

Licensing Sub Committee A - 13 October 2022

Minutes of the meeting of the Licensing Sub Committee A held at Committee Room 4, Town Hall, Upper Street, N1 2UD on 13 October 2022 at 6.30 pm.

Present: **Councillors:** Wayne (Chair), Spall (Vice-Chair) and Nargund

Councillor Nick Wayne in the Chair

19 INTRODUCTIONS AND PROCEDURE (Item A1)

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

20 APOLOGIES FOR ABSENCE (Item A2)

There were no apologies for absence.

21 DECLARATIONS OF SUBSTITUTE MEMBERS (Item A3)

There were no declarations of substitute members.

22 DECLARATIONS OF INTEREST (Item A4)

There were no declarations of interest.

23 ORDER OF BUSINESS (Item A5)

The order of business would be as per the agenda.

24 MINUTES OF PREVIOUS MEETING (Item A6)

RESOLVED

That the minutes of the meeting held on the 4 August 2022 be confirmed as a correct record and the Chair be authorised to sign them.

25 CHEATMEALS, COMMERCIAL UNIT, 367 HOLLOWAY ROAD, ISLINGTON, LONDON, N7 0RN - NEW PREMISES LICENCE (Item B1)

The licensing officer reported that the applicant initially asked for the licence until 2am on Fridays and Saturdays, in the report had asked for core hours and now had reinstated the request for a licence until 2am. The licensing officer also advised that there had been a further email from residents which had been circulated.

There was a representation from the Licensing Authority, dealing with the fact that the hours requested were outside core hours and also that there had been no detail submitted in the operating schedule.

Licensing Sub Committee A - 13 October 2022

She stated that Islington's policy on licensed hours was preferred to be midnight during the week and 1am on Friday and Saturday nights. She stated that there had been two local resident objections received from residents who lived directly above the premises concerning potential noise, arising from the fact that there was poor insulation within the building, a poor relationship with owners and managers from the premises whom they stated has intimidated them. They were also concerned about the cumulative impact of licensed premises in the locality.

The Licensing Authority raised concern about enforcement. The applicant's legal representative objected and stated this was not part of the representation and no new material should be raised. He stated that he had been advised by a licensing officer that this matter would not be raised. The legal officer stated that the matter should not be considered as it was not in the paperwork. The chair reassured the applicant and his legal representative that this was not a matter that would be taken into consideration and the applicant's legal representative confirmed this response was acceptable.

The applicant's legal representative stated that Cheatmeals was a franchise and the applicant had worked at Cheatmeals as an apprentice at the Notting Hill franchise. The Holloway Road franchise was the applicant's first.

In response to the Licensing Authority's concern about the lack of detail in the operating schedule, the applicant's representative stated that the licensing regime was designed to enable applicants to undertake the process without legal assistance. As the conditions on page 12 and 13 of the agenda had been agreed, there was now a full operating schedule.

The applicant's legal representative stated that resident representations must be relevant and not vexatious. He added that they related to a specific neighbour dispute which was a private matter and therefore not a public nuisance. He also stated that the floor being poorly insulated was not a general public nuisance. He raised concern that the representations were vexatious and stated that there was no evidence and no record of complaints. Accusations of criminal damage were not supported by a police record, photographs or witness evidence. The applicant's legal representative mentioned the complaint that water had been turned off which he disputed as the restaurant would have required water.

The applicant's legal representative stated that the restaurant would be alcohol-free, halal and food-led, there had been no other Responsible Authority representations apart from the Licensing Authority, the operating schedule had been worked on by the applicant and licensing authority and now contained the detail that was previously missing. The applicant's legal representative asked that the applicant be given a chance and stated that he would work with the local authority and the granting of the licence would benefit the local area.

In response to questions, the applicant's legal representative stated that Deliveroo and Uber would be used for deliveries, engines would be turned off while they were collecting orders and there would be no idling. If there were any

problems, the applicant could report them and they would be banned from delivering from the restaurant again. The front of the restaurant was well lit, there was CCTV, the applicant's apprenticeship had taken place at Notting Hill which was a similar location with residents nearby. There would be no customers after 11pm so delivery drivers could wait inside. Relationships would be built with regular delivery drivers. While delivery drivers were in the restaurant's vicinity the applicant could exercise supervision, control and direction. When the applicant was training in Notting Hill, he had seen delivery drivers given warnings and reported where problems recurred. Although it was recognised that there would be some noise from customers as there would be with any restaurant, the applicant would work with Responsible Authorities and promote the licensing objectives. The applicant would adapt to the changing environment. The request for 2am was for economic purposes. The applicant knew that if the dispute with neighbours continued, this could result in a review and having to pay legal fees. The applicant would provide the residents with mobile contact numbers, staff would be trained and the applicant was willing for neighbours to engage with him.

In summary, the Licensing Authority stated that when the application was received, there was no detail in the operating schedule on how the business would operate, be managed or how nuisance e.g. from delivery drivers would be managed and if the applicant was experienced, he should have completed the operating schedule. It was only after the police and noise team contacted the applicant that the applicant agreed to their additions to the operating schedule. The Licensing Authority requested that if the licence was granted it should only be until 1am at weekends.

In summary, the applicant's legal representative stated that Paragraph 8.48 of the Licensing Act stated that applicants could work in partnership with Responsible Authorities to perfect the operating schedule and it was for the Sub-Committee to decide whether to grant framework hours or provide the applicant with an opportunity to prove himself and grant the requested hours.

Following a brief deliberation, the Sub-Committee returned and asked the applicant whether he would be willing to accept a condition that all deliveries be made by non-combustion engine vehicles. The applicant's legal representative stated that this was a condition increasingly being applied to licences and as it was proportionate, the applicant had no objection.

RESOLVED

- 1) That the application for a new premises licence, in respect of Cheatmeals, Commercial Unit, 367 Holloway Road, Islington, London, N7 0RN be granted to allow the provision of late night refreshment on Sunday to Thursday to midnight and Friday and Saturday to 1am the day following.
- 2) That conditions outlined detailed on page 12 and 13 of the agenda be applied to the licence along with the following additional condition:

- Only non-combustion engine vehicles to be used for deliveries.

REASONS FOR DECISION

This meeting was held in person.

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 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 operating schedule that there will be no negative cumulative impact on one or more of the licensing objectives. Licensing policy 8, paragraph 90, says that the Licensing Authority is committed to promoting high standards of management in all licensed premises and expects applicants to demonstrate this through the operating schedule and management practices.

There was a representation from the Licensing Authority, dealing with the fact that the hours requested were outside core hours and also that there had been no detail submitted re the operating schedule. Conditions had been agreed with the noise team and the police.

The Licensing Officer stated that she was maintaining her representation, particularly in light of the fact that the licensing hours requested were outside core hours, namely 2am. She stated that she was concerned by the lack of detail submitted in the proposed operating schedule. She stated that Islington's policy on licensed hours was preferred to be midnight during the week and 1 am on Friday and Saturday nights. She stated that concerns had been expressed by residents who lived directly above the premises concerning potential noise, arising from the fact that there was poor insulation within the building. In summary, nothing has been submitted to date to allay her fears and so her recommendation was for core hours only.

Two local resident objections had been received, and there had been a further email received from the residents who live above the premises on 13 October 2022. They were concerned about the cumulative impact of licensed premises in the locality and the possibility of noise.

The Sub-Committee heard evidence that this was an application in a cumulative impact area for a premises licence outside core hours by an applicant with no previous experience of managing a licensed premises within Islington.

The applicant's representative stated that conditions had been agreed with all Responsible Authorities bar the Licensing Authority but that they were happy to work with the Licensing Authority and would accept framework hours if necessary although they would prefer the hours set out in the application.

The applicant was asked by the Sub-Committee how he would address potential noise arising from late night delivery drivers and the applicant confirmed that he had experience of dealing with noisy drivers when he was an apprentice at the Notting Hill franchise, which had a licence until 3am. After a brief deliberation the Sub-Committee returned and asked whether the applicant would accept a condition on the licence that all deliveries would be made by non-combustion engine vehicles. The applicant's representative confirmed that it was proportionate and appropriate and they would have no objection to the addition of the condition.

The Sub-Committee concluded that the granting of the licence within the core hours with the agreed conditions and the additional condition that only vehicles with non-combustion engines were to be used for deliveries would promote the licensing objectives. The Sub-Committee was satisfied that the proposed use, with the conditions agreed, meant that the premises would not add to the cumulative impact.

The Sub-Committee decided to grant the licence within the core hours. The Sub-Committee was satisfied that granting the premises licence was proportionate and appropriate to the promotion of the licensing objectives.

26 URBAN SOCIAL, GROUND FLOOR, 242 UPPER STREET, LONDON, N1 1RU - NEW PREMISES LICENCE (Item B2)

The licensing officer reported that an expert witness report had been submitted and this had been circulated on 11 October. She stated that if this had been received sooner, officers could have visited.

The chair stated that the document was admissible and would be taken into account. The Sub-Committee would decide what weight to give the document. He also stated that if there was a request to adjourn, the Sub-Committee would consider this.

The applicant stated he would like to adjourn to consider the document and seek guidance.

The resident's representative stated that the residents did not object to an adjournment and an adjournment would give time for issues to be addressed.

The licensing officer advised that if the hearing was adjourned, officers could visit to see if the information in the document had grounding.

RESOLVED:

That this item be adjourned to the Licensing Sub-Committee C meeting on 22 November.

The meeting ended at 8.00 pm

CHAIR