

Licensing Sub Committee C - 22 November 2022

Minutes of the meeting of the Licensing Sub Committee C held at Committee Room 4, Town Hall, Upper Street, N1 2UD on 22 November 2022 at 6.30 pm.

Present: **Councillors:** Phil Graham, Anjna Khurana, Matt Nathan (Item B2) and Heather Staff.

Councillor Phil Graham in the Chair

- 10 **INTRODUCTIONS AND PROCEDURE (Item A1)**
Councillor Phil Graham welcomed everyone to the meeting. Members of the Committee and officers introduced themselves.
- 11 **APOLOGIES FOR ABSENCE (Item A2)**
There were no apologies for absence.
- 12 **DECLARATIONS OF SUBSTITUTE MEMBERS (Item A3)**
Councillor Nathan substituted for Councillor Staff substituted for Item B 2, Urban Social.
- 13 **DECLARATIONS OF INTEREST (Item A4)**
There were no declarations of interest.
- 14 **ORDER OF BUSINESS (Item A5)**
The order of business would be as the agenda.
- 15 **MINUTES OF PREVIOUS MEETING (Item A6)**
RESOLVED:
That the minutes of the meeting held on the 5 July 2022 be confirmed as an accurate record of proceedings and the Chair be authorised to sign them.
- 16 **THE EMPRESS, GROUND FLOOR AND BASEMENT, 360 ST JOHN STREET, EC1V 4NR - NEW PREMISES LICENCE (Item B1)**
The Sub-Committee noted that this item had been deferred to a future meeting.
- 17 **URBAN SOCIAL, GROUND FLOOR, 242 UPPER STREET, N1 1RU - NEW PREMISES LICENCE (Item B2)**
The licensing officer stated that supporting information submitted on behalf of the interested parties had been submitted and was detailed at Appendix 3 of the report. The application was to be heard on the 13 October but had been adjourned for the applicant to consider this document. The licensing team had carried out a

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compliance visit on No 236 Upper Street, as had been requested, and had found no issues or breaches. The visit had raised no concerns.

The Chair of the Sub-Committee asked that the interested parties summarise their key points but asked that comments be made about 242 Upper Street, as this was the application that was before members. The interested parties' representative stated that this premises was in a cumulative impact area and that the exceptions in the policy did not include good management. There was nothing to support that the premises would be well run. This could be evidenced by the receipt of noise complaints, the lack of age verification and the sale of alcohol outside hours at 236 Upper Street. At a recent compliance check, there had been no alcohol for sale. Conditions had been proposed to address concerns eg restrictions to the sale of high strength alcohol and Challenge 25, but management had failed to comply with conditions in this premises. There was nothing in the application to suggest that this was an exception to the cumulative impact area. The operator had failed to comply to the high standards of management expected. He stated that there was a lack of compliance on the part of the applicant and he considered that the licence at 242 was therefore unlikely to be complied with.

In response to questions, it was noted that residents were considering a review of No 236. The representative stated that the applicant had been seen not to operate the age compliance scheme and had demonstrated a lack of compliance in the operation of the premises. The Sub-Committee noted that evidence of a lack of compliance had not been put forward from the responsible authorities.

The licensing officer stated that a compliance inspection had taken place at 9.45 am. There was no alcohol on display. The officer returned at 11.55 and ascertained from a member of staff that refresher training had recently been given. No 236 was not a late night premises and alcohol was rarely sold. The licensing officer considered that responses given by staff were deemed to be satisfactory and he had no further concerns. Further checks would be made as necessary.

In response to further questions, it was stated that the licence had been in place for 14 months and the residents considered that there had been problems since that time. The residents said that an application had been made in May 2021 which was refused due to the operator failing to comply with planning restrictions and the noise issues. A resident stated that there had been a history of non-compliance, rubber stops had only recently been placed under chairs. Commitments made by management was not done. There had been five complaints made to the enforcement officer. They were now paying someone to do the checks and he considered that the licensing team would have found non-compliance if they had checked the premises.

The applicant's representative stated that this was an application for a premises licence at 242 Upper Street and was not an application to extend or review the licence at 236. The premises were a small restaurant and it was planned to sell middle eastern food. Alcohol was to be sold ancillary to food and there would be no vertical drinking. The premises had previously been an off licence. The hours

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sought were within framework hours. Regarding the cumulative impact, the premises was small, operated within framework hours, was of mixed use and was not alcohol led. Applications were encouraged for mixed use venues and all patrons would be seated. There had been no objections from the responsible authorities and in the Home Office guidance it stated that they would be the main source of advice. The residents had not objected in relation to 242 Upper Street. All of the witness statements applied to No 236. There had been no review proceedings against No 236. It was accepted that there had been minor breaches in relation to conditions, a sale of over proof beers in error on one occasion, a sale outside hours in the morning and lack of verification signs. Two patrons had not been challenged regarding their age but they were not underage. No 242 was to be a small scale restaurant with alcohol ancillary to the main use and fitted within an exception. Complete Licensing were not present at the meeting. He did not consider this to be an expert report. The report asked members to revoke a licence which was not under consideration. The purchase tests had not been independent and he considered that the report was designed to obfuscate rather than assist the Sub-Committee.

In response to questions, the Sub-Committee noted that Complete Licensing were not present at the meeting and could not respond to questions from the Sub-Committee. Complete Licensing had been paid by those making representations. Issues at 236 had been resolved. Training had been given by a consultant and was on going. One table had been missing a rubber foot and this had been addressed. Two fridges with locks had been purchased, one for each premise.

In summary, the residents' representative stated that it was likely there would be animosity due to interactions with the operator. The history of lack of compliance gave an indication how No 242 would be run. Management standards fell short when looking for an exception to the cumulative impact policy. When carrying out test purchases, volunteers had not been checked for age.

The applicant's representative stated that this was a restaurant which was to operate within framework hours and fitted comfortably within the exceptions. Use was already established. There had been no representation made by the responsible authorities, who were the experts. A glossy and unregulated brochure had been produced which recommended revocation. This was irrelevant as statements referred to another premises. Complete Licensing were not present at the meeting. The police had not objected.

RESOLVED

- 1) That the application for a new premises licence, in respect of Ground Floor, 242 Upper Street, N1 1RU, be granted to allow:-
 - a) The supply of alcohol, for consumption on and off the premises from 11 am until 11pm Monday to Sunday.
 - b) The premises to be open to the public from 6am until 11pm Monday to Sunday.

- 2) That conditions detailed on page 154 to 156 of the agenda shall be applied to the licence.

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

Five local resident objections had been received as witness statements prepared by Complete Licensing. There had been no representations made by the responsible authorities.

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

The Sub-Committee noted that the submissions from the interested parties related to 236 Upper Street. The interested parties submitted that the evidence relating to the applicant's operation of the premises at 236 did not meet high standards of management as required by Islington's Licensing Policy. The Sub-Committee noted that the documents from Complete Licensing identified some breaches of licensing conditions at 236 Upper Street. The Sub-Committee also noted that the applicant accepted that breaches had occurred and took action to address these. The Sub-Committee also took into account the recent compliance visit to 236 Upper Street by the licensing team and their report that there were no breaches or issues of concern.

The Sub-Committee noted that the application was for a small restaurant where alcohol would be ancillary to food. The Sub-Committee also noted that there were no resident submissions in relation to the premises at 242 Upper Street. The Sub-Committee gave weight to the fact that no representations had been made by the responsible authorities who were the main source of advice on the licensing objectives.

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 premises would not add to the cumulative impact in the Angel and Upper Street cumulative impact area. The Sub-Committee decided that the proposed operation would fall within the exceptions identified in the licensing policy in that it

was a small premises operating within framework hours for mixed use and not alcohol led.

The Sub-Committee was satisfied that granting the premises licence was proportionate and appropriate and the licensing objectives would be promoted.

18 **THE ROASTING SHED, 322 HORNSEY ROAD, N7 7HE - NEW PREMISES LICENCE (Item B3)**

The licensing officer reported that the Licensing Authority and the Police had submitted representations but these had been withdrawn following conditions agreed with the applicant.

The resident stated that she was only concerned about proposed condition 13. She said that the smell of burning coffee was very different to the smell of roasting coffee. There had been a bakery at the premises previously and this had been a pleasant smell. She stated that during operating hours they were unable to open the windows. The smell was difficult to record. The Environmental Health officer had stated that the smell was inconsistent and she was concerned about the long term effect on her health due to the particles emitted. They had spoken to the owner and he had stated that the equipment was the best, however she felt that the equipment was not good enough.

In response to questions, the resident stated that she had no objection to the sale of alcohol but considered that condition 13 would not be satisfied. The Chair stated that the resident should try to achieve a resolution through the Environmental Health team. The applicant had accepted a condition that no odour would be emitted from the premises that would cause a nuisance to neighbours.

The applicant's representative stated that this was a case where there was an alleged nuisance from the smell of coffee but this did not have any bearing on the licensing objectives or the sale of alcohol. Condition 13 had been proposed from the outset. The applicant had a state of the art extraction system. The Environmental Health team had visited and had not objected. He considered that this was an exception to the cumulative impact policy and asked that the licence be granted as sought.

In response to questions, it was agreed that deliveries to local businesses could be by non-motorised vehicle. It was stated that the extraction system was bespoke. The carbon filters were changed every six months and there would be weekly and daily cleaning. If readings increased, the applicant may need to add an additional carbon filter.

In summary, the resident hoped that matters could be resolved. The applicant agreed to the amended wording regarding local deliveries and stated that the applicant would use their best endeavours regarding other deliveries.

RESOLVED

- 3) That the application for a new premises licence, in respect of The Roasting Shed, 322 Hornsey Road, N7 7HE, be granted to allow: -
- c) The sale of alcohol for consumption on the premises from 4pm to 10pm Monday to Sunday.
 - d) The sale of alcohol off the premises from 10am until 10pm Monday to Sunday.
 - e) The premises to be open to the public from 7am until 10pm Monday to Sunday.
- 4) That conditions detailed on pages 196 - 199 of the agenda shall be applied to the licence subject to the following amended condition to replace Licensing Authority condition 1 detailed on page 199.
- The premises licence holder will ensure that all local deliveries that include alcohol shall be by non-motorised vehicles. The premises licence holder shall use best endeavours to ensure that all other deliveries that include alcohol shall be by non-motorised vehicles.

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 Holloway 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.

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

One local resident objection had been received. There had been representations made by the responsible authorities but conditions had been agreed.

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

The Sub-Committee heard evidence from the interested party that the only issue of concern was the smell of coffee roasting at the premises. The Sub-Committee noted that the interested party and the applicant were liaising with Environmental Health to address this issue.

The Sub-Committee noted that the applicant had agreed to condition 13 and that would address any nuisance at the premises. The Sub-Committee also noted that the applicant agreed that all local deliveries should be made by non-motorised vehicles.

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 premises would not add to the cumulative impact in the Holloway and Finsbury Park cumulative impact area. The Sub-Committee decided that the proposed operation would fall within the exceptions identified in the licensing policy in that it was not alcohol led and the hours of operation were consistent with framework hours. The Sub-Committee also decided that the premises fell within an exception to the cumulative impact policy for off sales of alcohol in that it was a specialist premises selling alcohol ancillary to the main activity of its business.

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

19 **CAFE G, 187 SEVEN SISTERS ROAD, N4 3NG - NEW PREMISES LICENCE (Item B4)**

The Sub-Committee noted that this item had now been agreed by all parties.

The meeting ended at 8.05 pm

CHAIR