

Licensing Sub Committee B - 20 July 2021

Minutes of the meeting of the Licensing Sub Committee B held at on 20 July 2021 at 6.30 pm.

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

Councillor Phil Graham in the Chair

253 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.

254 APOLOGIES FOR ABSENCE (Item A2)

None.

255 DECLARATIONS OF SUBSTITUTE MEMBERS (Item A3)

None.

256 DECLARATIONS OF INTEREST (Item A4)

There were no declarations of interest.

257 ORDER OF BUSINESS (Item A5)

The order of business would be as the agenda.

258 MINUTES OF PREVIOUS MEETING (Item A6)

RESOLVED:

That the minutes of the meeting held on 25 May 2021 be confirmed as an accurate record of proceedings and the Chair be authorised to sign them.

259 GORILLA'S TECHNOLOGIES, 95 FARRINGDON ROAD, EC1R 3BT - NEW PREMISES LICENCE (Item B1)

The licensing officer confirmed that the unit was contained within the B1 element of the building and so therefore planning permission would not be required.

A local resident raised concerns regarding the timing and the noise from deliveries. Deliveries during the week had taken place at 6am in the morning and vehicles had blocked the entrance to the residents parking area and the road. He had suggested conditions and considered that the applicant should not make any additional noise from the operation. He had proposed restricting deliveries from 9 until 4 pm on weekdays and that deliveries should not block the entry/exit. He asked that drivers

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obey the Highway Code and also proposed a condition that no deliveries would take place on religious or national events.

In response to a comment from the Sub-Committee it was noted that security to the residents' car park would be the responsibility of the freeholder.

The applicant stated that this was an on-line delivery business with no public access. Orders were made from an app and there was a ten minute delivery time from the time of order. No internal combustion engines would be used and this was conditioned. The applicant stated that he would be happy to support car park security from the freeholder if the resident wished. A contact number could be provided and deliveries would not be made on Sundays. Most of the deliveries would be in small vans but one larger truck, which could not get into the loading bay, would be required once a day. This vehicle could pull to the side of Herbal Hill with minimal noise and would be unloaded which would take no more than 20 minutes.

In response to questions related to noise, it was noted that trolleys that were used could have rubberised wheels and the applicant would liaise with the resident regarding the noise from the loading bay. Deliveries from the big truck were allocated within a time slot and the applicant stated that they could make this a regular time slot. Staff on smoking breaks could be moved to Clerkenwell Road. Each driver was responsible for their own order. The big delivery vehicle was used to provide frozen stock which came in large chillers. If the larger vehicle could not pull into Herbal Hill and was unable to park safely they would have to be sent away.

In summary, the resident stated that the deliveries were a big concern and if time slots were limited to the hours of 9am to 3pm that would be a huge benefit to residents. He was still concerned about the noise from the loading bay and he considered that the conditions he had proposed were not unreasonable.

RESOLVED

- 1) That the application for a new premises licence, in respect of Gorilla's Technologies, 95 Farringdon Road, EC1 be granted to allow:-
 - a) The sale of alcohol, off supplies only, Monday to Sunday from 8am until midnight.
 - b) The premises to have the following operating hours:- Monday to Sunday from 8am until midnight.
- 2) Conditions detailed on pages 41 to 43 of the agenda shall be applied to the licence with the following amendments:-
 - Deliveries will be made in crates on trolleys with air inflated rubber wheels.
 - Condition 5 to read. The delivery of licensable goods to the premises shall be restricted to the hours between 9am to 4pm on Monday to Saturday. No deliveries to take place on a Sunday or Bank Holiday. The licensee is

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permitted to receive one delivery per day in a large truck to unload in Herbal Hill, if space is available.

- A contact telephone number to be provided to the residents association.
- That deliveries in are only by suitably sized vehicles that can enter the loading bay area and simultaneously not block entry or exit for those using the resident's car park.
- The applicant must ensure that staff do not congregate outside the building

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 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.

Objections had been received from six local residents and one Resident's Association. The Sub-Committee noted that the hours sought were outside the framework hours set out in the Policy for the Clerkenwell Cumulative Impact Area.

The Sub-Committee took into consideration the fact that no representations were made by the Licensing Authority. It noted further that conditions had been agreed between the Applicant and the Police and the Noise Team.

The Sub-Committee was informed by the Licensing Officer at the hearing that the premises did have the correct planning permission for the premises.

The Sub-Committee heard evidence from the Residents Association representative. He set out his concerns relating to noise vehicles to and from the premises and in relation to nuisance caused by the blocking of traffic and obstruction to residents caused by large delivery vehicles, especially in the early part of the day when people are leaving for work.

The Sub-Committee concluded that considering the nature of the business (delivery only and no access from the public), together with the agreed conditions with the Police and Noise Team, that the granting of the licence would not negatively impact on one or more of the licensing objectives.

To address the concerns raised by the residents, the Sub-Committee added further conditions to the license in relation to delivery times, the size of the delivery vehicles, contact details for the residents so that they could communicate any concerns directly to the licensee and it further defined where employees are not permitted to congregate.

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.

260 **NEZA BAR CAFE, 296 HOLLOWAY ROAD, N7 6NJ - NEW PREMISES LICENCE (Item B2)**

The licensing officer reported that two resident representations had been received. The applicant had written to them and one was now happy with the application but no response had been received from the other resident. The applicant had offered to meet with this resident. There had been an additional bundle from the applicant summarising the application sent to the Sub-Committee.

The Licensing Authority had received a revised condition relating to the outside area and was happy to withdraw with the amended wording to condition 26.

The applicant stated that this was a restaurant with normal hours and was not alcohol led. Conditions had been agreed with Trading Standards, Police, Environmental Health and the Licensing Authority and was compliant with the licensing objectives. Two representations had been received from interested parties. One resident was happy with the information that had been provided. Resident two had been provided with additional information and all conditions, the witness statement and a petition in support. He considered that all points had been addressed and the licence would not negatively impact on the area. This was a restaurant/café with modest hours. As the resident was not present they were unable to ask about their concerns but all the information provided should alleviate these.

In response to questions it was noted that there would be table service, alcohol would be sold with food, was a small part of the offer and there would be no vertical drinking. They wished to offer alcohol to those customers who wanted it with lunch and dinner. The applicant stated that they would be operating Challenge 25 and when questioned gave full details of how Challenge 25 would be operated.

In summary, the Licensing Authority informed the Sub-Committee that the plans submitted did need to be updated and a fire risk assessment needed to be carried out.

The applicant stated that the floor plans had been finalised and could be sent to the Licensing team shortly. They had recently operated under a Temporary Events Notice. They had wanted to wait until the 19 July to ascertain the latest Covid restrictions before finalising the layout but this was now able to be provided.

RESOLVED

- 1) That the application for a new premises licence, in respect of Neza Bar Café, 296 Holloway Road, N7 6NJ be granted to allow:-
 - a) To allow the sale of alcohol, on supplies only, Monday to Saturday from 11am until 11pm and from 12 noon until 11pm on Sunday.
 - b) The premises to be open to the public, Monday to Saturday from 6am to 11.30pm and Sunday from 8am to 11.30pm

- 2) Conditions detailed on pages 87 to 89 of the agenda shall be applied to the licence with the following amendments:-
 - Condition 26 to read. Customers must not consume food or drinks outside or in the vicinity of the premises, unless in an external seating area permitted by Islington Council;
 - The submission of an updated premises plan to include the location of all fire safety equipment.

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 Holloway and Finsbury 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. Possible exemptions apply to the Holloway and Finsbury CIA Policy where premises are not alcohol led and are within the framework hours.

Two local resident submitted representations. There had been no representations made by the responsible authorities.

The Sub-Committee heard evidence that conditions had been agreed by the applicant with the Noise Team and the Police.

The Licensing Authority had made written representations. At the hearing the Licensing Authority informed the Sub-Committee that it had withdrawn their representations as a condition (Condition 26 above) had been agreed with the applicant.

The Sub-Committee took into account that the premises would be run as a restaurant and that alcohol would be ancillary to food. It further noted that vertical

drinking would not be permitted. The Sub-Committee noted that the hours sought were within the hours specified in licensing policy 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 the premises licence with the agreed and imposed conditions was proportionate and appropriate to the promotion of the licensing objectives and in the public interest.

261

ALTERNATIVE SUPERMARKET, 360 ESSEX ROAD, N1 - PREMISES LICENCE VARIATION (Item B3)

The licensing officer reported that the application had been amended as follows:-

The extension of hours until 01:00 on Friday and Saturday.

The amendment of conditions as follows:-

Condition 1 to read:- No beers, lagers or ciders of above 6% abv shall be sold on the premises, save for premium bottled beers agreed in advance with the police or licensing authority.

Condition 2 to remain on the licence.

Condition 3 to be removed.

Following these amendments the police had withdrawn their representation however the resident had not engaged further with the licensing team.

The Licensing Authority stated that the licensee had been at the premises only for a short time, since November 2020. There had been no details given for mitigation in this area. She stated that the representation was maintained and the applicant could explain how the application would not add to the cumulative impact.

The applicant stated that he wished to provide local residents with a can of beer up until 1am. There were not many local stores that were open at this time due to the pandemic. They had received a positive resident representation.

In response to questions there would be three people in the store until 1am for staff safety. They wished to give residents an option to purchase food products or alcohol at that time of day. Some residents just required a single can of beer. They would not stock super strength alcohol that might appeal to street drinkers but wished to stock premium or beers from local brewers to give residents an option. They had got to know the local residents and what they want from their store. There was another local store nearby that closed at 11pm.

The Licensing Authority did not consider that the application had explained how they would not add to the problems that arose from selling alcohol at that time of day. They did not seem to understand the problems that were in a cumulative impact area and why the policy had been brought in.

The applicant stated that they had been in Islington for 15 years. They wished to serve local professional residents and did not think they would create more crime. They managed the premises well and received positive feedback from residents.

RESOLVED

That the application for a new premises licence, in respect of Alternative Supermarket, 360 Essex Road, N1 be refused.

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 premises concerned is a shop with an off sales licence. The licence was granted in November 2020. The application was to vary the licence, merely six months after it had been granted. The variation, following amendments to increase the licensable hours by two hours to 1am on Fridays and Saturdays.

In addition the licensee applied for the certain conditions applied to the licence in November 2020 to be removed or varied.

The applicant applied for Condition 1 to be varied to enable premium beers be sold above 6% abv, provided this had been agreed in advance with the Police and Licensing Authority. The applicant also applied for Condition 2, which in its original form prohibited spirit miniatures or other bottles at or below 33 cl being sold from the premises at any time, to be removed from the licence conditions, and thirdly he applied for Condition 3, which prohibited single cans of beers being sold from the premises, to also be removed from the conditions.

At the meeting, the Sub-Committee was informed that the Police agreed to Condition 1 being amended as applied for, and for Condition 3 to be removed. The applicant withdrew the request for Condition 2 to be removed.

The premises are not situated in a specifically designated Cumulative Impact Area. They are however covered under Licensing Policy number 4 which is an umbrella policy relating to off sales.

The Council has adopted this 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.

The Sub-Committee found that the applicant did not satisfactorily address the cumulative impact issue, either in the application itself or at the hearing. There did not appear to be a cogent reason for the extension of the hours and the relaxation of the conditions, so soon after the licence had been granted, especially considering the lockdown effects that would have had on trading in the past 6 months.

The Sub-Committee noted that the hours sought were outside the hours permitted framework hours as set out in the Licensing Policy. The Sub-Committee concluded that the applicant did not rebut the presumption that the granting of the variation as amended, would negatively impact on the licensing objectives.

The Sub-Committee concluded that the refusal of the variation application was appropriate to promote the licensing objectives.

262 **CRYSTALS PIZZA AND FRIED CHICKEN, 4 YORK WAY, N1 9AA - NEW PREMISES LICENCE (Item B4)**

The licensing officer reported that planning permission would be required if the premises was a takeaway. The applicant had stated that it was proposed to be primarily used as a restaurant.

The Licensing Authority stated that the hours were outside licensing policy framework hours. If the application was for a restaurant the framework hours were until midnight. The applicant had not explained why these hours were required and had not addressed the cumulative impact policy. The applicant managed the neighbouring premises and should this licence be granted it would double the trade within a small area. She stated, that in response to an email sent by the applicant's representative which had stated that this was an experienced and responsible manager, she raised concerns regarding good management standards in that a fixed penalty had been served on the neighbouring premises in October 2020 under Covid restrictions. The premises had been visited several times by council officers before it had been served. They had not stated the link with the next door premises in the original application. If the premises was to be operated as a take away the hours were outside framework hours and would be even more so if it was operated as a restaurant.

The applicant's representative stated that the applicant operated a small fast food restaurant with 20 seats upstairs next door to this premises. He had been at the premises for over ten years. The fixed penalty notice occurred when a member of staff was serving food at the door. The fine was paid immediately and the individual was dismissed. The applicant was committed to working with all the responsible authorities and conditions had been agreed with the police and the noise team. A licence could be granted if there were exceptional circumstances. This was not an application for alcohol but for late night refreshment. He raised concerns that the email regarding the fine from the Licensing Authority had only been sent the day before and he had not had a chance to respond. The applicant stated the licensing team had called at the premises on a day he was not working and after two weeks had sent a penalty fine. He had paid immediately and after that had closed before

11pm. He apologised for the penalty and said that many people had been confused over the Covid regulations. This was a one off incident and the member of staff had been dismissed.

In response to questions it was reported that training would be given to all staff regularly every three months. The applicant knew the local residents and would provide a contact telephone number. This was a good location for workers such as the police, railway workers and cab drivers who would prefer to eat in a restaurant after work rather than have a takeaway. The premises next door had two managers, one during the day and one at night, 3 staff on the counter and two in the kitchen. Approximately 7 or 8 staff. It was expected that the restaurant would have similar numbers with waiters in addition. The applicant's representative stated that Kings Cross was on the edge of a cumulative impact area. The premises was not alcohol led and sold late night refreshment only and he considered that this was an exception to the cumulative impact policy.

In summary, the Licensing Authority stated that the premises would still add to the cumulative impact and was outside framework hours and this had not been covered in the presentation. She stated that the applicant's representative had submitted that the licensee had not had any issues in ten years and in response to this she stated that a fixed penalty had been issued.

The applicant's representative stated that the local authority representation had been made on the grounds of public nuisance and the prevention of crime and disorder. No residents had made any objection to the application. The Sub-Committee should be satisfied with the high standards of management. The hours and conditions would help dispersal in the area. The neighbouring premises were already operating to these hours and would not cause additional nuisance as it would help people leaving the area.

RESOLVED

That the application for a new premises licence, in respect of Crystals Pizza and Fried Chicken, 4 York Way, N1 9AA be refused.

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.

This was a new licence application for a business which the Sub-Committee was informed would operate primarily as a restaurant.

The application was for a late night refreshment licence for the hours 11pm to 5am Mondays to Sundays. The Sub-Committee heard that the applicant owned and managed another restaurant with the same hours next door to the premises in

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question. The Licensing Authority submitted written and provided oral submissions to the hearing. There had been no representations made by any of the other responsible authorities. The Police and Noise team had agreed conditions with the applicant.

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.

The hours requested in the application were significantly outside the framework hours.

The Sub-Committee agreed with the Licensing Authority's representations which emphasized the fact that the hours requested were significantly outside the framework hours and that the applicant had not adequately addressed the cumulative impact issue both in the application papers and in the oral submissions to the Sub-Committee. The Sub-Committee also considered the potential noise disturbance to neighbours in the area from having a second late night venue added thereto in such close proximity to the existing one.

The applicant had raised the issue of good standard of management at the premises next door, owned and managed by the applicant. In response, the Licensing Authority produced evidence to the Sub-Committee of the fact that the applicant had contravened the Covid Regulations in 2020 and had been fined by way of a Fixed Penalty Notice.

The applicants' response was that the fine had been paid and that the person on duty that day had been dismissed.

In conclusion, the Sub-Committee was of the opinion that the applicant had not rebutted the presumption that the granting of the application would negatively impact on the licensing objectives. It was accordingly decided that the appropriate and proportionate decision would be to refuse the application.

The meeting ended at 9.00 pm

CHAIR