

Licensing Sub Committee C - 3 June 2021

Minutes of the meeting of the Licensing Sub Committee C held on 3 June 2021 at 6.30 pm.

Present: **Councillors:** Nick Wayne (Chair), Ben Mackmurdie and Flora Williamson
Also Present: **Councillors:** Angelo Weekes

Councillor Nick Wayne in the Chair

- 107 **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.
- 108 **APOLOGIES FOR ABSENCE (Item A2)**
Apologies for absence were received from Councillor Alice Clarke-Perry and Councillor Angelo Weekes. The Chair advised that Councillor Weekes had been newly elected and was in attendance to observe the meeting.
- 109 **DECLARATIONS OF SUBSTITUTE MEMBERS (Item A3)**
Councillor Nick Wayne was substituting for Councillor Clarke-Perry and Councillor Flora Williamson was substituting for Councillor Angelo Weekes.
- 110 **DECLARATIONS OF INTEREST (Item A4)**
Councillor Flora Williamson declared that she was married to Councillor Toby North, a ward councillor in St Peters ward. Items B1 and B2 were both in this ward.
- 111 **ORDER OF BUSINESS (Item A5)**
The order of business would be as the agenda.
- 112 **MINUTES OF PREVIOUS MEETING (Item A6)**
RESOLVED:
That the minutes of the meeting held on 13 April 2021 be confirmed as an accurate record of proceedings and the Chair be authorised to sign them.
- 113 **ANGEL FOOD AND NEWS, 44 DUNCAN STREET, N1 8BW - NEW PREMISES LICENCE (Item B1)**
The licensing officer stated that additional submissions from the applicant's representative had been forwarded to all parties.

Licensing Sub Committee C - 3 June 2021

The Licensing Authority stated that the premises was in a cumulative impact area with a high number of alcohol outlets. The Licensing Authority had concerns about the street population using the raised covered area outside the premises and advised that there had been complaints from residents. It was recommended that the licensing authority's concerns be considered. In response to a question from the Chair, the Licensing Authority confirmed that Licensing Policy 4 in relation to cumulative impact areas was central to the representation.

A local resident raised concerns about anti-social behaviour and public safety and stated that there had been ongoing issues with the street population. She passed the premises most days and was on the St Peters ward panel so she was aware of the issues. The local resident stated that the raised area with a wall in front of the premises was used by street drinkers as well as those who had bought items from the premises and congregated there. The local resident questioned how Challenge 25 would operate in practice and reported that she had frequently observed one member of staff working at the counter at any given time and also other workers sleeping at the back of the store. Concerns were raised during 2018/19 that there had been instances when the door was locked at night to prevent certain individuals from entering as staff were concerned about safety. Concern was raised that selling alcohol would exacerbate this as refusing alcohol to some customers could lead to them becoming aggressive. The local resident raised concern about litter outside the premises and the sale of high sugar content food and drink items which she linked to lifestyle issues relating to drug abuse.

The applicant's representative stated that the business had traded for 24 hours a day for the last 14 years and the police had agreed the conditions in the application. The proposed starting time for selling alcohol was 10am following a police recommendation. This meant that the business would only start selling alcohol once children were in school. The applicant's representative asked for confirmation that the decision of the 2019 hearing would not impact upon the decision of the Sub-Committee. The Chair replied that he was the Chair of the last Licensing Sub-Committee hearing. However he confirmed this was a fresh hearing and the application would be decided on its merits. The applicant's representative stated that in line with the conditions, no more than 15% of the store would be allocated to the display of alcohol and this condition meant the business could not become alcohol-led. The applicant's representative stated that the applicant had agreed to install till prompts that could not be by-passed in order to comply with Challenge 25. Also, the applicant was prepared to install metal, lockable shutters so there would be no temptation to try and access alcohol when it was not being sold. The applicant's representative stated that although there were eight representations from residents, this was a small percentage of residents compare to those who had not objected or were in support of the application. In relation to the premises being in a cumulative impact area, the applicant's representative stated that staff would be trained, the police and environmental health were satisfied that this premises licence being granted would not add to the cumulative impact area as they had not objected. In addition, the beers, lagers and ciders being sold would be no more than 6% strength (except for a range of premium products which could be submitted to the police for approval) and no single cans would be sold. The

applicant was willing to sell beers, lagers and ciders in a minimum of four packs. This would make it harder for street drinkers to buy alcohol and they might move elsewhere. Recognised street drinkers would also be refused alcohol. The applicant's representative stated that there was no reason to suggest that selling a small range of alcohol would increase drugs use. He also advised that each night litter from outside the premises would be picked up. The applicant's representative reported that the Covid-19 pandemic had resulted in a loss of customer confidence and even though the store had remained open, many customers had moved to online shopping. He suggested that it was important to encourage retailers or the number of boarded up shops would increase. The applicant's representative stated that as a convenience store, most customers visited for specific items and looked to buy all their convenience items under one roof. Offering a small range of alcohol would provide the opportunity to enhance basket spend rather than increase footfall. He stated that many customers had requested that the store sell alcohol.

The applicant's representative stated that it was possible to grant a licence under Licensing Policy 4 where the premises was not alcohol-led and in this case it would not be. It was a convenience store with no more than 15% of the store allocated to the display of alcohol. The hours requested also fell within the framework hours.

A member stated that when a premises was in a cumulative impact area, the applicant had to demonstrate that they would not add to the negative impact. The applicant's representative was asked to demonstrate this. The applicant's representative stated that many of the problems were caused by premises with older licences which were not conditioned to the extent that this one would be. The premises was a convenience store and the applicant wanted to run it properly and would accept the conditions listed so as to not cause an impact.

A member asked about the staffing levels in the store and how these would be protected. The applicant's representative replied that during the times that alcohol was sold, there would be a minimum of two staff on duty on the sales floor. When alcohol was not permitted to be sold, the shutters on the display would be down. During busy times there could be more staff on the sales floor.

A member asked about the ownership of the premises and the applicant confirmed that there had been no new ownership since 2007. However, the applicant was running the store. He had been a DPS for the last three years in a licensed premises in Primrose Hill, Camden where there had been no nuisance or litter issues. In response to a question from a member, the applicant stated that he had no experience as a DPS in Islington.

In response to a question from a member about the strength of wines proposed to be sold, the applicant's representative stated that beers, lagers and ciders were limited as street drinkers wanted cheap, high strength alcohol rather than wine.

In summary, the local resident stated that she did not consider that the applicant had shown how the granting of a licence would not add to the cumulative impact

area, there was still a drug and anti-social behaviour problem outside the premises and the applicant had not engaged with residents to address issues.

In summary, the applicant's representative stated that the applicant sought to run a well-managed business and the majority of residents wanted the store to sell alcohol. He asked that the applicant be given the opportunity to keep his promises.

[During the deliberations, the Sub-Committee reconvened to advise that Councillor Williamson needed to declare an interest in that she was married to Councillor North, ward councillor in St Peters ward. The applicant's representative confirmed that he took no issue with this.]

RESOLVED:

That the application for a new premises licence in respect of Angel Food and News, 44 Duncan Street, N1 8BW be refused.

REASONS FOR DECISION

This meeting 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 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.

Eight local resident objections and one ward councillor objection had been received. There had been a representation made by the Licensing Authority.

The Sub-Committee noted that the hours sought were within the hours specified in Licensing Policy 6.

The Sub-Committee heard evidence from a local resident that there were significant issues relating to street drinking, street sleeping and the use of the raised area in front of the premises by street drinkers. She confirmed that she passed the premises most days and had observed its use by street drinkers as well as those who had bought items from the store, to congregate. She expressed concerns about litter and also the sale of high sugar content food and drink items which she linked to lifestyle issues relating to drug abuse. She therefore had significant concerns that the current problems associated with the premises would only be exacerbated by the sale of alcohol. She stated that she had frequently observed only one individual working in the store at any given time and also other workers sleeping at the back of the store. This created a highly problematic situation in her view, as there had been instances whereby the lone worker had been unable to control aggressive behaviour from customers, on occasion leading to them being forced to lock the door at night. Again, she felt the sale of alcohol could only exacerbate an already difficult situation.

The Sub-Committee heard evidence from the applicant's representative who confirmed that the premises had been trading 24 hours a day for the last 14 years and that the police had agreed the conditions put forward to the Sub-Committee in the application. He said that he wished for it to be made clear that the previous committee hearing in 2019 was to have no bearing on the decision of this committee. Councillor Wayne confirmed that this application would be heard on its merits and as a standalone application.

The applicant's representative stated that although there were eight residents objecting to the application nevertheless there was significant local support for the application as evidenced by the fact that there were only eight objectors. He emphasised the fact that the conditions agreed with the police included Challenge 25 which would involve till prompts which could not be by-passed whenever alcohol was purchased. He also stated that alcohol would only take up 15% of the space allocated within the premises, that no individual cans would be sold and that there would only be a choice of up to four different varieties of wine. He emphasised that the application was very much supported by existing long term customers.

The applicant's representative confirmed that it had been agreed with the police that only up to 6% strength beer, lager or cider would be sold. A premium range of beers, lagers and ciders in excess of 6% strength could be submitted for agreement by the authorities at a later date if required. He also confirmed that an agreement could be reached to sell such items in a minimum packaging of four if required to discourage street drinkers. He stated that recognised street drinkers would be refused service. The applicant's representative reiterated that alcohol would only take up 15% of the space allocated within the premises. He confirmed that there would always be a minimum of two workers on the sales floor during the hours whilst alcohol was for sale and up to four workers at busy times. He confirmed that the premises would have lockable shutters which would be pulled down in order to conceal the alcohol displays outside of licensing hours.

Licensing Sub Committee C - 3 June 2021

The applicant's representative emphasised the fact that the pandemic had negatively impacted the applicant's business and asked the Sub-Committee to show understanding and encourage local businesses so as to avoid having streets filled with boarded up shops. He emphasised the fact that the application for an alcohol licence was much more about existing customers purchasing more and therefore enhancing basket spend as opposed to encouraging new business from those who wanted to purchase only alcohol e.g. street drinkers. He stated that many of the problems in the area were caused by premises that were not conditioned to the extent that this application was.

Councillor Wayne asked whether the applicant had recently taken over the ownership of the premises or whether there had been continuity in ownership since 2007. The applicant confirmed that he was currently working at the premises but was previously the DPS at a premises in Primrose Hill across from an open space and there had been no issues at those premises.

Councillor Wayne asked if the applicant had worked in Islington as a DPS and the applicant confirmed he had only worked as a DPS in Camden.

Councillor Mackmurdie asked a question about the strength of wine to be sold and the applicant's representative responded stating that wine strength varied from 8-14% and that nothing stronger would be sold.

In summary, the resident reiterated her concerns and stated that the applicant had not shown they would not add to the cumulative impact area.

In summary, the applicant's representative stated that the applicant was seeking to run a well-managed business and that the majority of residents wanted them to sell alcohol in addition to their existing products. He asked the Sub-Committee to give the applicant the opportunity they sought.

The Sub-Committee retired to deliberate and then reconvened to advise that Councillor Williamson needed to declare an interest in that she was married to Councillor North, ward councillor in St Peters ward. The applicant's representative confirmed that he took no issue with this.

The Sub-Committee retired to deliberate.

The Sub-Committee was concerned that the granting of the licence with the agreed conditions would not promote the licensing objectives. The Sub-Committee took into consideration Licensing Policy 4 dealing with cumulative impact areas and noted that the premises fell within the Angel and Upper Street cumulative impact area which already had a significant number of licensed premises both on and off licences. The Sub-Committee considered that, in their application, the applicant had failed to rebut the presumption that further licensed premises would not be granted in the cumulative impact area.

114 **KELLYS CAFE, 200 NEW NORTH ROAD, N1 7BJ - NEW PREMISES LICENCE**
(Item B2)

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

A local resident spoke and confirmed that she lived directly adjoining the premises and so shared a party wall with the premises. She stated that her only concerns related to the licensed hours requested and any noise that might be generated as a result of those hours in the evenings.

The Chair asked the licensing officer to outline the status of the planning application. The licensing officer stated that a planning application had been submitted and the operating hours requested were in line with the licensing application. The Chair stated that usually the licensing application was determined after the planning application had been determined, in the circumstances the Sub-Committee was content to decide the licensing application on its merits.

The Chair asked the applicant's representative to confirm the hours of operation and type of business for the local resident. The applicant's representative stated that the business was a small coffee shop. Alcohol would be served only with a table meal. The hours being sought were Monday-Sunday 10am-9pm although the applicant would accept reduced hours if required.

In response to a question from a member about why the hours 10am-9pm were being sought, the applicant stated that they wanted to be able to serve a shot of alcohol in a coffee if requested, ancillary to meals. This would include with breakfast and brunch. The applicant stated that although they had applied to serve alcohol until 9pm, the coffee shop was family run and would close by 5pm on Sundays and 7pm Mondays-Saturdays. The applicant stated that if granted a licence, the business would remain as a family run coffee shop. The applicant advised that if the resident had any concerns, these could be raised with him. He stated that he also lived nearby. He advised that he would not sell cheap beers. He had run an off-licence on Essex Road and after selling it, the new owners asked him to continue to run it. He stated that if there was ever a problem created by selling alcohol, he would stop selling it.

In summary, the resident stated that the applicant had answered her questions. Her only remaining concern was that there was a nearby health centre that dealt with people with issues with alcohol. She confirmed that the applicants had been in constant communication with her and that she trusted them to abide by any conditions set.

The applicant's representative stated that although the applicant had sought to sell alcohol up until 9pm, they would only be open until 7pm.

RESOLVED:

1) That the application for a new premises licence in respect of Kellys Cafe, 200 New North Road, N1 7BJ, be granted to allow:-

a) the sale of alcohol, on supplies, Monday to Sunday from 10am until 9pm.

b) The premises to be open to the public, Monday to Sunday from 10am to 9pm.

2) Conditions detailed on pages 82 to 83 of the agenda shall be applied to the licence.

REASONS FOR DECISION

This meeting 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.

Two local resident objections and one local business objection 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.

The Sub-Committee heard evidence from a resident who confirmed that she lived directly adjoining the premises and so shared a party wall with the premises. She stated that her only concerns related to the licensed hours requested and any noise that might be generated as a result of those hours in the evenings. She confirmed that the applicants had been in constant communication with her and that she trusted them to abide by any conditions set.

The Sub-Committee heard evidence from the applicant's representative who confirmed the contents of the representations. Councillor Williamson asked the applicant to confirm why they had requested licensing hours from 10am up until 9pm. The applicant responded stating that they only intended to open until 7pm. They were a family run business who would be catering for customers who either wanted to have a shot with a morning coffee and brunch or drinks with lunch or dinner.

The resident summarised confirming she was content with the application although she had some reservations about the proximity of a local health centre that dealt with individuals struggling with alcohol issues.

The applicant's representative summarised the applicant's submissions emphasising the family led aspect of the business plan and the fact that alcohol would be served only ancillary to food.

Licensing Sub Committee C - 3 June 2021

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.

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.

The Sub-Committee concluded that they would grant the application on the terms and conditions laid out.

The meeting ended at 8.00 pm

CHAIR