

Licensing Sub Committee A - 18 November 2021

Minutes of the meeting of the Licensing Sub Committee A held by Zoom on 18 November 2021 at 6.30 pm.

Present: **Councillors:** Phil Graham, Anjna Khurana and Marian Spall.

Councillor Phil Graham in the Chair

152 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.

153 APOLOGIES FOR ABSENCE (Item A2)

Apologies for absence were received from Councillors Nick Wayne and Councillor Dave Poyser.

154 DECLARATIONS OF SUBSTITUTE MEMBERS (Item A3)

Councillor Phil Graham substituted for Councillor Nick Wayne and Councillor Marian Spall substituted for Councillor Dave Poyser.

155 DECLARATIONS OF INTEREST (Item A4)

There were no declarations of interest.

156 ORDER OF BUSINESS (Item A5)

The order of business would be as the agenda.

157 MINUTES OF PREVIOUS MEETING (Item A6)

RESOLVED:

That the minutes of the meeting held on 9 September 2021 be confirmed as an accurate record of proceedings and the Chair be authorised to sign them.

158 BOCA'S, 178-180 ST JOHN STREET, EC1V 3JY - NEW PREMISES LICENCE (Item B1)

The Chair stated that the Sub-Committee had received a lot of late material during the day regarding this application. The Sub-Committee had not had the opportunity to go through all of this information and he made the suggestion that it may be in the best interests for all concerned to adjourn this item. The licensing officer stated that it had only become apparent during the day that the premises were expecting to make deliveries and the applicant had accepted delivery conditions from the noise team. The hours had been reduced but had not been agreed with the

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responsible authorities. The applicant stated that he would be happy to proceed. The police raised concerns about the hearing proceeding but the Licensing Authority stated that ultimately it was the decision of the applicant.

The licensing officer introduced all parties. She reported that there was an outstanding condition regarding vertical drinking that was yet to be agreed. Hours had been reduced from the application to Sunday to Thursday from 10am to midnight and Friday and Saturday from 10am to half past midnight. Three interested parties had withdrawn their representations after agenda publication.

The Licensing Authority stated that there had been a history of noise complaints with loud music emanating from the ground floor and the basement. This was a very quiet location and she therefore considered that core hours should be applied to the licence. She had proposed conditions 1-7 although she stated that the Sub-Committee consider condition 1 regarding 6-8 customers waiting for a table in the basement area. Conditions 3-7 had been accepted by the applicant. She objected to a late night delivery service and understood that the noise team had drafted conditions for deliveries which had been sent to members of the Sub-Committee.

The police stated that the last minute material had been confusing. He stated that he would not want vertical drinking anywhere in the premises although he did not object to customers waiting for a table. The applicant had engaged regarding the TENs notices. He considered that there needed to be a good reason for this licence to be granted outside framework hours and he did not think that in this case the licence was an exception.

The noise officer stated that there should be no regulated entertainment until a full acoustic report had been carried out and checked by the noise team in order to prevent nuisance. Delivery conditions had been accepted.

A local resident asked for clarification regarding the hours, raised concerns about the delivery service which she had been unaware of and the applicant's proposals for people congregating on the pavement.

The applicant stated that as soon as they were aware about the noise complaints about the previous licensee they had installed soundproofing in the floor and ceiling. This was a tapas restaurant offering good food and wine. He understood the concern about the hours due to the previous operator but this was not a cocktail bar and he encouraged neighbours to visit the premises. He wished to provide culture from Spain. He noted the concern about the noise levels and would share his contact number with neighbours. He had not had any complaints during the time that the premises had been operating under Temporary Event Notices. Table service was offered with occasional events on the downstairs floor. He had ten years' experience in bars and restaurants. He was a personal licence holder and had taken a 15 year lease so was looking to the long term. There had been no concerns raised during the temporary events and he felt compromised by the problems with the previous licensee. He wanted the local community to come together. The extra hours were required from a business perspective and possibility

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to add additional revenue. He did not wish this to be a nightclub. They were sold the lease and they thought they had a 1am licence but were then informed that they would need to reapply. They were not going to be noisy. This was a restaurant which sold a glass of wine with tapas. The licensing agent stated that the previous premises was a vertical drinking premises. They had been in contact with acoustic consultants who needed access to residents' premises to set up noise tests. This business was very different from the previous one and their price point and demographic was different.

The Chair stated that each application was considered on its own merits.

In response to questions, it was stated that during the temporary events they had no customers waiting for a table in the basement. They had plenty of capacity for seating and turnover for tapas was quite quick. JustEat would be used for deliveries and a time could be set to use just pedal or non-motorised bikes. The applicant stated that late hours were cultural in Spain and Argentina. Later hours would allow three sittings as part of a traditional concept and provided flexibility for customers later in the evening. They had been happy to reduce the hours from 2am as they understood the concerns raised. The live music would be focussed on light jazz events, held in the basement with two or three instruments and a singer. Regarding the acoustic consultant, access was needed to neighbouring premises to set up the decibel levels so that if noise was emitted, a fully comprehensive assessment could be provided. The noise officer confirmed that any music played beyond 11pm would be subject to an acoustic assessment. Prior to 11pm it was unregulated. The volume would be adjusted until it could no longer be heard in a residents' bedroom. This would be the set maximum volume. The licensee would appoint an independent acoustic consultant with the agreement of the noise team. The licensee's representative stated that the final element was the setting of decibels.

In summary, the Licensing Authority stated that the applicant had agreed the noise conditions and would need to provide the acoustic report which had to be agreed by the noise team and levels could then be applied to the licence. She considered that the application be restricted to core hours and a limited number of people vertical drinking in the basement. If later hours were required, further TENs could be applied for and the applicant could consider applying for extended hours in the future. The police officer stated that delivery conditions had also been included in the police conditions. He had visited the premises a few times during the TENs and the premises had been closed so it appeared that the premises had not been fully operational during these temporary events. He requested that there be no vertical drinking and the licence be restricted to framework hours. The noise officer stated that, as this building had noise issues in the past, he had agreed the condition that there be no music until after 11pm unless a noise assessment had been carried out and agreed by the noise team.

The licensee's representative stated that the application might be outside the standard hours but the premises was a restaurant that provided hot food and drink. The policy stated that a take away premises could operate up until 1am on Friday and Saturday and midnight on Sundays to Thursdays. They wanted the later licence

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to allow flexibility and the applicant had taken a 15 year lease and did not want to cause any problems for residents. It was stated that the applicant was looking to the long term and the conditions and hours requested were appropriate and necessary for the promotion of the licensing objectives.

RESOLVED

- 1) That the application for a new premises licence, in respect of Boca's, 178-180 St John Street, EC1V 4JY be granted to allow:-
 - a) The provision of regulated entertainment by way of performance of dance, live music and recorded music Sunday to Thursday from 10am until 11pm and on Friday and Saturday from 10am until midnight.
 - b) Late night refreshment Friday and Saturday from 11pm until midnight.
 - c) The sale of alcohol on and off the premises, Sunday to Thursday from 10am until 11pm and on Fridays and Saturdays from 10am until midnight.

- 2) That conditions outlined in appendix 5 as tabled at the meeting, be applied to the licence with the following amendments:-
 - Retain police condition 9 i.e. The supply of alcohol shall be ancillary to a table meal and shall be supplied to seated customers at table by waiter/waitress. There will be no vertical drinking at the premises. Deletion of Licensing Authority condition Number 1.
 - Additional condition. Deliveries must be made during licensed hours only.
 - All deliveries must be made by non-motorised vehicles. Delete proposed conditions 28 and 29.
 - Deliveries of alcohol shall be limited to sales of £15 of food and above only. Addition to proposed condition 30.

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

Twenty six local resident objections had been received. Three objections were withdrawn following changes to the hours that were applied for. A petition had also

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been received in support of the application. The noise team, licensing authority, the police and trading standards submitted representations. Trading standards conditions were agreed prior to the meeting.

The Sub-Committee heard evidence from the Licensing Authority that there had been a history of noise complaints from these premises namely loud music from the basement and the ground floor which emanated throughout the building. This was a quiet part of St John's Street and she wanted core hours to be applied to the licence due to the location and the likelihood of residents being disturbed late at night. She confirmed that she was happy to have a condition related to vertical drinking in the basement for a maximum of 8 people. However, she deferred to the noise nuisance expert in relation to noise from vertical drinking. The Licensing Authority objected to delivery service operating late at night and asked that conditions be put in place to control the noise coming from deliveries and delivery drivers. The police officer stated that he would want no vertical drinking anywhere. Customers could wait for a table but not drink whilst doing so. The application as it stood did not present any exceptions to the cumulative impact policy, therefore the police could not agree any terms other than framework hours, namely midnight at the weekend and 11pm during the week. The noise officer stated that he had agreed conditions with the applicant. There had been previous issues at the premises and so he would not agree to any regulated entertainment until the recommended acoustic work had been undertaken and the noise team were satisfied with the outcome and any suggestions made. He would like conditions around the use of mopeds for delivery purposes. He would prefer the use of bicycles and electric vehicles and stated that these conditions had been accepted by the applicant.

A local resident stated that she would like clarification on the change of hours and whether this applied to the basement only. She had been unaware about the request of deliveries until the evening of the meeting and raised concerns about people congregating on the pavement.

The applicant stated that there had been issues with the premises in the past but emphasised that these premises would be completely different in nature to the previous occupiers. He had installed extra sound proofing in the basement and on the ground floor. He wanted to bring something special to the area in the style of a casual tapas restaurant. He had brought this idea from Spain and he had worked for 15 years in the hospitality sector in Argentina, Spain and London. The applicant recognised that objectors had expressed problems with the hours sought; however, he emphasised that this was a very different enterprise to previous businesses. There had been good feedback from customers and no complaints so far from TENs events, all of which had late hours. He was happy to work on any noise levels with experts. It was anticipated that all service would be table service. He had a 15 year lease on the premises so was thinking long term. He anticipated late hours operating not as a nightclub but as a casual restaurant where people, either from the local community or after work, could enjoy tapas and a glass of wine late in the evening. He was an SIA licence holder and had training in crime scene management. The agent added that they had been in contact with an acoustic

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consultant but needed access to neighbouring premises to finalise and minimise noise disturbance.

The Sub-Committee raised questions about waiting in the basement and the applicant stated that this had not been an issue during the TENs events so far. He would be using JustEat for deliveries and bicycles were being used. He required late hours as that was the traditional concept of eating late in Spain and also give him the opportunity to catch up financially post pandemic. Regarding live music, the applicant stated that this would be two or three piece jazz trios and not noisy bands.

The Sub-Committee considered that due to the location and the likelihood of residents being disturbed late at night, the application should be granted within framework hours with conditions relating to: service of alcohol only with a table meal; no vertical drinking; the use of non-motorised vehicles for delivery purposes and only within licensing hours and limited to a minimum £15 order of food.

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, with the hours granted, the proposed use and with the extensive conditions agreed, 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 8.00 pm

CHAIR