

Licensing Sub Committee D - 27 April 2021

Minutes of the meeting of the Licensing Sub Committee D held by Zoom on 27 April 2021 at 6.30 pm.

Present: **Councillors:** Paul Convery, Phil Graham and Nick Wayne.

Councillor Nick Wayne in the Chair

- 110 **INTRODUCTIONS AND PROCEDURE (Item A1)**
Councillor Nick Wayne welcomed everyone to the meeting and officers and members introduced themselves. The procedure for the conduct of the meeting was outlined.
- 111 **APOLOGIES FOR ABSENCE (Item A2)**
There were no apologies for absence.
- 112 **DECLARATIONS OF SUBSTITUTE MEMBERS (Item A3)**
Councillor Phil Graham substituted for the vacant position.
- 113 **DECLARATIONS OF INTEREST (Item A4)**
There were no declarations of interest.
- 114 **ORDER OF BUSINESS (Item A5)**
The order of business would be as the agenda. The Sub-Committee noted that Item B3 had been adjourned by the applicant.
- 115 **MINUTES OF PREVIOUS MEETING (Item A6)**
RESOLVED:
That the minutes of the meeting held on 23 February 2021 be confirmed as an accurate record of proceedings and the Chair be authorised to sign them.
- 116 **THE MALL, 359 UPPER STREET, N1 0PD - NEW PREMISES LICENCE (Item B1)**
The licensing officer reported that an additional bundle, a short video showing the shop and a longer video showing the amazon fresh system had been circulated to members. Additional conditions had also been circulated.

The Licensing Authority stated that their representation was detailed on pages 29 and 30 of the agenda. They had not been aware that this was an Amazon store at the time of application. The additional proposed conditions that stated that a member of staff would supervise alcohol sales and that alcohol would be 10% of the retail area were welcomed. The Sub-Committee were asked to consider the process of allowing customers in the store and the supervision of Challenge 25 and drunk customers. The officer had attended another store and considered that the

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alcohol area had been well supervised and identification was checked. She raised concerns regarding only one person on the exit but stated that, on the whole, she was happy with the application.

In response to a question regarding the proximity of the premises to a school it was noted that there was a primary school approximately 80 metres from the premises. The licensing authority stated that this had not been considered this when making her representation. In response to further questions, the Sub-Committee noted that the applicant was no longer an off shore company. The licensing officer stated that he was confident that police conditions were agreed before who they knew who the operator would have been. There was a concern that the police had not been given time to see the complete proposal in front of the Sub-Committee.

At 7pm the Chair requested a short adjournment for the Sub-Committee to receive legal advice. The Sub-Committee returned at 7.05pm and the legal adviser stated that, under Regulation 12 (1a) of the Licensing Act 2003 (Hearings) Regulations 2005 the authority could adjourn an application to a future date if the Sub-Committee considered it was necessary and in the public interest. The Chair asked the applicant to consider a possible adjournment and make submissions.

The applicant's representative submitted that there was no need to adjourn the meeting. He stated that the application submitted in December 2020 made the nature of the store clear, giving a description on page 15 of the agenda and a plan on page 23 which detailed shelving and the proposed area for alcohol display. This had remained unchanged and further restrictions had since been offered. The police were fully aware that this was to be a grocery store and there had been no attempt to mislead. There was no involvement in an off shore company and the applicant was UK registered. The application was submitted prior to launch and the police were informed of the applicant on the 9 March. Amazon had offered further additions and restrictions and further delay would not benefit anyone.

In response to questions, the applicant's representative did not consider that knowledge of the applicant would make any difference. It would be the operating manner and the way that sales were to be managed that would be of a concern. He considered that if the police had been concerned they could have been called on as witnesses to the Licensing Authority. A member of the Sub-Committee stated that it was only since viewing the video of the storefront received following agenda despatch, that he had realised that this was a very different concept and did not have a checkout and security lines that they were all familiar with. He raised concerns about how customers would leave the premises.

AT 7.25pm, there was a short adjournment for the applicant's representative to take instructions from the applicant. On return at 7.30pm the applicant's representative stated that he had no objection for the Police and Environmental Health team to be informed about the method of customers leaving the premises to ascertain if this would make a difference to their view of the application. He stated that speed was of the essence and noted that there was a future meeting of a Sub-Committee on the 5 May.

RESOLVED

That the application for The Mall, 359 Upper Street, N1 0PD be adjourned until the 5 May 2021 under Regulation 12 (1a) of the Licensing Act 2003 (Hearings) Regulations 2005 as proposed by the applicant's representative.

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THE FINE GROCERY STORE CO, 351-352 UPPER STREET, N1 0PD - NEW PREMISES LICENCE (Item B2)

The licensing officer reported that the application was for sales of alcohol off the premises only, hours had been amended by the applicant to a terminal hour of 9pm and revised conditions had been circulated following the despatch of the agenda.

The applicant advised that a letter had been sent to the objectors to explain that the business was not a standard off licence, describing the offering and stating that the terminal hour had been amended to 9pm. Non-standard timings had also been withdrawn.

In response to questions the applicant stated that he was looking to sell artisan products, craft beers, bio dynamic wines and niche gins produced in small batches. He did not have the full range available yet but he was not looking to sell high street brands. He stated that this was a store that would not be alcohol led. The offering was likely to be 20% alcohol and 80% food. The food offering would be delicatessen type produce from Spain, Italy etc with fresh breads, cheese and charcuterie. He believed the premises was an exception to the cumulative impact policy as it sold products that were different to most of the other shops and would supply a more niche market, it was not alcohol led and the type of alcohol sold would be unlikely to be consumed on the street. This was his third shop and each of the shops brought something different and were tailored to each area that they were in. All staff were trained in Challenge 25. He agreed to an additional condition limiting retail space for alcohol to be no more than 20%.

RESOLVED

- 1) That the application for a new premises licence, in respect of The Fine Grocery Store, 351-352 Upper Street, N1 0PD be granted to allow:-
 - a) the sale of alcohol, to be consumed off the premises only, Monday to Sunday from 8am until 9pm.
 - b) The premises to be open to the public, Monday to Sunday from 8am to 9pm.
- 2) Conditions as tabled at the meeting shall be applied to the licence with the following additional condition:-
 - Alcohol on sale shall be limited to the fridge and shelving area as shown on the floor plan and at all times the amount of retail space shall be no more than 20%.

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 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.

The Sub-Committee also 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.

Four local resident objections and an objection from the Angel Association had been received. There had been no representations made by the responsible authorities.

The Sub-Committee noted that the hours sought were within the hours specified in licensing policy 6 and had been reduced further by the applicant on receipt of representations from residents. However, they noted that a further representation had been received from a resident concerned that the specialist nature of the shop might change in the future. It was of course, not possible for this Sub-Committee to bind the hands of future Sub-Committees in the event of any application for a variation. None the less the applicant had asserted that the ratio of food to alcohol sales was 80% to 20% and had agreed at the meeting to a condition that the amount of retail space dedicated to alcohol should be no more than 20% at any time. Adding this condition seemed an appropriate measure to take in response to the resident's representation.

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 were within the hours specified in licensing policy 5 and 6 and that this was a high end grocery selling specialist artisan and bio dynamic alcohol with unusually sourced food not generally sold on the high street. The proposed use,

with the conditions agreed, meant that the premises would be unlikely to 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.

118 **KELLYS CAFE, 200 NEW NORTH ROAD, N1 7BJ - NEW PREMISES LICENCE (Item B3)**

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

The meeting ended at 8.15 pm

CHAIR