

Licensing Sub Committee A - 15 December 2022

Minutes of the meeting of the Licensing Sub Committee A held at Committee Room 4, Town Hall, Upper Street, N1 2UD on 15 December 2022 at 6.30 pm.

Present: **Councillors:** Nick Wayne (Chair), Phil Graham and Praful Nargund

Councillor Nick Wayne in the Chair

27 INTRODUCTIONS AND PROCEDURE (Item A1)

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

28 APOLOGIES FOR ABSENCE (Item A2)

Apologies for absence were received from Councillor Marian Spall.

29 DECLARATIONS OF SUBSTITUTE MEMBERS (Item A3)

Councillor Phil Graham substituted for Councillor Marian Spall.

30 DECLARATIONS OF INTEREST (Item A4)

There were no declarations of interest.

31 ORDER OF BUSINESS (Item A5)

The order of business would be as the agenda.

32 MINUTES OF PREVIOUS MEETING (Item A6)

RESOLVED:

That the minutes of the meeting held on 13 October 2022 be confirmed as an accurate record of proceedings and the Chair be authorised to sign them.

33 RUNWAY EAST, 52-60 TABERNACLE STREET, EC2A 4NJ - NEW PREMISES LICENCE (Item B1)

The licensing officer advised that further information from the interested party had been circulated. She had received a letter from the representative's solicitor via the interested party. It had not been sent directly. A number of conditions had been circulated in the afternoon from the interested party but these had not been shared with the Sub-Committee as they had not been confirmed to be acceptable by the applicant's representative. In response to queries raised in the letter from the interested party it was confirmed that details of the application had been sent to four flats in No 45, 4 flats in No 47, 5 flats in No 51 and 3 flats in No 43a. She stated that the application was advertised legally although it was best practice to

provide more information than had been given in this instance. The planning team had confirmed that the premises had planning consent for alcohol to be sold as ancillary to office or other Class E use. There was a time restriction of between 9am and 6pm in relation to the outside space. There was no indication that the premises was to be a Members Club but she was concerned about the events being held and would ask for clarification. The licensing officer had contacted 11 of the petitioners who had advised that they had signed the petition as they were opposed to the grant of the application. In response to questions from the Sub-Committee it was advised that the planning restriction to the outside space was for the use to apply Monday to Friday and from 9 – 6pm only and had been imposed to ensure neighbouring residential amenity.

The resident objector stated that the immediate surroundings to the premises were heavily residential with large warehouse style buildings with original single glazed windows which offered little protection from noise including from people talking. The street was narrow and single lane with tall buildings. The noise produced a canyoning type of effect. There were already existing high levels of noise from two clubs that were just 200 metres away and this would add to the cumulative impact. There had been another shared workspace at number 49 which had received numerous complaints. He had been alarmed to see an application with 24/7 opening hours and a late-night licence with a capacity of 160 people. He considered that the premises would be impactful and the cumulative impact would risk being overwhelming. The petition signatories would have responded to the application if they had been aware of the application and the response to the petition represented the true strength of feeling. He was concerned about the lack of detail included in the application. There had been no engagement with residents apart from a letter received yesterday. Their website indicated lots of references to alcohol and showed a particular customer type with unlimited amounts of alcohol. This was a broad licence which could then be sold on.

The resident further stated that he did not believe the cumulative impact had been considered and that this application did not fit into an exception. The street was already at capacity and he was concerned about the immediate proximity to residents. The hours applied for were not within framework hours and with the 24 hour operating hours, alcohol could be purchased and patrons could carry on drinking all night. There was an absence of structure and conditions. He considered that the application was far too open ended, had very little information and he was concerned about the lack of engagement. There would be intolerable noise and he asked that the Sub-Committee reject the application to protect residential amenity. Should the application be granted he asked that conditions he had circulated to the licensing officer be applied to partially mitigate the issues.

In response to questions, he stated that there were two nightclubs nearby, one 50m away and another 250 metres away. The workspace at 49 was still there but the previous occupants had left and it had been refurbished. During 2020/2021 residents were unable to contact the owner of this workspace to resolve issues.

The applicant's representative stated that the application was for the incidental sale of alcohol in an office. The ancillary sale of alcohol would require planning consent

whilst incidental use would not. In this case it was incidental due to the use of the office and the activities associated with that. The Head of Operations stated that they had licences in Southwark, Soho and Bristol. They were a serviced office provider. They provided meeting rooms with a kitchen and break out spaces and classes such as yoga, networking lunches and competitions to create the best office in a happy fun environment. The applicant's representative stated that the office was not open for general public admission. Customers would be signed up and would have a membership agreement. The Head of Operations advised that there had been no complaints at their other locations and had operated TENs at this location. The applicant's representative stated that the cumulative policy should not apply as an office was not the intended use for the policy. This would not be a high volume vertical drinking environment. Customers could bring alcohol to the premises should no licence be given and a licence would regularise that situation and give residents greater protection. There were no objections from the responsible authorities and the police had stated that this was a comprehensive application. Conditions had been agreed and they had no concerns. The hours were beyond framework hours by 30 minutes and he considered it a matter for the Sub-Committee if they wished to bring the hours back to 11pm. The type of patron would be business customers and alcohol was incidental to the use of the office and would not be drunk in an out of control or excessive way. They had high standards of management. There had been no issues at the other premises and the premises in Southwark was also in very close proximity to residential properties. The reception was staffed during the day and there was CCTV covering the area. He considered this to be outside the scope of the cumulative impact area as alcohol sales were incidental to the primary activity of running an office. Regarding the conditions from the resident, he stated that he would accept two relating to the prohibition of smoking and recorded music on the terrace. He agreed to the conditions being circulated to the Sub-Committee. He stated that many did not have anything to do with licensing. Conditions had been agreed with the responsible authorities and this included a noise condition that action would be required if there was any noise nuisance.

In response to questions, it was stated that consumption of alcohol in an office space was not likely to cause issues on the street. It was not considered that consumption of alcohol would be significant. Should there be concerns, the dispersal policy would cover dispersal from the premises. The applicant's representative asked the Sub-Committee to consider the history of this operator. Issues had not occurred at the other premises. The premises in Southwark was in a very similar location and issues had not arisen there. A problematic premises would destroy their business model. It was noted that there had been two premises on City Road which had now closed. The premises was a serviced office and not a members' club. The purpose was to destroy boring offices and to have significantly different initiatives in the form of fun events and quizzes. The activities included treasure hunts and competitions around the building, quizzes, bingo nights, life drawing and wreath making at Christmas. Alcohol would be sold at some events such as quizzes. The Head of Operations stated that they did not have alcohol themed events and did not promote alcohol. It was intended to have a couple of events a month. She stated that she did not see that alcohol would be sold at 9am

but was more for a lunchtime event, although she did see that the business would evolve. The hours were 24/7 as some members did not work 9 to 5 and may also work at weekends. They did have members that worked at 1 or 2 am. Training was given to provide structure, ensure licences were operated correctly and to ensure conditions were met. They would make sure reception staff followed correct procedures and had monthly audits to ensure documents were kept up to date. Staff were trained to recognise the licensing objectives, to be aware of operating hours, identify who they should serve and what they should be checking. Entry to the premises was with a fob. Reception was available from 9-6. After 6pm there would be a remote security entry. When alcohol was served there would be a member of staff present. A dispersal policy used at a similar location could be adapted and used within 24 hours. The cheapest membership was £500 per desk per month. It was intended to sell alcohol when events were taking place or prior to 6pm. They would not wish to operate TENs but to have alcohol available to offer to members. There was no bar but a fridge and after 6pm and there was no possibility of getting a drink unless at an event. There would be a serving bar at events but with no draught pumps or kegged beer. There was an office drinks trolley on a Friday which was free. Staff would be trained on Challenge 25 but in practice there was nobody on site who would be under 18 years or intoxicated. There would be a trained member of staff on site at times alcohol was sold. A copy of a dispersal policy was available from a similar site and would be the basis for this site. It was noted that Friday free beers was a drink themed initiative. Private offices were mainly used and staff would prevent members leaving the licensed area with drinks.

The licensing officer stated that the application had not mentioned the type of events held or where they were being held. There was a capacity for 100 people inside and 60 outside but the number of staff supervising had not been advised. The Sub-Committee had not had sight of a dispersal policy to see how the potential numbers would be managed. An application for live music was not required as it had been deregulated but there was potential for a DJ at the premises. In response to questions from the Sub-Committee to the applicant, it was noted that there would be a click in system on the door and for larger events there would be a guest list. The honesty bar as indicated on the website was a paid bar that would be monitored and alcohol would be purchased through a reception team.

In summary, the resident stated that the cumulative impact policy was intended to prevent potentially 160 people drinking late at night. Given the lack of dispersal policy and the immediate proximity of the premises he could not understand how quiet dispersal would happen. He did not believe that the sound dynamics of the premises in Southwark was the same as this premises was situated next to railway lines. He considered that the noise team would need to observe the noise disturbance. He knew very responsible people that behaved differently with the effects of alcohol.

The applicant's representative stated that this was an office and the application was to provide alcohol with restrictions which was infinitely more preferable to having TENs with no conditions or having free alcohol. Licensing policy 2 should not apply in this instance. The responsible authorities, noise and the police had not made any

comment other than to agree conditions. The Licensing Authority had made no representation. The responsible authorities considered that this was an exception. The other premises had no issues and for all of these reasons it was considered that this business could operate without causing additional impact. The practice of selling limited quantities of alcohol was entirely consistent with the licensing policy. There was the power to review the licence if necessary. Any variation to the licence would need a new application as the office was the primary use. He asked that the application be granted.

RESOLVED

That the application for a new premises licence, in respect of Runway East, 52-60 Tabernacle Street, EC2A 4NJ be refused.

REASONS FOR DECISION

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.

Conditions had been agreed with the police and the noise team. Three objections had been received that had been signed by four local residents.

The Sub-Committee heard from the licensing officer that planning permission for the outdoor space limited its use to between the hours of 9am and 6pm, Monday to Friday. Planning permission also limited the use of the whole space so that the serving of alcohol must be ancillary to the use as office space. The licensing officer confirmed that she had spoken to 11 of the signatories to the petition and they had all stated their opposition to the application.

The Sub-Committee heard evidence from a resident objector that the street was heavily residential with oversized single glazing windows. The street was very narrow with tall buildings leading to a noise canyoning effect. Residents were concerned about the proximity of the business and how customers would be dispersed from the premises. Residents were very alarmed to find out about this application for a late-night licence with 24 hour a day opening and a capacity of 160. The cumulative impact risked overwhelming them. Residents were concerned about the lack of information from the applicant as to what the business was, what it did and what it intended to do. Was it going to be a members' club? The website for the business heavily marketed the social perspective of the office space, with such a broad licence what would happen if the premises were sold on? The street

was at capacity with two large nightclubs already operating. There had been a lack of engagement with residents over their concerns.

The Sub-Committee heard from the applicants' legal representative that the primary use of the premises was use as office space. Any licensable activities would be incidental to the use of the premises as office space. The applicant had three locations in London and two in Bristol providing office space, meeting rooms, breakout areas and activities such as yoga, network lunches and quizzes. The premises would not be open to the general public. All customers were referred to as members and had membership agreements with business. TENs had been used with no reported issues. The cumulative impact policy should not apply. This was an office, not a high-volume vertical drinking environment. A licence would bring a significant degree of control to the premises. Before submitting the application, the applicant consulted with the police, the noise team and the licensing authority. The police said that the operating schedule was comprehensive. The clientele would be businessmen and women, not clubbers. There had been no issues with other premises, which indicated the high standards of management. It was confirmed that the premises would not be a members' club.

In response to questions, the applicants' Head of Operations gave some examples of the types of events at the premises: quizzes, treasure hunts around the building, life drawing, bingo, gaming, member mixer networking events, 'surprise and delight' events. The business would sell alcohol at some of these events but did not promote alcohol. The business had a constantly evolving business model but did not really see a need for a licence at 9am. Management of the premises included training programmes, monthly audits and general managers responsible for sites. Members are able to gain entry to the site using a fob key when reception is unmanned. Any guests would need to be signed in either by the receptionist or by remote security outside of reception opening hours. During an event, staff would be available on site but at other times alcohol could be purchased from the receptionist as there was a fridge containing drinks at reception. Once the receptionist had left, alcohol could not be bought unless it was a staffed event. There were no draught pumps or kegged beer. One of the surprise and delight events involved an 'in office' drinks trolley. These drinks were complimentary.

In response to questions the applicants' representative confirmed that there was not yet a finalised dispersal policy for the premises. The applicant would be tailoring a policy that already existed for similar premises, and could finalise it within 24 hours. They did not bring a final policy to the Sub-Committee as they wanted to keep the application simple. It was highly unlikely that 160 people would ever be leaving the premises at the same time. The Head of Operations confirmed that during events there would be staff on the door to count people entering and stop people entering as necessary. The Head of Operations confirmed that the premises did not operate an honesty bar, as indicated on their website, as there was a till at reception.

The Sub-Committee was concerned that the application failed to rebut the presumption set out in the cumulative impact policy, that applications for the grant

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of premises licences which are likely to add to the existing cumulative impact will normally be refused following the receipt of representations. The operating schedule failed to provide sufficient detail to satisfy the Sub-Committee that a premises licence for a venue with a capacity of 160, operating 7 days a week, would not add to the cumulative impact on one or more of the licensing objectives in the area.

The Sub-Committee concluded that the applicant had not demonstrated that the premises were set up to manage the type of event envisaged. There was a lack of detail and clarity in the operating schedule and the Sub-Committee was concerned that there were insufficient arrangements in place to ensure that the premises were well managed. The applicants' submissions that the cumulative impact policy should not apply were noted but the Sub-Committee was not convinced that the applicant's operating schedule was sufficiently comprehensive to allow any of the exceptions set out in the policy to be applied.

The Sub-Committee concluded that the operating schedule was so deficient that it could not be corrected by the imposition of conditions on a licence and that therefore it was necessary to refuse the licence in order to promote the licensing objectives.

The Sub-Committee was satisfied that refusing the premises licence was proportionate and appropriate to the promotion of the licensing objectives.

The meeting ended at 8.40 pm

CHAIR