

Licensing Sub Committee A - 23 April 2019

Minutes of the meeting of the Licensing Sub Committee A held at Committee Room 4, Town Hall, Upper Street, N1 2UD on 23 April 2019 at 6.30 pm.

Present: **Councillors:** Gary Poole (Chair), Michelline Ngongo (Vice-Chair)
and Ben Mackmurdie

Councillor Gary Poole in the Chair

51 INTRODUCTIONS AND PROCEDURE (Item A1)

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

52 APOLOGIES FOR ABSENCE (Item A2)

None.

53 DECLARATIONS OF SUBSTITUTE MEMBERS (Item A3)

There were no declarations of substitute members.

54 DECLARATIONS OF INTEREST (Item A4)

There were no declarations of interest.

55 ORDER OF BUSINESS (Item A5)

The order of business would be as the agenda.

56 MINUTES OF PREVIOUS MEETING (Item A6)

RESOLVED:

That the minutes of the meeting held on 19 February 2019 be confirmed as an accurate record of proceedings and the Chair be authorised to sign them.

**57 MARKS AND SPENCERS SIMPLY FOOD LTD, 201-203 OLD STREET, EC1V
9NP - NEW PREMISES LICENCE (Item B1)**

The licensing officer reported that the public health team had withdrawn their representation. The premises was in the Bunhill cumulative impact area.

The licensing authority reported that the premises were located in the Bunhill cumulative area. Concern was expressed that there were a large number of premises in the area selling alcohol which had a large impact on local residents in terms of nuisance. The Sub-Committee should consider whether to deviate from the policy in this instance.

In response to questions, the licensing authority stated that the applicant had addressed issues through the addition of conditions. There was still the issue regarding opening hours as it stated in licensing policy 6 that premises in close proximity to schools should

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commence the sale of alcohol at 10am. The Sub-Committee noted that Shell UK, which was in close proximity to this premises, had recently been granted a licence from 8am.

The applicant stated that the issue to determine were the appropriate hours. He considered that the exception to the policy had been met. Prior to the application he had asked the licensing team for the appropriate start time and had been informed that 8am would be sufficient. The police were concerned with crime and disorder and proposed conditions 12 and 13 had been agreed with them. He had noted that with the Shell UK application, the licensing authority had withdrawn their objection and he asked that there be a consistent application of the licensing policy. This was to be a new store, with a display area of 15% for alcohol which was ancillary to the convenience offering. There would be no external advertising of the alcohol and no encouragement offer. The pricing level would not attract vulnerable people and the store would provide local employment. There would be CCTV and there would be a number of people on the shop floor. There were Challenge 25 procedures in place. He asked that the application be granted as proposed conditions would meet all concerns.

The Chair of the Sub-Committee stated that Shell UK was a different type of business as the business primarily sold petrol and alcohol was a smaller part of the offer. In response the applicant stated that their gross sales of alcohol was 10% across the estate. Very little alcohol would be sold between the hours of 8am to 10am however, they wished to offer customers a flexibility of choice as some customers would buy alcohol with food on the way to work. It would be rare for customers to buy alcohol only. He also stated that vulnerable people did not usually buy at Marks and Spencer as there were other, cheaper premises nearby. This was not an experience they'd had in their other shops in cumulative impact areas. They were applying for these hours in order to give a choice to their customers so that if they wanted to purchase alcohol with their evening meal they would not need to make a second trip or to buy it elsewhere. They had 700 licensed stores all, apart from one, which were open from 7 or 8am. Some stores sold from 6am in the run up to Christmas. No problems had been experienced with these stores and Marks and Spencer were confident there would be no issues. It was noted that many Marks and Spencer stores had 8am opening hours in line with the statutory hours under the 1964 Licensing Act although in some areas they had applied for earlier opening.

RESOLVED

- 1) That the application for a new premises licence, in respect of Marks and Spencer Simply Food Ltd, 201-203 Old Street, EC1V 9NP be granted to allow:-
 - a) The supply of alcohol, for consumption off the premises from 8am until 11pm Monday to Sunday.
 - b) Opening hours to be:- Monday to Sunday from 6am until 11pm.

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

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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.

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

There were no local resident objections to the application. The Sub-Committee noted that the police had proposed conditions that had been agreed by the applicant and that Public Health had withdrawn their representation.

The licensing authority had submitted a representation and had confirmed that this was in relation to the hours sought and not the grant of the licence itself. The licensing authority stated that the premises were in a cumulative impact area with a large number of licensed premises and that it was a matter for members to decide whether to deviate from the policy. The licensing authority referred to licensing policy 6 in relation to framework hours for premises selling alcohol in close proximity to schools.

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

The Sub-Committee noted that detailed conditions had been proposed by the applicant including conditions in relation to super strength alcohol, the sale of miniatures, staff training and the use of Challenge 25. It was also noted that no more than 15% of the sales area would be used for the sale or display of alcohol and that it was envisaged that there would be very little alcohol sold between 8am and 10am and that the licence was sought for these hours just to provide flexibility of choice for customers.

The Sub-Committee concluded that with the conditions proposed by the applicant and agreed with the police the granting of the licence would promote the licensing objectives. The Sub-Committee was satisfied that the applicant had demonstrated that there would be no negative cumulative impact.

The Sub-Committee therefore concluded that it was reasonable and proportionate to grant the application.

The meeting ended at 7.15 pm

CHAIR