

**Licensing Sub Committee B - 25 May 2021**

Minutes of the meeting of the Licensing Sub Committee B held by Zoom on 25 May 2021 at 6.30 pm.

**Present: Councillors:** Phil Graham (Chair), Gary Poole and Marian Spall  
**Also Present Councillors:** Valerie Bossman-Quarshie

**Councillor Phil Graham in the Chair**

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

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

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

Apologies for absence were received from Councillor Valerie Bossman-Quarshie as a member of the Sub-Committee. However, Councillor Bossman-Quarshie was present at the meeting as an observer for training purposes.

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

Councillor Gary Poole substituted for Councillor Bossman-Quarshie.

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

There were no declarations of interest.

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

The order of business would be as the agenda.

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

**RESOLVED:**

That the minutes of the meeting held on 30 March 2021 be confirmed as an accurate record of proceedings and the Chair be authorised to sign them.

**242 THE MALL, 359 UPPER STREET, N1 0PD - NEW PREMISES LICENCE (Item B1)**

The licensing officer stated that there was no further information to be added to that contained within the report.

The licensing authority stated that she was satisfied with the conditions put forward in the papers.

The applicant's representative stated that the written submission was detailed on pages 55 – 65 of the report. All 32 conditions had been agreed as detailed at pages

166-169 of the report. Photographs of the storefront were also included in the report, a statement from Amazon and evidence from an expert witness who had visited two other Amazon stores and had stated that the grant of the licence was unlikely to add to the cumulative impact. The store would be situated in a fine building, alcohol would be displayed in no more of 10% of the floor area and restricted to the area hatched in red on the plan detailed at page 39. Planning consent had been granted. Planning and Licensing were separate regimes although regard could be given to their view. The grant of the licence was unlikely to add to the cumulative impact and this application fell within the recognised exceptions. There would be a small display area and would allow customers to purchase alcohol to have with their dinner. Hours were restricted to framework hours. All customers would be registered through technology, the alcohol display was always supervised allowing age verification to the alcohol area which would be a major deterrent to troublesome drinkers. The premises were not alcohol led and had an alcohol display area of no more than 10%, customers would already be in the area and should the application be refused, a licence could go to a less regulated applicant. The premises did not sell tobacco or super strength alcohol and would therefore be unattractive to a problem drinker. Hours were limited to 11pm and the exception was engaged. There were 32 proposed conditions. The police and environmental health had not objected. The licensing authority did not call for refusal. Objections were from interested parties and the ward councillor.

In response to questions, it was noted the alcohol range was generally laid out similarly to Tesco/Sainsbury stores. If they wished to display more alcohol they would need to apply for a licence variation. There would be a minimum of three members of staff on duty. The expert witness stated that customers would need an account. The alcohol was in a separate area which was supervised by a member of staff and was in a very controlled environment upholding the licensing objective, the protection of children from harm. Anyone could download the app for free with a registered credit/debit card. All members of staff had to pass a Challenge 25 exam online and this was followed by practical training on site.

**RESOLVED**

1) That the application for a new premises licence in respect of The Mall, 359 Upper Street, N1 be granted:-

- a) To allow the sale of alcohol, off supplies only, Monday to Sunday from 8am until 11pm.
- b) The premises to be open to the public, Monday to Sunday from 7am to 11pm.

2) Conditions detailed on pages 166 - 169 of the agenda shall be applied to the licence.

**REASONS FOR DECISION**

This meeting 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.

Objections were received from seven local residents and one ward councillor. Objections from the police and the noise team had been withdrawn following the acceptance of proposed conditions by the applicant. At the hearing the Licensing Authority submitted that it was satisfied with the conditions put forward.

The Sub-Committee noted that the hours sought for the sale of alcohol were within the framework hours specified in licensing policy 6.

The Sub-Committee noted the submissions from residents and the ward councillor and was satisfied that the applicant had addressed the concerns raised.

The Sub-Committee was satisfied that there would be no negative cumulative impact on the licensing objectives. The Sub-Committee noted that the proposed licence fell within one of the possible exceptions to the Angel and Upper Street cumulative impact policy in that the premises would not be alcohol led and the operation was consistent with framework hours. The Sub-Committee also noted the measures proposed by the applicant that would deter street drinkers from attending the premises and would protect children through the use of Challenge 25 and the security arrangements within the alcohol area of the premises. The Sub-Committee was therefore satisfied in accordance with licensing policy 4 that the application should be treated as an exception to the cumulative impact policy for off sales.

The Sub-Committee concluded that the granting of the licence with the agreed conditions would promote the licensing objectives. 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 the premises licence was proportionate and appropriate to the promotion of the licensing objectives.

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**CITY GAMING - CALEDONIAN ROAD, N1 1BB - NEW PREMISES LICENCE (GAMBLING ACT) 2005 (Item B2)**

The licensing officer reported that four document bundles, a skeleton argument and policies and procedures had been circulated following agenda publication.

The licensing authority noted the condition offered by the applicant which made provision for two floor staff to be on duty for the first three months and this to be reviewed with input by the licensing authority and the police. A condition regarding engagement with community groups was also noted. She had not withdrawn the representation and stated that this was an area of high deprivation with high crime levels and was the second highest in the Borough and the third highest in London. She raised concerns regarding the lone working policy and drew attention to the procedure on page 221 of the circulated documentation which stated that staff would be alone until another trained person arrived and they would need to ask for help. There were benefits in having two staff dealing with a situation. She also noted that people suffering from addictions had been omitted from the safeguarding policy statement. She raised concerns that the Licensing Consultant had visited the Adult Gaming Centre (AGC) in Chapel Market during the day when there is a busy shopping area outside. He had not attended in the evening or at a vulnerable time for staff. She said that the Sub-Committee should make their decision based on the applicant submissions and the concerns of residents and councillors.

In response to questions, the Licensing Authority stated that the premises could be attractive to offenders released from prison and was concerned that the applicants had not taken into account vulnerable adults with addictions. This was a high crime area. She considered that there should be no lone working as there was a duty of care to staff and this had not been addressed in the documentation. Staff should work in pairs in order to tackle aggressive people.

The local resident stated that the premises would not protect vulnerable people from harm and would be a hub for anti-social behaviour. Residents were seriously concerned about the destructive effect of gambling. There was a primary school and adventure playground nearby and the premises normalised gambling behaviour. The Caledonian Road area was a local shopping area with a high level of deprivation with high numbers using local food banks or street drinking. The presence of an AGC would negatively affect these residents and was believed to be a source of crime and disorder and gang related harm.

The ward councillor, Paul Convery, stated that he wished to speak to the large number of documents circulated on Friday and stated that the assertions contained within these documents were untrue. He stated that this part of the Borough had one of the highest numbers of crime and disorder and disadvantage. He stated that the evidence detailed on page 28, paragraph 23, from the Licensing Consultant was

incorrect. He had looked at the data and had seen that this part of Caledonian Road around premises No. 310 had a high level of crime. The Licensing Consultant had visited during the day. He did not see drinkers at 5pm, drug deliveries and had not seen evidence of gang related activity. Visiting in the daylight did not give you a full history of the neighbourhood. This was one of the areas of very high deprivation, with a highly vulnerable population. There was a cluster of three gambling premises within 100 metres. He stated that the Sub-Committee should reject the application. The applicant had not secured planning permission. There was a deficient risk assessment. The applicant had changed evidence to recognise the foodbanks in the area but had made no change to the assessment of those risks.

Further residents stated that the proposal contravened the licensing objectives of prevention of crime and disorder and protection of children from harm. There was a steady stream of undesirable activity, loitering and this would be a hub for illegal activity. The introduction of an AGC would reinforce these behaviours. On the applicant's own risk assessment the operating hours served to perpetuate this behaviour. When looking at other witness statements by the Licensing Consultant they had noted that he had supported six other applications and the statements had all been similar.

The applicant's representative stated that in addition to the mandatory conditions required for AGCs, additional conditions had been proposed in response to comments made by the responsible authorities. AGCs had never been subject to a review or had been a regulatory concern. The bundle circulated to parties pointed to his clients record with 54 other premises and he stated that the premises would not add to the crime and disorder in Caledonian Road. In respect of crime and disorder the police had not objected. He stated that AGCs rarely generated crime and disorder, alcohol was not permitted, there was no loitering, ATMs would not be permitted, no sports screens, high quality CCTV and staff on the shop floor interacted with customers. Lone working was not unusual in this situation, Challenge 25 was operated on the trading floor and customers entered a controlled environment. Vulnerable persons had been considered throughout the papers. Training was given regarding responsible gambling messaging, conflict management and signs of vulnerability. It was acknowledged that every High Street was frequented by the vulnerable but the risk assessment and the best practice measures detailed in the Gambling Policy had produced a list of conditions. The applicant's representative stated that he was happy to consider other conditions and to involve the Licensing Authority in staff training.

In response to questions, the applicant's representative stated that there would be two staff on duty at all times for the first three months of trading. There would then be a further risk assessment which would take into account the number of customers. There may be periods of time in the morning where there were no customers in the premises. They took lone working seriously and would risk assess with this in mind. The applicant's representative stated that the legislation had been put in place to aim to permit the licence but the applicant had to demonstrate that it had responded to the risks. He stated that the AGC provided a more transitory/passive activity with a greater relationship with staff. Staff welcomed

customers and got to know local clientele. Betting offices tended to not engage with customers and vulnerability concerns tended to be higher for betting offices than for AGCs. Online betting had no supervision. He stated that betting offices had large peaks of clientele watching the screens and loitering. In an AGC there were usually 1 – 5 people with usually a maximum of 8. There was no seating area and clients usually came alone or in couples. The police had no interest in Adult Gaming Centres as they caused no issues. He invited the Sub-Committee to visit an Adult Gaming Centre to see customer experience. There were 27 Gaming Centres across London and this area was ranked 7<sup>th</sup> in terms of deprivation. The police had not put in a representation and they had experience of the area. There was no evidence that prisoners had presented issues in the Gaming Centres. If there was a risk this would be something that would be considered when reviewing the risk assessment. It was noted that Pentonville prison had not been consulted on the application. It was irrelevant under Statue as to what the AGC brought to the area although there was a removal of unlimited stake and prize gambling in this case as there were three betting offices and now there would be two betting offices and one AGC. This would broaden the mix. A betting office tended to have a longer dwell time for customers. An AGC had a shorter dwell time of 15 minutes. Customers tended not to loiter. Staff would take it seriously if customers stood around in groups although this did not tend to occur in AGCs.

In summary, the Licensing Authority stated that this was a highly sensitive area. She had visited quite a few AGCs and they had always been lone working.

The ward councillor stated that this had a representation against the application from the Licensing Authority. The AGC in Chapel Market was not a comparator. He considered that the evidence was erroneous and misrepresented the Caledonian ward. The prison risk had not been measured. Every location was unique and this was a high risk area with vulnerable young people and the application was contrary to policy. A local resident raised concerns regarding the inducements given to parents and the children seeing the effects of gambling.

The applicant stated, as detailed on page 349 at 5.31 of the bundle, that licensing authorities should not turn down applications where objections could be dealt with by conditions and as stated at 5.34 should not base their decision on moral or ethical grounds. The Sub-Committee must base their evidence on the evidence. There were 32 conditions that comprehensively answered objections and the Sub-Committee had a primary obligation to grant. The applicant's representative submitted that the statutory test set out on page 350 had been met for points A-D. The applicant's representative asked the Sub-Committee to grant the application.

**RESOLVED**

- 1) That the application for a premises licence, in respect of City Gaming Limited, 310-312 Caledonian Road, for use as an adult gaming centre under the Gambling Act 2005 be granted.
- 2) Conditions detailed on pages 41 to 44 of the hearing bundle circulated separately shall be applied to the licence.

**REASONS FOR DECISION**

This meeting 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 Gambling Act 2005 and its regulations, the Code of Practice and guidance issued by the Gambling Commission and the Council's Gambling Policy.

The Sub-Committee noted submissions from the Licensing Authority, local residents and the ward councillor regarding high levels of deprivation and crime in the vicinity of the premises. The Sub-Committee noted that the police had not made a representation.

The Sub-Committee noted the conditions that the applicant had agreed with the licensing authority and was satisfied that these would address concerns raised regarding lone working at the premises. The conditions also addressed the licensing objectives and the Council's Gambling policy in respect of crime and disorder and protection of children and vulnerable persons.

The Sub-Committee concluded that the test in Section 153 of the Gambling Act had been met. The applicant had offered an extensive list of individual licence conditions and had demonstrated that it operated all of the protection measures set out in the Council's Gambling Policy. The applicant had carried out a full risk assessment and engaged with the police and licensing authority and it was of note that there was no objection from the police.

The Sub-Committee noted that the Council's Gambling Policy provided that applicants are recommended to have been granted planning permission for the intended use before making an application for a premises licence. It was also noted that Section 210 of the Gambling Act provided that the Licensing Authority shall not have regard to whether the applicant is likely to be permitted planning permission. The Sub-Committee therefore concluded that, the fact that the applicant did not have planning permission, was not a ground on which this matter could be determined.

The Sub-Committee concluded that the premises would be subject to regulatory controls through mandatory conditions and the additional conditions offered by the applicant. The Sub-Committee concluded that it was therefore appropriate to grant the licence sought.

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**EKACHIA, UNIT 2, 66 YORK WAY, N1 9AG - NEW PREMISES LICENCE  
(Item B3)**

A local resident was concerned that the application extended the hours of operation and also that alcohol could be sold off the premises without a substantial meal. He requested that the applicant consider a minimum spend of £15 for food which he considered may remove this concern to residents.

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The applicant had been in the restaurant business for thirty years. He was in a dispute with the previous licensee who had not transferred the licence as promised. He stated that it was never his intention to change the business and did contact residents inviting them to discuss the application. It was likely that they would close at 10.30pm and had applied for extra hours due to the pandemic in the hope of recouping losses. He proposed to only have the additional hour on Thursday to Saturday and would seriously consider the £15 minimum spend. They would follow all police and noise proposed conditions, would train staff to remind customers not to disturb residents. He noted that he did not have the correct planning permission.

In response to questions he stated that they used Deliveroo. They had good relations with them and they did not park outside the premises. He stated that he could be happy to have a minimum order value of £15.

In summary, the resident stated that, if the applicant took up the suggestion of the minimum order, he would be happy to remove his objection. His fears were related to the consumption of alcohol.

The applicant thanked the resident for his suggestion. The Licensing officer confirmed that the hours proposed would be midnight on Thursday – Saturday.

### **RESOLVED**

1) That the application for a new premises licence in respect of Ekachia, Unit 2, 66 York Way, N1 be granted:-

- a) To allow the sale of alcohol, on and off supplies only, from 11am to 11pm Sunday to Wednesday, 11am until midnight Thursday to Saturday.
- b) The provision of late night refreshment from 11 pm until midnight Thursday to Saturday.
- c) The premises to be open to the public, Sunday to Wednesday from 11am until 11.30 and on Thursday to Saturday from 11am until half past midnight.

2) Conditions detailed on pages 251-254 of the agenda shall be applied to the licence with the following amendment to condition 24.

Alcohol shall not be sold or supplied, via delivery from the premises or take away, otherwise than to persons purchasing food to a minimum value of £15 and is ancillary to their meal.

### **REASONS FOR DECISION**

This meeting 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 Kings 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.

Eight local resident objections had been received. The Sub-Committee noted that conditions had been agreed with the police and the noise team.

The Sub-Committee noted that the local resident present at the hearing was willing to remove his objection if there was a £15 minimum for the sale of food connected to any off sale from the premises. The applicant indicated that he was agreeable to this condition.

The Sub-Committee noted that the applicant had taken over an ongoing business and with the proposed conditions was satisfied that there would be no negative cumulative impact on one or more of the licensing objectives.

The Sub-Committee considered the applicants amended application for extended hours on Thursday, Friday and Saturday. The Sub-Committee noted that the applicant would require planning permission to operate during these hours but was satisfied, in accordance with licensing policy 6, that the licensing objectives would be promoted.

The Sub-Committee concluded that the granting of the licence with the agreed conditions would promote the licensing objectives. The Sub-Committee was satisfied that the operating schedule demonstrated high standards of management and that the proposed use, with the conditions agreed, 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.

**245 I TRE BARILI, 139 HOLLOWAY ROAD, N7 8LX - NEW PREMISES LICENCE (Item B4)**

The licensing officer reported that additional papers had been circulated following the publication of the agenda.

A local resident raised concerns regarding the toilet access with entry to it via a private space in the rear courtyard area, noise from music emanating from the mezzanine level which had been built in the premises and the cumulative impact which had not been addressed with concern about street drinking in the area.

The applicant stated that this was a father/daughter business. The access to the WC was to be covered by CCTV and had a security keypad. There was no regulated entertainment with only background music and no licence for this was required.

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There would be 20-23 covers available in the cafe. A mobile telephone number and an email address could be provided for any issues. Conditions proposed on pages 284-286 limited the operation of the premises which would have to operate as a delicatessen/café. Restrictions would make it unattractive to street drinkers. Other off licences would sell alcohol at a higher price point. Alcohol would be served ancillary to food, dispersal would be quiet and safe. Records of incidents would be kept including action taken. A condition stated that no noise could emanate from the premises. It was not a bar.

In response to questions it was stated that conditions had been agreed with the police and the noise team. This was a small operation, alcohol was served with food and customers would be seated with waiter/waitress service and the applicant considered this to be an exception to the cumulative impact policy. There had been no representation from the licensing authority which indicated that they were satisfied with the application. The applicant stated that she would be closing at around 11pm to allow customers to finish their food. In response to a question about the noise emanating from the mezzanine level it was stated that condition 15 would mean that any noise issue, if considered a nuisance, would need to be addressed. The toilet was external to the premises and a member of staff would show the customers to it. Deliveries of alcohol were not planned and the applicant agreed to a condition that did not permit deliveries of alcohol.

In summary the local resident stated that she welcomed the responses but concerns regarding the toilet still remained and considered that a door from the premises straight through to the toilet would be more sensible.

The applicant asked that the Sub-Committee agreed the application and stated that if they could come up with a solution regarding the toilet they would. They considered that CCTV and the keypad would be sufficient control.

### **RESOLVED**

1) That the application for a new premises licence in respect of I Tre Barili, 139 Holloway Road, N7 be granted;

- a) To allow the sale of alcohol, on and off supplies only, Monday to Sunday from 10am until 10pm.
- b) The premises to be open to the public, Monday to Sunday from 10am to 11pm.

2) Conditions detailed on pages 284 to 286 of the agenda shall be applied to the licence with the additional condition:-

- There be no off sale deliveries of alcohol.

### **REASONS FOR DECISION**

This meeting 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

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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 Holloway Road and Finsbury Park 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.

Three local resident objections had been received. The Sub-Committee noted that conditions had been agreed with the police and the noise team.

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

The Sub-Committee heard evidence from a local resident regarding toilet access from the premises, concern regarding noise nuisance from the mezzanine level and the failure of the applicant to address the cumulative impact area.

The Sub-Committee heard from the applicant that security regarding access to the toilet was to be implemented, conditions regarding noise would protect residents and any future issue regarding the mezzanine level would be addressed. The applicant submitted that the premises would not add to the cumulative impact as they were small, sale of alcohol was linked to food and there would be waitress service at the premises. The applicant further submitted that neither the police nor the licensing authority had raised any concerns regarding street drinking or crime and disorder.

The Sub-Committee noted that the applicant was not proposing to provide any off sale of alcohol by delivery and therefore added a condition to reflect this.

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 with the conditions, 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.

The meeting ended at 9.45 pm

**CHAIR**