

**Licensing Sub Committee B - 19 November 2020**

Minutes of the meeting of the Licensing Sub Committee B held by Zoom on 19 November 2020 at 6.30 pm.

**Present:**      **Councillors:**      Phil Graham (Chair), Cutler (Vice-Chair) and Nathan

**Councillor Phil Graham in the Chair**

**198      INTRODUCTIONS AND PROCEDURE (Item A1)**

Councillor Phil Graham welcomed everyone to the meeting and introduced officers and members. The licensing officer introduced himself, the applicant and the interested parties. The procedure for the conduct of the meeting was outlined.

**199      APOLOGIES FOR ABSENCE (Item A2)**

None.

**200      DECLARATIONS OF SUBSTITUTE MEMBERS (Item A3)**

There were no declarations of substitute members.

**201      DECLARATIONS OF INTEREST (Item A4)**

There were no declarations of interest.

**202      ORDER OF BUSINESS (Item A5)**

The order of business would be as the agenda.

**203      MINUTES OF PREVIOUS MEETING (Item A6)**

**RESOLVED:**

That the minutes of the meetings held on the 15 September 2020 and 22 September 2020 be confirmed as an accurate record of proceedings and the Chair be authorised to sign them.

**204      JAVA HOUSE, 236 HORNSEY ROAD, N7 - NEW PREMISES LICENCE (Item B1)**

The licensing officer reported that further information from the applicant and an email from the police setting out the latest position had been circulated. These would be interleaved with the agenda papers.

The police officer stated that one condition was still under discussion. The applicant was asking that 15 patrons may be served alcohol without a table meal and the police were not happy to agree this condition. The police had initially asked that the number of 3 be agreed but this had not been accepted by the applicant and

remained outstanding. He considered it appropriate for the Sub-Committee to consider.

The noise officer agreed with the police regarding this outstanding condition and stated that after 9pm, with the full capacity of the premises, about half of the patrons could drink without a meal and it would move towards a bar rather than a restaurant. Also he had not been able to agree ambient noise conditions and if background music could not be agreed by the applicant, the noise team would need to suggest further noise limiting conditions. He had concerns that if background music could not be agreed it would allow the premises to become a bar in the future.

In response to questions, the noise officer stated if music was background only there should be no noise disturbance but as the applicant had not agreed a background music condition he could only assume that music would be set at a louder volume.

A local resident stated that he objected on the basis of the prevention of public nuisance. Noise from patrons would increase to the detriment of residents. There was already a public house opposite which had a negative impact on the area. Concerns were raised regarding male patrons standing around outside, smoking, spitting and littering. He considered that the applicant was not a fit and proper person who did not seem willing to address these issues. The premises played loud music and neighbours could already hear thumping through uninsulated premises. The door opened frequently allowing noise escape. Machinery created noise and vibration which was discernible in neighbours premises. There was a large plate glass window with no sound proofing and anti-social behaviour had been reported on a number of occasions. There were 15 licensed premises nearby and if this licence was granted it would negatively impact on the area. The applicant's premises already produced excess noise late at night, litter placed outside collection hours, loitering and harassment of passers-by. There would be excessive licensing hours. There was a large extension at the rear with no planning consent. Groups of patrons were intimidating and police had been called to adjacent premises. There had been no fire risk assessment for the extension. Taxi cabs had been used during lockdown. A late night licence would increase disturbance. This would cause an unacceptable deterioration of quality of life. Regarding the building at the rear there was no building control and the garden had previously been used as a barbers.

Councillor O'Sullivan speaking on behalf of another resident stated that anti-social behaviour had been happening for a number of years. He agreed with the police concern that this could be a bar rather than a restaurant. He was concerned about the shisha smoking and the fire risk in the wooden structure.

In response to questions, a local resident stated that the whole application was badly thought through and the premises was in the wrong place made by the wrong person with the wrong type of clientele. The premises had previously been a Greek restaurant which no problems and this was a complete change of scale and activity. The licensing officer reported that the previous owners had not obtained building

control approval and the applicant would need to obtain retrospective permission. He had emailed through an updated plan. The planning department was not currently taking enforcement action.

The applicant's agent stated that although this was a new licence there was a licence in place already and this was effectively a variation as the previous licence was not fit for purpose. The previous licensee, (not the Greek restaurant) had not been a responsible operator and this applicant had taken over earlier this year. The new application has modernised the licence with conditions fit for 2020. They had engaged with the police and noise team and had proposed extensive conditions regarding capacity, CCTV, vertical drinking and dispersal. The difference they held with the police is that they would wish for a food exception for 15 people. These were likely to be regular customers and it was considered not to be unreasonable considering the conditions proposed. If the licence was not granted a new plan would have to be submitted for the previous licence which would not have the same restrictions. He would contest that this would change the proposal to a bar as patrons could not stand and drink. The application would not add to the cumulative area with the measures in place. The planning situation was a matter for the planning authority and the fire safety issue would be addressed. There were conditions relating to noise and littering. The rear area would be closed at 9pm. The police may have been called to other premises but that was irrelevant to this application. This was a robust licence and issues could be dealt with by review which would not be the case with the existing licence.

In response to questions regarding capacity the applicant's agent stated that the plan submitted overstated the loose seating. The capacity inside and out would be 50 when the back was open and the number of 15 served without food would not be reached every time. The police had proposed 3 people in the bar and the applicant had proposed 15 but would be open to options. He considered that the number of 15 did not seem outrageous. The police clarified that he had proposed that a total of three people could sit at the bar whilst waiting to be served a table meal. He had visited the premises and it had seemed that three people would be comfortable around the bar area and this number seemed reasonable if the bar was busy. The terrace at the rear had been built on by the previous owners. Shisha would be smoked in the rear external area. Smokers could use the rear area up until 9pm but after that time they would need to smoke out the front. They proposed that there be 5 smokers out the front at any one time. It was noted that it was public highway at the front and smoking outside could not always be controlled although the applicant could refuse entry to their premises if necessary. The new applicant had put measures in place regarding litter and anti-social behaviour.

In summary the police stated that this licence, if granted, would offer more safeguards than the current licence however the proposal to have 15 patrons drinking without food was not a restaurant condition. The noise officer raised concerns that the applicant had not agreed to have music at background levels. A local resident stated that regulars were unpleasant and shouted non-stop in the rear garden area. The noise reverberated and the smoking triggered the fire alarm.

There were a large number of people out the back each day and it had been very unpleasant for the past 18 months.

The applicant's agent stated that the licensee had not been at the premises for 18 months. It was simpler to have a new licence rather than a variation and nothing had been added except the proposal to have 15 people drinking without food and there was no intention to do so. If the licence was not granted there would be a dysfunctional licence in place. They had asked for 15 people and the police had stated 3. The Sub-Committee could consider what was reasonable in the circumstances. The applicant would like 15 persons but could accept 10.

### **RESOLVED**

- 1) That the application for a new premises licence, in respect of Java House, 236 Hornsey Road, N7 7LL be granted to allow:-
  - a. The provision of recorded music on Monday to Saturday from 10am to half past midnight and on Sunday from 12 noon until midnight.
  - b. The provision of late night refreshment on Monday to Saturday from 11pm until half past midnight and on Sunday from 12 noon until midnight.
  - c. The sale of alcohol on the premises, Monday to Saturday from 10am until midnight and on Sunday from 12 noon until 11.30pm.
  
- 2) That conditions detailed on pages 66 to 70 of the agenda shall be applied to the licence with the following amendments:-
  - There be no more than three smokers in front of the venue at any time.
  - Condition 16 on page 67 to read. A maximum of 3 patrons may be served alcohol at any time while they are not waiting for a table meal at the premises.
  - Background music only to be played at the premises.

### **REASONS FOR DECISION**

This meeting was held under regulations made under the Coronavirus Act 2020 and it was facilitated by Zoom.

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

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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 noted that although this was a new application the premises did already hold a licence.

The Sub-Committee heard evidence from the police that whilst the applicant had been engaging with them and had agreed some conditions it had not been possible to reach agreement in relation to the proposed condition that up to 15 patrons could drink alcohol without having a table meal. The police expressed concern that this was moving the premises away from being a restaurant and more towards being a bar and this was not a matter for the police to agree. The Sub-Committee noted that the police officer had visited the premises and was of the view that three people could be seated at the bar, and that the police had proposed to the applicant a condition that up to three people could drink at the bar whilst awaiting a table meal.

The Sub-Committee heard evidence from the noise team that they were also concerned that the proposal to allow up to fifteen drinkers at the bar meant that the premises had the potential to be a bar in the future. The noise team was also concerned that the applicant was not prepared to agree that the premises would play ambient music only. The applicant had not confirmed what volume they intended to play music and so it was impossible to agree levels. The noise team was concerned that in these circumstances it could be necessary to impose conditions beyond those ordinarily attached to a restaurant licence.

The Sub-Committee heard evidence from local residents that granting the licence would increase noise and nuisance in the area. Local residents were concerned about groups of men loitering outside the premises, smoking, spitting and littering. Local residents were also concerned about music late into the night as the premises was not insulated and residents were already disturbed by noise and vibrations from machines. Local residents complained that there had already been an unacceptable deterioration in their quality of life.

The Sub-Committee noted that the current applicant had only been at the premises since August 2020. The Sub-Committee heard evidence from the applicant's representative that a comprehensive list of conditions had been offered to deal with issues raised in the representations. The Sub-Committee heard evidence that the applicant was seeking a licence in line with that already held by the premises with just one exception in relation to a limited number of people being able to drink without food. The applicant's representative stated that the new licence would give the residents conditions, for example, with regard to the outside area. The applicant's representative stated that there was a misunderstanding of what the applicant wanted to do, and that he did not agree that the conditions meant the premises could turn into a bar. In particular, the applicant had agreed that there would be no vertical drinking. The premises would be a restaurant with a small exception.

The Sub-Committee noted that the proposed capacity of the premises was 30 people inside and 20 people outside.

The Sub-Committee was concerned that granting the licence with the condition proposed by the applicant in respect of 'up to 15 patrons being able to drink without taking a meal', would mean that the premises could operate more as a bar than a restaurant, taking into account that 15 patrons was half of the indoor capacity of the premises. The Sub-Committee considered the plans for the premises and the views of the police, that there was room for three people in the bar area and concluded that a maximum of three people drinking without taking a meal was a reasonable balance between the business needs of the applicant and the amenity of the interested parties.

The Sub-Committee was concerned that allowing up to five smokers to stand at the front of the premises would have a negative impact and that a maximum of three smokers would be more appropriate for the area.

The Sub-Committee was concerned about the levels of music likely to be played at the premises and noted that the applicant had not agreed that there would be ambient music only. It was noted that the applicant's representative did not address what music was likely to be played. The Sub-Committee noted that the local residents were concerned that the premises had no sound insulation and that there was nothing in place to prevent noise escape when patrons were accessing or leaving the premises. The Sub-Committee concluded that a condition preventing anything other than ambient music being played was proportionate.

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 operating schedule demonstrated high standards of management and that the proposed use, with the conditions proposed and the additional conditions, was proportionate and appropriate to the promotion of the licensing objectives and in the public interest.

**205 HERMIL ISLAND LOUNGE, 230 HORNSEY ROAD, N7 - NEW PREMISES LICENCE (Item B2)**

The Sub-Committee noted that this item had been adjourned to a future meeting at the request of the applicant.

**206 ISTANBUL MEZE BAR AND RESTAURANT, 90-92 SEVEN SISTERS ROAD, N7 - NEW PREMISES LICENCE (Item B3)**

The licensing officer reported that a statement from the applicant had been circulated. This would be interleaved with the agenda papers. The sale of alcohol hours had been reduced to 10.30pm. The hours for late night refreshment remained until midnight.

A local resident stated that the premises was in a cumulative impact area and could not see that it was any exception to the policy. The local resident objected on the grounds of public nuisance and public safety as detailed in her representation.

The applicant stated that the hours requested were within the licensing policy framework hours in order not to have a negative cumulative impact. This was not a bar or nightclub but a restaurant. There had been no representations from the police or from the noise team. Cooking was carried out at the front of the premises and the objectors were based six minutes away from the premises. The owner had received no complaints until the application had been made. A previous application had not been submitted to the Sub-Committee and had not been refused. The licensee had been at the premises for 17 months with no issues and was a good operator.

In response to questions it was noted that the premises seated 20 people and full restaurant conditions were proposed. The grill had an extraction system and there was no outside area. Alcohol was only served with a meal.

In summary, the residents stated that they were situated straight behind the premises so were close to their rear wall. There had been a large turnover of this premises over the past 8 years and they had concern that the licence was attached to the premises. The noise issue had not been addressed and another premises in a cumulative impact area did not make any sense when there were already many problems with premises.

The applicant stated that there were four premises in close proximity and the residents would not be able to distinguish food smells emanating from one premises to another. It was unfair to blame this licensee. They did not use the garden area and the residents lived six minutes away. The application had been submitted in August and a number of TENS had been used with no complaints.

### **RESOLVED**

- 1) That the application for a new premises licence, in respect of Istanbul Meze Bar and Restaurant, 90-92 Seven Sisters Road, N7 6AE, be granted to allow:-
  - a) The sale of alcohol, on supplies only, from Monday to Sunday from 11.30 am until 10.30pm.
  - b) The provision of late night refreshment on Monday to Sunday from 11pm until midnight.
- 2) That conditions detailed on page 149-151 of the agenda shall be applied to the licence.

### **REASONS FOR DECISION**

This meeting was held under regulations made under the Coronavirus Act 2020 and it was facilitated by Zoom.

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

Two local resident objections had been received. The Sub-Committee noted that conditions had been agreed by the police and the noise team.

The Sub-Committee noted that the applicant had reduced the hours sought for the sale of alcohol and that the new hours were within the hours specified in licensing policy 6. The Sub-Committee further noted that the premises would only serve alcohol ancillary to a meal, had offered extensive conditions and were only seeking framework hours for alcohol and so could fall within the exceptions to the cumulative impact policy.

The Sub-Committee heard evidence from local residents that they were concerned about noise from the premises in particular in relation to noise from an extraction fan, and that they were also concerned about crime and disorder and public nuisance. Local residents stated that they suffered from air pollution from an open coal fire at the premises and that they were also concerned about drinkers blocking the pavement. Local residents saw no reason why there should be any exception to the cumulative impact policy in respect of these premises.

The Sub-Committee heard evidence from the applicant's representative that there was no evidence of any problems being caused by these premises. The hours for alcohol sales were within policy hours. The cooking was done on a grill with an extraction system and there was a condition offered in relation to noise and vibration nuisance coming from the premises. There was no outside area and drink would only be served with food.

The Sub-Committee heard evidence that the applicant had been at the premises for seventeen months during which time several TENs had been operated with no issues.

The Sub-Committee concluded that the granting of the licence with the agreed conditions would promote the licensing objectives. The Sub-Committee noted that the hours sought for alcohol sales were within the hours specified in licensing policy 5 and 6. The Sub-Committee was satisfied that the operating schedule demonstrated high standards of management and that the proposed use, with the extensive conditions agreed, meant that the premises would not add to the cumulative impact.

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

207 **BRICK RESTAURANT, 88 UPPER STREET, N1 - NEW PREMISES LICENCE (Item B4)**

The Sub-Committee noted that this item had been withdrawn from the agenda as agreement had been reached with all parties.

The meeting ended at 8.15 pm

**CHAIR**