

Licensing Sub Committee B - 30 March 2021

Minutes of the meeting of the Licensing Sub Committee B held by Zoom on 30 March 2021 at 6.30 pm.

Present: **Councillors:** Phil Graham (Chair), Paul Convery and Marian Spall.

Councillor Phil Graham in the Chair

- 224 **INTRODUCTIONS AND PROCEDURE (Item A1)**
Councillor Phil Graham welcomed everyone to the meeting and officers and members introduced themselves. The procedure for the conduct of the meeting was outlined.
- 225 **APOLOGIES FOR ABSENCE (Item A2)**
Apologies for absence were received from Councillors Matt Nathan and Vivien Cutler.
- 226 **DECLARATIONS OF SUBSTITUTE MEMBERS (Item A3)**
Councillor Paul Convery substituted for Councillor Matt Nathan and Councillor Marian Spall substituted for Councillor Vivien Cutler.
- 227 **DECLARATIONS OF INTEREST (Item A4)**
There were no declarations of interest.
- 228 **ORDER OF BUSINESS (Item A5)**
The order of business was B1, B2, B4 and B3. Items B5 and B6 were withdrawn from the agenda before the meeting.
- 229 **MINUTES OF PREVIOUS MEETING (Item A6)**
RESOLVED:
That the minutes of the meeting held on 9 February 2021 be confirmed as an accurate record of proceedings and the Chair be authorised to sign them.
- 230 **STATION TO STATION, 2 CITY NORTH PLACE, N4 3FU - NEW PREMISES LICENCE (Item B1)**
The licensing officer reported that a security plan and a supporting statement from the applicant had been circulated following agenda despatch.

The Licensing Authority stated that the premises was in a cumulative impact area and they did not consider that this had been addressed in the initial application. The additional papers had gone some way to addressing the cumulative impact except

in relation to hours. No reason had been given for why the hours requested were beyond hours set out in the licensing policy.

The police stated that the concern was primarily towards the hours requested. They had no opposition to the applicant who had run pubs in both Leeds and London. They were concerned with the nature of the venue in the Finsbury Park cumulative impact area. They considered that, with his experience, they were supportive of hours that were slightly beyond framework hours but not those applied for. They may re-consider after six months to a year of opening. He stated that the police conditions had not yet been responded to.

In response to questions, the police stated that the onus was on the applicant to put forward mitigation in a cumulative impact area. The police considered this to be a good and rounded application but the hours went beyond what they would be comfortable with. They stated that the 'Arsenal' conditions were standard and considered that no sales of alcohol for an hour after matches helped mitigate the issues of quick drinking after a football match.

The noise officer reported that they had received an acoustic report at 5.30pm but had not had a chance to consider it in detail. They did have significant concerns and would want to have a comprehensive set of conditions.

The resident spoke in objection to the application. It was stated that the venue was located below a resident block with more than 200 flats above. The noise report had only just been received. No resident had been contacted by the applicant. Live music until 2 or 3 am in the morning was a concern. The flats were occupied by families with children and the hours were anti-social for these occupiers. She raised concerns about how the police would be able to protect the area.

In response to questions, the resident stated that she was on the 5th floor, she could clearly hear neighbours play music through the floor and the walls were very thin.

The applicant's representative stated that the key concern was in relation to hours. The applicant and the operators had 30 years' experience and were they type of operator that you would want to be in this area. Planning permission was given to a major mixed use development of residential and restaurants and cafes. This was a modern development with reams of conditions, many relating to the level of noise escape. It was also intended to install a concrete slab over the premises. The conditions were a key protection for residents.

She stated that members could step outside policy hours and when looking at the merits of the application, she invited the Sub-Committee to do so. The hours were needed to make the venture viable and would also provide jobs for local people. The hospitality industry was currently on its knees. This was an area that had suffered and this application could change the tone and nature of the area away from the more traditional pub. The frontage, with more CCTV and lights, would be a deterrent opposite a 24 hour station. This was a good quality application with a good quality dispersal policy. The cumulative impact area had been dealt with. The

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licensing policy came in some time ago and the evidence was dated. Covid 19 has had an impact and the situation is very different now to that when the policy was first imposed. The site had a dedicated planning permission and there was no reason to refuse the hours. Licensing was a permissive regime and if a premises was not causing an issue at midnight what would be different at 1 or 3 am? The application, if granted, could then be reviewed if there were problems. Live music was deregulated and there was no restriction up until 11pm. The licence could be controlled by noise conditions as proposed by conditions 15 and 16 of the report. This was not a live music venue, music was supplementary and this was a food led bar. A condition that required a noise management plan, agreed by the Environmental Health team was offered by the applicant. The noise officer would then have the chance to finalise the noise report to the satisfaction of all. She underlined that the Government was recommending that hospitality deserved the support of local and national government and these were the operators that would be wanted in this unit.

In response to questions, it was noted that the planning consent was dated 2012. There had been very detailed attenuation conditions that had been discharged more recently and would have been signed off. The applicant's representative stated that the cumulative impact policy would have followed an evidence base at the end of 2017 but was not in compliance with the current police and crime bill. The evidence base was considered by the applicant to be old evidence and would not be the same now, beyond Covid 19. In response to the 3am licensing hours sought, the applicant's representative stated that the responsible authorities had agreed that the hours could be stepped outside framework hours in this case, if noise could be controlled at 2am; it could be controlled at 3am and that the applicant was there to make their business work. There was no basis in the licensing regime on the grounds of need. In response to the questions regarding the difference in impact between 9pm and 2am it was stated that there were no restrictions regarding live music until 11pm. It was submitted that if you could control noise escape at 11pm, then you could also control noise at 1am, 2am or 3 am. She stated that residents would not be impacted at any time. The noise team were not saying that noise could not be controlled but were seeking agreement on the conditions.

In summary, the Licensing Authority stated that this was a good application and reasonable submission. The new Licensing Policy would commence from January 2022 and consultation would have to be carried out again for this. The hours were for the Sub-Committee to decide although she considered that the applicant had made a reasonable case for later hours. There were noise conditions in place but there will be noise/nuisance from patrons leaving the venue and that it had not been outlined how this would be managed.

The police stated that the concern regarding the application for late hours remained. They would support framework hours and the extension as detailed in their proposed conditions.

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The noise officer stated that they had concerns about noise outbreak. The structural noise had not been addressed and noise outbreak was very different at 11pm rather than 3am. Disturbance would be preferable at 11pm than 3am.

The resident was concerned about the patrons who would eat at 2am in the morning. She did not consider that cameras would help. The alleyway was not dark as there was a major supermarket there. She understood that this was a modern building but it was not completely sound proofed. She was concerned about the appropriateness of opening the venue after football matches.

The applicant's representative stated that this was mixed office, residential building opposite a 24 hour station and patrons would not be the only people around the area. Lighting, staff, CCTV and security would all deter poor behaviour. It was speculation to ask who would want to eat so late. The operators would not offer this if patrons did not want it. This was not a vertical drinking establishment but a food led establishment.

In response to a question regarding consultation, the applicant stated that they had not had any communication with residents. This process was not required. The legal requirements were complied with and the applicant could not be judged on a process that does not exist.

RESOLVED

- 1) That the application for a new premises licence, in respect of Station to Station, 2 City North Place N4 be granted to allow:-
 - a) The sale by retail of alcohol, on & off supplies, Mondays to Wednesdays from 11 am until midnight, Thursdays, Fridays & Saturdays from 11am until 12.30am and Sundays from 11am until 11pm.
 - b) The showing of films, the performance of live music, the playing of recorded music, the performance of dance and the provision of indoor sports, , Mondays to Wednesdays from 11 am until midnight, Thursdays, Fridays & Saturdays from 11am until 12.30am and Sundays from 11am until 11pm
 - c) The provision of late night refreshment, Monday to Wednesdays 11pm until midnight and Thursdays to Saturdays from 11pm until 12.30.
 - d) The premises to be open to the public, Mondays to Wednesdays from 7am until 12.30, Thursdays to Saturdays from 7am until 1 am and Sundays from 7am until 11.30pm.
 - e) The new application is also to allow the following non-standard timings for all authorised licensable activities.
Until 12.30am on Sundays before Bank Holiday Monday, St Patricks Day, Valentine's Day, Boxing Day, Easter Monday and the Thursday before Good Friday.

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New Year's Eve: From the start of permitted hours on 31 December to the start of permitted hours on 1 January.

- 2) Conditions detailed on pages 89 to 93 of the agenda shall be applied to the licence with the following additional conditions:-
- The applicant shall submit a noise management plan to be agreed by the Environmental Health team.
 - Conditions 32 and 33 shall be deleted.

REASONS FOR DECISION

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

The Sub-Committee considered the written representations from the Responsible Authorities, the Applicant and its Counsel as well as the written representations from 18 residents.

In addition, the Sub-Committee considered the oral representations made by the Applicants Counsel, Sarah Clover, the resident and from the Licensing Authority, the Police, and the Noise Team.

The premises are situated within the Holloway and Finsbury Park Cumulative Impact Area. Licensing Policy 3 and 6 apply.

The Sub-Committee noted that both the Licensing Authority and the Police were generally supportive of the application, operating schedule and the proposed management of the new business.

In the initial submissions, the Licensing Authority expressed concern that the cumulative impact had not been addressed by the applicant in the papers. Counsel for the Applicant subsequently made further written submissions and the Licensing Authority stated that they were satisfied that the issue had been addressed. They were however still concerned about the hours sought in the application being significantly outside the framework hours and how this would negatively impact on the licensing objectives.

In his oral submissions before the Sub-Committee, the noise team representative stated that a set of conditions had been sent to the Applicant but they had not received any meaningful response from the Applicant.

The Police, in the oral submissions, recommended flexibility in relation to the framework hours but less than that requested by the applicant. The Sub-Committee noted the Police concerns about people leaving the premises at 2am and 3am in this busy area with a high crime rate and high rates of anti-social behaviour.

The Sub-Committee noted the applicant's submissions that the premises should be described as led mainly by food and not alcohol. The Sub-Committee took this into

consideration as well as the possible exceptions to the Holloway and Finsbury Park CIA provisions, namely if the premises are not alcohol led, the licence requested would be in the framework hours, the premises provide live music and other cultural activities.

In relation to this particular application, the hours sought were significantly outside the framework hours on Thursdays to Saturdays and the concerns in relation to Noise had not been addressed sufficiently as at the date of the hearing.

The Sub-Committee accordingly decided that the appropriate remedy in relation to the noise issue would be for a condition to be inserted into the licence to the effect that it may not operate until a Noise Management Plan had been produced by the Applicant and agreed between the Applicant and the Council's Environmental Health Team.

The Sub-Committee was in agreement to grant the licence and be flexible in relation to the hours requested for the licence but not to the extent requested by the Applicant.

The Sub-Committee concluded that granting the licence for the hours set out in the decision with the conditions was the proportionate and appropriate decision taking all the factors into consideration.

231 GORILLAS, 8 GODSON STREET, N1 9GZ - NEW PREMISES LICENCE (Item B2)

The licensing officer reported that the noise officer had withdrawn their objection but due to concerns that had arisen more recently it was deemed appropriate that the noise officer attend the meeting.

The noise officer reported that the application business allowed the use of making deliveries by scooter riders and trolleys using a pedestrianised area. The noise team had proposed a number of conditions but were concerned about the noise from the trolleys. It was noted that times for deliveries had been proposed from 7am until 11pm.

Local residents spoke in objection to the application. One resident stated that there had been 22 objections from a small residential area. There was a pathway of riven York stone at the side of Chapel Market and a resident who lived at the rear stated that they could hear noise from the use of the trolleys. The premises was in the Kings Cross cumulative impact area and there was a presumption for refusal. The alleyway was only 15 by 5.5 metres and was surrounded by residential accommodation. The applicant had been using small hard wheels on the trolleys but they needed to use soft wheels. The hard wheels would damage the York stone. The resident had no objection to the business being near but considered that they had found the wrong street and needed a more appropriate space. Another resident stated that the alleyway was surrounded by three and four storey buildings and this acted as an echo chamber. Conversations could be heard at various floors. This was an inappropriate place for this type of business. Bedrooms faced the delivery room.

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Staff had smoking breaks and played music and there would be all day coming and going with deliveries from 7am to 11pm 7 days a week. The cleaner started at 6am, lights were turned on and staff left at midnight. A further resident stated that this was an office being used as a distribution centre in a residential street and an extraordinary choice for the business. The impact on residents was quite significant.

The applicant's representative stated that this was a delivery company. Goods were ordered and delivered within 10 minutes. The company had applied for about 20 licences. He offered an amendment to the hours of delivery to the premises to be 9am to 4pm. They wanted to be a good neighbour and community asset. The business would keep operating whether or not a licence was granted but a licence would provide safeguards. Noisy vehicles were not used as deliveries were made by e-bikes and bicycles. Staff would stay inside until the order was fulfilled. Deliveries were made by backpack and there would be one delivery made at a time. The applicant advised that he would be agreeable that the cleaner would not commence work before 8am. The company was also willing to invest in rubber based wheel trolleys with no metal cage. They had been operating under temporary event notices. The company employed delivery drivers directly rather than using uber or deliveroo drivers. This enabled them to control issues if they arose.

The Sub-Committee raised a concern that, should the licence be granted, it would increase the amount of product and thereby increase noise nuisance. In response to questions it was noted that this was a convenient site to reach a ten minute delivery commitment. Alcohol was less than 3% of sales and was not crucial to the business. Soft drinks could also be contained in glass bottles. The operation itself did not add to the cumulative impact. There was no public access or crime and disorder in relation to the business. The responsible authorities had made no objection. It was a delivery warehouse and did not trigger the cumulative impact policy. The sale of alcohol would be to homes where people would be drinking and not the street as would be the case with off-licences. The applicant stated that this was not a big facility warehouse but a dark store. It was a new concept based in highly populated residential areas which provided a service to customers who could not get out to the shops. Customers might buy a bottle of wine to have with their dinner as they would normally. It was accepted that the trolleys used had been an issue but it was considered that this could be resolved by using rubber wheels to get rid of the noise nuisance. There would be a daily delivery of fresh products but other produce would not necessarily need to be delivered daily. The applicant stated that they would be able to control staff smoking breaks, music outbreak from the premises and that no gorilla bikes would be kept or used in Godson Street.

In summary, the noise officer stated that the applicant had been willing to cooperate and the use of rubberised wheels and the reduction of hours for delivery would improve the noise issues.

A resident stated that they would like conditions regarding bike use outside Godson Street, the use of air filled wheels for the trolleys and the hours of delivery restricted with no deliveries on Sunday. A further objector highlighted his main points in his representation. He raised concerns about the delivery drivers who

would need to operate Challenge 25 at the point of delivery and the hours of operation.

The applicant stated that the premises would still remain in that location whether or not a licence was granted. Conditions would be applied to the licence to control the business.

RESOLVED

- 1) That the application for a new premises licence, in respect of Gorillas, 8 Godson Street, N1 9GZ, be granted to allow:-
 - a) the sale of alcohol, off supplies only, Mondays to Sundays from 8am until 11pm.
 - b) The premises to be open to the public Mondays to Sundays from 8am to 11pm.
- 2) Conditions detailed on pages 153 to 155 of the agenda shall be applied to the licence with the following additional conditions.
 - Loading and unloading of delivery trolleys shall be carried out so as to minimise noise and not give rise to nuisance.
 - No gorilla bikes to be kept or used in Godson Street.
 - Music not to be played in the warehouse at a level that can be heard outside the premises.
 - Condition 20. The delivery of licensable goods to the premises shall be restricted to the hours between 9am to 4pm Monday to Saturday. No deliveries to the premises shall be made on a Sunday or Bank Holiday.
 - No cleaner to commence work before 8am
 - Deliveries will be made in crates on trolleys with air inflated rubber wheels.
 - No employees will engage in any activities outside the building except in relation to deliveries.

REASONS FOR DECISION

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

The Sub-Committee considered the written representations from the applicant and the 18 residents who had made submissions. It also noted that that conditions had initially been agreed between the Applicant and the Noise Team and Trading Standards.

No other written representations were received from any other of the Responsible Authorities.

The Sub-Committee noted that the business fell within the Kings Cross Cumulative Impact area and accordingly Licensing Policy 3 applied.

In addition to the above, the Sub-Committee considered the oral submissions from the Applicants' solicitor and three residents.

The business operated as a warehouse to which goods for remote sales and delivered to and from which goods are delivered to purchasers who purchase the good on line or by telephone. No customers attend the premises.

The Sub-Committee noted that the business has been operating for some time and now requires alcohol to be added to their offer, hence the application for the off sales licence.

The Sub-Committee noted that the objectors issues with noise related to the noise generated by the wheels on trolleys moving crates of goods from vans down the lane to the business premises, people noise outside the premises and on occasion, music generated inside the premises when staff are working and noise from cleaners at early hours of the day.

The applicant at the hearing offered conditions in relation to all the above issues of concern.

It was stressed by the applicant that the business would continue operating without a alcohol licence.

The Sub-Committee concluded that the licence should be granted with the added conditions that deliveries to take place on trolleys with inflated rubber wheels, that the hours for such deliveries be reduced from 7am to 11pm to between 9am and 4pm. In addition, the Sub-Committee concluded that conditions in relation to music noise and the starting time of cleaners be included to protect the interests of nearby residents.

The Sub-Committee decided that the granting of the licence with the added conditions was reasonable and proportionate and promoted the licensing objectives.

232

PONG, BASEMENT AND GROUND FLOORS, LAMBROS HOUSE, 156 PENTONVILLE ROAD, N1 9JB - PREMISES LICENCE REVIEW (Item B3)

The Sub-Committee noted that the licence holder was not present and the Sub-Committee agreed to continue the hearing in his absence in the public interest.

The licensing officer reported that a review application had been submitted. No correspondence or response had been received from the licensee or to the notice of hearing.

The Licensing Authority stated that the authority had been contacted by the landlord. They stated that they had evicted the operator and terminated the lease. Locks had been changed. No licence transfer had been applied for and the business may be changed to a deli/café. The Licensing Authority had no confidence in the licence holder and he had breached Covid restrictions and licensing conditions. The licence was taken over by the new business owner on the 24 August 2020 and on

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the 27th August, complaints were received. When Covid restrictions came into force, the premises was still used for unlawful activity. The licensing authority had been left with no choice but to review the licence and recommended revocation of the licence.

The police reported that a number of complaints had been made since September. There had been noise complaints each week even during Covid lockdowns. These were detailed in his representation. The premises had operated after the 10pm curfew. Photos on social media at the end of October indicated that the premises was being operated as a nightclub. Despite warnings and penalty fines, more complaints were received on New Year's Eve. Patrons were seen entering through the side door in party dress. When police gained entry customers were found sitting in darkness.

In response to questions the police stated that in excess of 100 hours of officer time had been spent on the venue with approximately 20 incidents over the four months.

The public health officer reported that the licensee had ignored guidance provided by the licensing officers and the police which had put staff, customers and residents in the vicinity at avoidable risk. Persistent breaches when frontline services were facing unprecedented demand.

The noise officer reported that there had been multiple complaints in relation to loud music and anti-social behaviour. The licensee had not engaged on issues around calibrating the noise limiter.

Members of the Sub-Committee raised concerns about the seriousness of the breaches involved and stated that this had been one of the worst cases they had seen. They thanked all staff for the work they had carried out on the review application.

RESOLVED

That the premises licence, in respect of Pong, Lambros House, 156 Pentonville Road, N1 be revoked.

REASONS FOR DECISION

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

The business owner was served Notice of the Review application and the date of hearing however he did not attend the Sub-Committee hearing.

The Sub-Committee proceeded with the application in his absence.

The Sub-Committee considered all the written submissions and the oral representations from the Licensing Authority, the Police, the Noise team and Public Health.

The Licensing Authority representative informed the Sub-Committee that the licensee's lease in the premises had been forfeited and the licensee had been evicted and the locks of the premises had been changed.

The Sub-Committee took into consideration the following facts:

- There had been ongoing management failures and complaints of noise and anti- social behaviour emanating from the premises
- The Licensee had shown a total disregard for the Covid 19 regulations.
- Three Fixed Penalty Notices have been served on the Licensee for breaches of Covid 19 regulations
- An illegal New Year's Eve party was arranged and held at the premises in breach of the Covid 19 regulations
- The Licensee had failed to follow Guidance issued by the Licensing Authority and admitted to the Licensing Authority that he had not read the Guidance.

The Sub-Committee expressed their total disapproval of the manner in which the business had been operated and the total disregard for the safety of the customers, general public and public sector workers including the police whose personal safety had been put at risk due to the behaviour of the licensee.

The Sub-Committee concluded that taking all the above factors into consideration, the appropriate and reasonable decision was to revoke the licence.

233

HOLLOWAY LOCAL, 546 HOLLOWAY ROAD, N7 6JP - NEW PREMISES LICENCE (Item B4)

The licensing officer reported that there had been no representations from the responsible authorities.

The applicant's representative stated that the shop had opened six weeks ago. It was an empty shop that had been brought back into use. The applicant had another shop in Hornsey Road and had been a manager at an Italian restaurant which was all good experience in this cumulative impact area. Photos had been circulated of the premises. Alcohol would be a maximum of 15% of sales and was situated behind the counter to deter proxy sales. The start time had been moved to 10am to deter street drinkers and alcohol would have a maximum of 6.5 abv as agreed with the police. The hours were within framework hours. The applicant's representative highlighted other conditions that had been proposed by the police and that had been accepted by the applicant and stated that with these conditions and the high standards of management, the licensing objectives would be promoted and not undermined. The objectors were not present at the meeting and many residents of the area were likely to become customers. Anti-social behaviour had been a concern of objectors but it was noted that this application was supported by the police and licensing authority. The hours and conditions would deter street drinkers and he asked that the licence be granted.

In response to questions about anti-social behaviour in the area he stated that small bottles of alcohol would not be sold, hours had been brought back to a 10am start, there would be two staff on the premises at all times. The applicant would accept a condition to reduce the maximum abv of alcohol to 6%. The licensee had been trained and would be on the premises most of the time. His staff had worked elsewhere previously and he could continue to train staff. The applicant was a competent operator.

RESOLVED

- 1) That the application for a new premises licence, in respect of Holloway Local, 546 Holloway Road, N7 6JP be granted to allow the sale of alcohol, off supplies only, from 10am until 11pm Monday to Sunday.
- 2) Conditions detailed on pages 236 to 238 of the agenda shall be applied to the licence with amended condition 13.
 - Condition 13 to read. No beers, lagers of above 6% ABV shall be sold at the premises save for premium beers and ciders supplied in glass bottles.

REASONS FOR DECISION

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

The Sub-Committee considered the written representations of the applicant and two residents. No representations were made by the Responsible Authorities. Conditions were agreed by the applicant with the Police.

The Sub-Committee noted that the premises fall within the Holloway and Finsbury Park Cumulative Impact area and Licensing Policy 3 and 6 applied.

The premises are a grocery shop/supermarket and the Sub-Committee heard at the Sub-Committee that only 15% of the business offer would be alcohol and the business would accordingly not be alcohol led. The applicant's representative agreed to an amended condition restricting alcohol to 6% abv.

The Sub-Committee was satisfied with the Operating Schedule and the standards of management and noted that the operating hours sought were within the framework hours for off licences.

The Sub-Committee concluded that the Applicant had adequately addressed the cumulative impact area issue and that by granting the application with the conditions agreed, and with the amended condition, the licensing objectives would be promoted.

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H R ORGANIC AND VEGAN SHOP, 786 HOLLOWAY ROAD, N19 3JH - NEW PREMISES LICENCE (Item B5)

The Sub-Committee noted that this item had been withdrawn from the agenda.

235 KAZAN OFF-LICENCE, 102-106 ESSEX ROAD, N1 8LU - NEW PREMISES LICENCE (Item B6)

The Sub-Committee noted that this item had been withdrawn from the agenda.

The meeting ended at 10.15 pm

CHAIR