure that music was played at an ambient level. There was seating for 20 inside at the rear, 10 in the service area and 12 outside the frontage determined by the seating. Conditions had been agreed with the noise team. The forecourt area was contained within the lease but the applicant had agreed to no longer use the area outside the front door which gave access to the flats above. Five tables could be located in that area. The hours had been reviewed in line with planning consent and were within framework hours. Off sales would be until 11pm.

In response to questions, it was noted that the applicant had been in the premises since 2018. It was a very small premises and he was very hands on. He applied for retrospective planning as the extension had been built before he had taken over and had training in June 2020. The applicant's representative considered that he made a strong and exceptional contribution. The hours were 10 am to 10.30pm with an 11pm close. This was not a fully serviced bar but would offer a selection of wines to give customers freedom of choice. He considered that alcohol would probably be not more than 20/25% of total sales.

Alcohol was to be served alongside coffee and snacks. There would be waitress service to outside tables. The premises had a Turkish theme and he did not consider that bars sold different coffees/teas. The music played would be at

ambient levels and they would work with residents regarding necessary soundproofing. The applicant's representative stated that they would reach out to build a good relationship with residents. Music was now set at a level that should not cause concern. All staff would be trained. He stated that waiters/waitresses would be outside supervising the outside area to enable residents to access their flats.

In summary, a local resident stated that there had been complaints since 2018, a change of use was also included in the planning permission breaches, there had been noise nuisance which had disappeared only over the last couple of days. He considered that the applicant did not have a proven track record. The applicant had not attended the meeting and residents were in attendance. The applicant had no experience in other premises or in a cumulative impact area. He raised concerns about the 25% alcohol sales which seemed high. A waitress/waiter controlling the outside could already be in place, the front door to the other flats was easily seen and a good manager would locate chairs so they would not obstruct residents.

The applicant's representative stated that alcohol would be ancillary. This was a small premises and he had trained staff. Applicants could not always have relevant experience and new business owners should be applauded. He did not accept that there had been constant complaints. No complaint had led to a warning or interaction from the Council. The applicant would have an open door policy. The noise team had proposed conditions and he considered that the premises would not have a major impact.

RESOLVED

The Sub-Committee has decided to refuse the application for a a new premises licence in respect of Urban Social Coffee, Ground Floor, 236 Upper Street, N1 1RU

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.

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.

Seven local resident objections had been received and conditions had been agreed with the police and the noise team. There had been no other representations made by the responsible authorities.

The Sub-Committee noted that the applicant had reduced the hours sought to those allowable by the planning consent and was no longer seeking a licence for late night refreshment.

The Sub-Committee heard evidence from local residents that music from the premises could be heard in the flats above. The Sub-Committee also heard evidence that the outside area at the front of the premises was being used by the applicant in a way that was affecting the amenity of local residents. The front door to the flats above the premises was adjacent to the front door of the premises. Local residents stated that they frequently had problems accessing their front door due to customers at the premises blocking their access with items such as bicycles or whilst queuing for service. The Sub-Committee heard evidence that the applicant had put up an A4 sized sign and a thin strip of green tape to try to control this issue, however, this had not solved the problem and was not policed by staff at the premises. The Sub-Committee heard evidence of promotional boards placed at the front of the property which again affected local residents' ability to access their property. Local residents were concerned that the applicant had not engaged with them to resolve these issues since the date of the adjournment. The Sub-Committee heard evidence that, when one of the residents was approached by the applicant, this was not a friendly approach.

The Sub-Committee heard from the applicant's representative that the applicant only became involved in the premises in the middle of 2018. At the time that the applicant took over the premises the rear terrace had already been constructed and the applicant therefore had to apply for retrospective planning permission. The Sub-Committee heard that the premises had a natural capacity of no more than 50 and that there was not room for vertical drinking. The premises would be a continental café. The kitchen was too small for the premises to be called a restaurant and the sale of alcohol would be ancillary to the sale of coffee, snacks and other items on the menu. Although alcohol would be ancillary, the applicant did not want a condition to this effect as the premises is not a restaurant. The Sub-Committee heard that the applicant was concerned about music being heard in the flat above and would only play music at an ambient background level, it was currently set at a level that did not cause concern and sound proofing was not likely to be necessary. The Sub-Committee heard that the applicant had put signage outside the premises believing that the entire forecourt including the entrance to the flats was within his

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lease but that he had agreed with his representative that he would no longer use the area abutting the neighbouring shop or in front of the flat entrance. The Sub-Committee heard that the outside area at the front was limited to 12 chairs. The revised hours sought were in framework hours. The applicant's representative stated that the premises would not be a major factor on match days.

In response to questions the applicant's representative stated that the applicant had been a businessman for 20 years and that he had been at the premises since 2018; that was his relevant experience. It was stressed that the premises was a continental café and not a bar. The applicant's representative was not able to predict what percentage of sales would be alcohol in the future but he could not imagine it being more than 20 – 25%.

As the applicant was not in attendance in person at the hearing (via zoom), there was no opportunity for members to explore any issues with him directly, or to put any questions to him that might have given him the opportunity to put forward any further supporting information in respect of his experience, his business plan and his strategy for dealing with residents' concerns.

The Sub-Committee concluded that, if a licence was to be granted, this would add to the cumulative impact in the area. The licensing policy 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 unless the applicant can demonstrate that there will be no negative cumulative impact on one or more of the licensing objectives. The policy sets out examples of applications that might be considered an exception to the policy. The Sub-Committee carefully considered all of the evidence before it and concluded that the applicant did not fall within any of the exceptions.

Whilst the Sub-Committee noted that the premises was small and that the hours sought were within framework hours, the Sub-Committee was not satisfied with the way in which the premises had been managed by the applicant.

The Sub-Committee was concerned with the way in which the applicant had interacted with neighbours. The application had originally been made in August 2020 and had been adjourned to allow the applicant to resolve planning issues and to engage with local residents. Whilst the Sub-Committee noted that the applicant's representative wrote to local residents in October 2020, the Sub-Committee was concerned that there was no follow up to this letter and the applicant's dealings with local residents were reactive rather than proactive. There did not appear to have been any attempt to speak to residents before the application was made and when the applicant did speak face to face with one of the residents, this left her feeling very uncomfortable.

The Sub-Committee noted that the applicant had no experience of running licensed premises and his only relevant experience was running these premises since 2018. During that time, there had been several complaints regarding noise and the use of the frontage, and these complaints had not been dealt with. There had been no constructive dialogue with neighbours and little evidence as to what percentage of

the business would be alcohol sales. The applicant stated that alcohol would be ancillary to other purchases but did not want a condition that it be ancillary to the sale of food. The applicant had informed his representative that he would not use the area in front of the flat entrance but it was noted that this had been an issue for some time and the applicant was only offering this on the day of the hearing. The applicant's representative stated that he was satisfied that the music level had been set correctly on the basis that the neighbour had said that the noise had been better in the last few days. However, again, this had been an issue for some time and the applicant only appeared to have taken action in the run up to the hearing.

The Sub-Committee concluded that the standards of management shown by the applicant so far fell short of those expected of a licensee in Islington and were well short of those expected in a cumulative impact area. The Sub-Committee considered that, if a licence was granted, even with conditions, this would add to cumulative impact and would not promote the licensing objectives.

The Sub-Committee was not satisfied that granting the premises licence was proportionate and appropriate to the promotion of the licensing objectives and in the public interest.

133 MERCER & CO, 26A CHAPEL MARKET, N1 9EN - PREMISES LICENCE VARIATION (Item B2)

The applicant stated that this premises would be a great addition to Chapel Market. It was a small pizza restaurant which would serve pizza with beer or wine. He had previous late night licence experience. CCTV had been installed and signs were up. They were paying rent for the whole day but were only open from 9 – 4pm so it seemed sensible to extend their hours. A manager of another place he had run would be in charge and he was a two minute walk away. Background music would be played. He wanted the licence to go past 10 pm for flexibility.

In response to questions, the applicant stated that he would be selling British craft beers, mainly brewed in London. Some would be available in supermarkets but he would have a higher price point. He was considering take away but was not sure he would do this at the moment.

RESOLVED

The Sub-Committee has decided to grant the application for a premises licence variation in respect of Mercers and Co, 26 Chapel Market, N1 9EN

- 1) To allow the sale of alcohol, on and off supplies only, Monday to Thursdays from 12 noon to 11pm, Fridays from 12 noon until midnight, Saturdays from 11am until midnight and Sundays from 11am to 11pm.
- 2) The provision of late night refreshment, Fridays and Saturdays from 11pm until midnight;
- 3) The premises to be open to the public, Sunday to Thursdays from 7am until 11pm and Fridays and Saturdays from 7am until midnight.

Conditions detailed on pages 71 to 72 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.

The Sub-Committee took into consideration Licensing Policies 2 & 3. The premises fall within the King's Cross 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.

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.

One local resident objection had been received. Conditions had been agreed with the police. There had been no representations made by other responsible authorities.

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

The Sub-Committee heard evidence that the premises had held a licence since 2016 and sold some wines, prosecco and a small selection of beers. The applicant stated that he wanted to open the premises later to try to recoup some of the business losses from the pandemic. The applicant wanted to sell pizza and would be offering British craft beers, mainly brewed in London. The applicant stated that he ran other premises nearby, and that an experienced manager from these other premises would be managing Mercer & Co. The applicant stated that the price point for alcohol at the premises would be higher than local supermarkets. He wanted to have the flexibility to serve his customers food and beer later in the evenings but it was not a place where people would come in and get drunk.

The Sub-Committee concluded that the granting of the variation 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

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6. The Sub-Committee was satisfied that the operating schedule demonstrated high standards of management and that the proposed use, with the extensive conditions agreed, meant that the premises would not add to the cumulative impact.

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

The meeting ended at 7.45 pm

CHAIR