

London Borough of Islington

Licensing Sub Committee C - 13 November 2018

Minutes of the meeting of the Licensing Sub Committee C held at Committee Room 4, Town Hall, Upper Street, N1 2UD on 13 November 2018 at 6.30 pm.

Present: **Councillors:** Rowena Champion, Vivien Cutler and Matt Nathan.

Councillor Rowena Champion in the Chair

- 20 **INTRODUCTIONS AND PROCEDURE (Item A1)**
Councillor Champion welcomed everyone to the meeting and officers and members introduced themselves. The procedure for the conduct of the meeting was outlined.
- 21 **APOLOGIES FOR ABSENCE (Item A2)**
There were no apologies for absence.
- 22 **DECLARATIONS OF SUBSTITUTE MEMBERS (Item A3)**
There were no declarations of substitute members.
- 23 **DECLARATIONS OF INTEREST (Item A4)**
There were no declarations of interest.
- 24 **ORDER OF BUSINESS (Item A5)**
Item B1. Shell Service Station, 276 Upper Street, London, N1 2TZ had been withdrawn from the agenda. The order of business would be B2, B3 and B4.
- 25 **MINUTES OF PREVIOUS MEETING (Item A6)**

RESOLVED:
That the minutes of the meeting held on 11 September 2018 be confirmed as an accurate record of proceedings and the Chair be authorised to sign them.
- 26 **SHELL SERVICE STATION, 276 UPPER STREET, LONDON, N1 2TZ - NEW PREMISES LICENCE APPLICATION (Item B1)**
RESOLVED:
That it be noted that this item had been withdrawn from the agenda.
- 27 **LE CELLAR, 130 ST JOHN STREET, EC1V 4JS - NEW PREMISES LICENCE APPLICATION (Item B2)**
The licensing officer stated that a copy of the applicant's business plan and a letter had been sent to the sub-committee and interested parties.

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Two residents were in attendance and stated that they were not aware of any premises in the area with outside seating until 10pm and they were concerned about potential broken bottles, the walkway being impeded and noise at closing time. Concern was raised about the density of local licensed premises and their impact, in particular the noise at closing time and litter left by smokers at the entrance to Leo's Yard as well as smokers congregating outside one of the resident's premises when it was raining due to there being shelter from the balcony above. One of the residents had a child that was regularly woken up by the noise of those leaving licensed premises on Great Sutton Street. Concern was raised that Le Cellar would become a quasi-nightclub/bar and that granting this licence would add to the congestion at the narrow and already congested junction of Great Sutton Street and St John's Street.

The applicants stated that the premises had previously been licensed. The application hours were within the core hours and the premises would not become a late night venue. The premises was a fine dining restaurant and was not a pub. Wine would be sold as small measures only (125ml), there would be no drinks promotions and the premises had restricted the number of patrons to 39. There would be two tables outside with no more than six seats in total. The applicants did not want a restriction on alcohol only being served with food as they wanted to offer wine tastings.

One of the applicants had 15 years' experience as a sommelier and the other had had been a health and safety manager. They stated that they both had a personal licence and there would be a licence holder on the premises at all times.

The applicants stated that in order to promote the licensing objectives, there would be CCTV inside and outside the premises, table service outside would reduce noise and staff would go outside as soon as someone sat down, the outside tables and chairs would be removed by 10pm, staff would be well managed, there would only be background music, patrons would be asked to leave quietly and a Challenge 25 policy would be operated.

In response to members' questions, the applicants advised that a 125ml glass of wine would cost between £6 and £10, it was anticipated that those just having a drink would stay for approximately 30 minutes and those dining would spend approximately 2 hours in the premises. In addition, the outside tables and chairs would not be out in winter, there would be no awning or outdoor heaters, smokers would be reminded to be quiet and a sign asking them to be quiet outside would be placed on the door. The applicants stated that residents who experienced any issues, could contact them and they would seek a solution.

In response to a member's question as to whether rendering the outside tables and chairs unusable by 9pm would resolve the residents' issues, they stated it would not.

RESOLVED:

That the application for a new premises licence in respect of Le Cellar, 130 St John Street, EC1V 4JS be granted

- 1) To allow the sale by retail of alcohol, on and off supplies, from 11.00 until 22:30 Monday to Thursday and from 11:00 until 23:30 on Friday and Saturday.
- 2) Opening hours to be:- 08:30 to 23:00 on Monday to Thursday and 08:30 to 00:00 Friday and Saturday.

Conditions detailed on pages 115 and 116 of the agenda shall be applied to the licence with condition 15 amended to read "The outdoor seating area shall be restricted to 6 people and

until 10pm. Any tables and chairs shall be taken out of use and rendered unusable **by 22:00**".

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

Eight written objections from local residents had been received and two interested parties were in attendance at the hearing. There had been no representations made by the responsible authorities. The Sub-Committee noted that the premises would hold 39 customers and that it was proposed there would be two outside tables with a capacity for six people. The Sub-Committee were satisfied that this was a small operation and that the applicants had reduced the number of outside tables in their application.

The interested parties raised concerns about the proposed outside seating, smokers gathering outside the premises, noise nuisance and an increase to the cumulative impact in the area. The Sub-Committee noted these concerns but were satisfied by the submissions put forward by the applicants and the details of their operating schedule that the licensing objectives would be promoted.

The Sub-Committee considered that the application fell within an exception to the Bunhill cumulative impact policy in that it would encourage people to stay in the area after work and support the wider cultural offer in the area. The proposed hours of operation were consistent with framework hours and the applicants had demonstrated a high standard of management.

The Sub-Committee considered whether the outside tables should be rendered unusable by 9pm but noted that the interested parties did not consider that this would reduce any impact caused by the operation of the premises. The Sub-Committee amended condition 15 to clarify that the outside tables should be taken out of use and rendered unusable by 10pm.

The Sub-Committee concluded that the premises would not add to the existing cumulative impact in the Bunhill area and that there would be no negative cumulative impact on the licensing objectives.

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BEIJING AROMA, 2-3 NORTH VIEW PARADE, LONDON, N7 0QA - NEW PREMISES LICENCE APPLICATION (Item B3)

The licensing officer advised that the applicant was not in attendance, no correspondence had been received to say that he could not attend and there was no representative in attendance. An interested party was in attendance to object to the application.

The Sub-Committee considered that there were matters arising from the papers that required clarification and therefore the item should be adjourned and the applicant should be requested to attend the sub-committee when the item was to be heard.

RESOLVED:

That the item be adjourned.

29 ZUZU, 367 HOLLOWAY ROAD, LONDON, N7 0RN - NEW PREMISES LICENCE APPLICATION (Item B4)

The licensing officer reported that an additional representation had been sent to the sub-committee and interested parties and that the applicant had accepted the Trading Standards conditions on page 196 of the agenda.

The licensing authority raised concerns that although the premises was in the Holloway/Finsbury Park Cumulative impact area, this was not referenced in the operating schedule and the terminal hour was in excess of the policy hours with no explanation given for this.

The licensing authority provided an update on visits officers had made to the premises on Thursday 8 and Friday 9 November 2018. On 8 November, the officers visited the premises to advise the applicant that the TEN he had applied for in relation to the following weekend had not been approved. Whilst there, the officers found that alcohol was being sold without a licence. The applicant was also advised he was not permitted to sell alcohol on 9, 10 and 11 November as the TEN had not been approved. Officers advised that he could allow patrons to bring their own alcohol.

The licensing authority advised that officers revisited the premises on 9 November and customers were drinking alcohol and there was a beer tap providing the brand of beer the customers were drinking. The applicant advised them that the customers had brought the alcohol with them but was unable to produce the empty containers when asked. Officers noticed the till had recorded sales of the alcohol and the applicant was unable to explain this. The sub-committee was provided with a photo of the till recording and this was shown to the applicant.

The licensing authority had previously considered that the application could be viable with the conditions proposed but since the visits, questioned the management of the premises and considered that no responsibility was being taken. Therefore the licensing authority now suggested that the application should be refused.

Two residents were in attendance and they raised concern about noise from the premises that could be heard in their homes above the premises. They had complained to the applicant a number of times and despite assurances that this would be rectified, it had not been. One resident had called the noise out of hours team several times and following a visit from the noise team during a belly dancing evening at the premises, the speakers in the ceiling were no longer used. However, there was still no sound insulation in the ceiling and music, people speaking and furniture being moved could all be heard in the resident's home. The resident raised concern about the applicant being untrustworthy and requested that the soundproofing that had been removed by the previous owners should be reinstated and approved by an independent expert.

The applicant stated that he had not made any changes to the ceiling or speaker system since buying the premises a year ago. He believed the premises had a licence when he

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bought it and raised concern that he had not been advised it had not at the time of purchase. He stated that he had bought the premises with good intentions. He had spent £160,000 refurbishing the premises but after a few months, discovered that the business was not making enough money to pay the bills and the bailiffs had visited. In the last few months he had held belly dancing nights. The dancing with music had taken place between 8pm and 8.15pm. He had not realised that the music was loud enough to affect the resident upstairs. The noise officer had visited and advised the applicant not to use the speakers in the ceiling and to buy a small stereo and place this on top of the counter. The applicant stated that he had done this and had used it since. However, he had now stopped holding the belly dancing evenings as they had not been profitable. The applicant explained that he was struggling financially.

The applicant explained that he had cancer, had psoriasis and had recently had a heart attack. He had spent three months in hospital and was suffering from stress. He had been advised not to return to work so early but financially he had no option. He had two sons to support.

One of the applicant's representatives stated that he had run the premises for 20 years prior to the applicant taking over. He had paid for the alcohol licence for the last ten years but a clerical error meant it was in the wrong name. The council had not visited the premises during this time.

The applicant raised concern that if he operated a bring your own alcohol scheme, people would drink more alcohol than if they were sold it on the premises. He stated that he was willing to work with neighbours and if he had no licence he feared he would have to close and would lose all his savings. He did not have the money to pay his VAT bill or rent. He had made a mistake playing loud music. The applicant explained that he had previously run a restaurant in Kensington Gardens and had worked for the National Trust.

The sub-committee stated they were sorry to hear about the applicant's health problems. A member questioned why the applicant sold alcohol on 9 November when he was advised not to the previous day. The applicant stated that he had been advised to apply for a TEN. He had mixed up the days and had taken a nap in the office during which time the member of staff had sold two beers. He was shocked by this.

In response to a question from a member, the applicant stated that when he had applied for a licence he had copied across the details from the old one and had not changed anything.

The chair advised the applicant that selling alcohol without a licence was a serious matter. The applicant stated this was not done intentionally. This was the first time one of his TENS had been refused. He had not noticed the refusal notice.

The licensing authority confirmed that the TEN had not sought to sell alcohol on Thursday 8 November and so alcohol was sold that day without a licence. A member asked the applicant why he sold on Thursday 8 November without a licence and advised that he sometimes had a TENS for Thursdays. He stated that on Friday 9 November, the member of staff assumed that they had a licence as they sometimes had a TEN for Fridays.

The applicant stated that if the Sub-Committee considered he was not suitable to manage the premises, he would be unemployed. He was willing to do what he could. He confirmed that he held a personal licence.

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The licensing authority summed up stating that the main issue concerned the applicant not taking responsibility. The noise conditions had been agreed and the noise officer considered that these were sufficient. The licensing authority were concerned that the applicant did not have an understanding of the importance of only selling alcohol with a licence. The advice of officers had not been followed.

One of the residents summed up stating that she was sorry to hear about the applicant's health. When she had explained to the applicant that she would be obliged to complain in the event of noise issues, the applicant had said he would resolve the issues but he had not. She questioned why the website still said belly dancing took place and one of the applicant's representatives said she had not had a chance to update the website. The interested party stated that she could not regard the applicant as trustworthy.

One of the applicant's representatives, who had run the premises for 20 years, stated he was willing to go on the licence and could assist the applicant.

RESOLVED:

That the application for a new premises licence in respect of Zuzu, 367 Holloway Road, London, N7 0RN be refused.

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 received updated information from the licensing authority following visits to the premises on 8 and 9 November 2018. The Licensing Sub-Committee were concerned that alcohol had been sold at the premises on 8 November when no TEN was in place. Further, and of greater concern, was that when officers returned to the premises on 9 November 2018 sales of alcohol had taken place. This was following advice that no alcohol should be sold when a licence was not in place and the applicant had been provided with this advice only the day before.

The Sub-Committee noted the explanation offered by the applicant that the sale on 9 November had been made by a female member of staff whilst he was in the office. However, the Sub-Committee concluded that the applicant had failed to ensure high standards of management at the premises, he had failed to action the advice provided by officers and had not taken responsibility to ensure that sales of alcohol did not take place on the premises whilst a licence was not in place.

The Sub-Committee acknowledged that the applicant had recently experienced health problems. However, the Sub-Committee were concerned that the applicant had not demonstrated high standards of management required under Licensing Policy 8. The Sub-Committee were concerned that the applicant had not understood the legal requirements of the Licensing Act 2003 and had not implemented advice given to him very recently by the Licensing Authority. Licensing Policy 8 states that the Licensing Authority is unlikely to grant a new premises licence unless there is significant improvement in management standards.

The Sub-Committee considered whether the imposition of conditions would promote the licensing objectives. However, as the applicant had failed to demonstrate that he could follow the advice of licensing officers the Sub-Committee were concerned that he would not

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be able to comply with the proposed conditions. Therefore, the imposition of conditions was not appropriate.

The Sub-Committee concluded that in order to promote the licensing objectives, the application should be refused. The applicant had been witnessed to be selling alcohol without a licence on two occasions and his own actions had breached the prevention of crime and disorder licensing objective. The Sub-Committee were not satisfied that the applicant would take the necessary steps to promote all the licensing objectives and therefore concluded that it was reasonable and proportionate to refuse the application.

The meeting ended at 8.35 pm

CHAIR