

London Borough of Islington

**Licensing Sub Committee B - 11 September 2014**

Minutes of the meeting of the Licensing Sub Committee B held at Committee Room 4, Town Hall, Upper Street, N1 2UD on 11 September 2014 at 6.30 pm.

**Present:**      **Councillors:**      Raphael Andrews, Alice Donovan and Osh Gantly.

**Alice Donovan in the Chair**

**10      INTRODUCTIONS AND PROCEDURE (Item 1)**

Councillor Donovan welcomed everyone to the meeting, asked members and officers to introduce themselves and outlined the procedures for the meeting.

**11      APOLOGIES FOR ABSENCE (Item 2)**

Apologies were received from Councillor Spall.

**12      DECLARATIONS OF SUBSTITUTE MEMBERS (Item 3)**

Councillor Andrews substituted for Councillor Spall.

**13      DECLARATIONS OF INTEREST (Item 4)**

Councillors Andrews and Donovan stated that they were councillors for Clerkenwell ward but had taken no part in any discussions regarding Item B3, Theatre Delicatessen.

**14      ORDER OF BUSINESS (Item 5)**

The order of business was as the agenda.

**15      MINUTES OF PREVIOUS MEETING (Item 6)**

**RESOLVED:**

That the minutes of the meeting held on the 1 July 2014 be confirmed as an accurate record of proceedings and the Chair be authorised to sign them.

**16      THE AULD TRIANGLE PUBLIC HOUSE, 52 ST THOMAS ROAD, N4 2QW - VARIATION APPLICATION (Item 1)**

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

**17      MARKET CAFE, 132 WHITECROSS STREET, EC1Y 8QJ - NEW APPLICATION (Item 2)**

The Sub-Committee noted the photos of the area tabled by the applicant. These would be interleaved with the agenda papers.

Counsel for the applicant, Emma Dring, reported that the application had been amended to that detailed in the papers to bring the hours in line with licensing policy 8. The proposed noise conditions had been accepted. The applicant had agreed to limit the capacity to a total of 50 persons inside and outside in order to fall within the exceptions to the cumulative impact policy.

The noise officer reported that they had concerns about the number of chairs outside. At a recent visit by the licensing team it had been noted that there were 90 chairs outside the premises.

The licensing authority informed the Sub-Committee that there had been a lack of effort in the application form regarding details on how the cumulative impact was to be avoided. The authority had concerns regarding the management of numbers and the impact of noise on residents particularly if tables were cleared at 10pm in the evening.

The local residents raised concerns about the noise levels and stated that there were residential premises above the café. They considered that tables and chairs should be cleared by 9pm. It was noted that there was a proposed condition to have no tables and chairs in Banner Street.

Counsel, supported by the applicant, Mr Kabayel, informed the Sub-Committee that the applicant wanted the option to sell alcohol with food. He had been running a local café for nearly 10 years and employed 8 personal licence holders. It was accepted that the application could have been more detailed, however, it was considered that this café could be considered as an exception to the cumulative impact policy due to the hours, the number of people and as it was not alcohol led. A condition was offered to restrict numbers to 50 persons, inside and outside the premises. There would be regular patrols outside and the noise conditions were accepted. The Sub-Committee noted the circumstances regarding a condition breach on the 17 July 2014 and it was reported that a staff meeting was held after the incident and it was made clear to staff that this should not happen again. Training was held bi-monthly, training logs were kept and alcohol would be sold ancillary to food. Soft drinks were often sold in pint glasses so may appear to be alcohol. Alcohol had not been supplied from the Market Café. The police had not put in a representation and there had been no incidents since 2006. It was considered that the conditions, combined with a reduction in capacity would mean that there would be no negative impact on neighbours. She invited the Sub-Committee to condition the chairs and tables to be cleared away at 9pm rather than to refuse the application.

In response to questions, it was noted that the internal capacity of the premises was 32 persons. The Sub-Committee noted that the applicant's premises opposite cleared their tables and chairs away from 9.30 pm onwards. It was also noted that there was no off sales at his two other local premises. The applicant stated that he had not sold alcohol from Market Café. The reduction in hours tied into the crime and disorder licensing objective.

In summary, the licensing authority accepted that the applicant had tried to tailor the application to fit in with the exception policy but there were concerns regarding management and dispersal.

The local residents raised concerns regarding the late hours, particularly as there was accommodation above the premises. They did consider that the tables and chairs should be removed from 9pm. They considered that beer had been sold from the premises.

The applicant considered that a licence should be granted as this was a premise that fell within the exception to the policy. Ms Dring stated that hours had been put forward that struck a balance with residents. A condition was proposed regarding dispersal management in response to concerns. She objected to the comment that beer was sold at the premises as this did not happen. She stated that the applicant could be trusted to uphold the licensing objectives and asked the Sub-Committee to grant the application as amended.

**RESOLVED:**

- 1) That the application for a new premises licence in respect of Market Café, 132 Whitecross Street, EC1 be granted:-
  - i) To supply alcohol for consumption on the premises on Sundays to Thursdays from 12:00 to 22:30 and on Fridays and Saturdays from 12:00 to 23:30.

- ii) To allow late night refreshment both on and off the premises from 23:00 to 23:30 Fridays and Saturdays.
- iii) To allow opening hours from 07:00 to 11pm on Sundays to Thursdays and from 07:00 to midnight Friday and Saturday.
- 2) Conditions as outlined in appendix 3 as detailed on pages 104 and 105 of the agenda with the following amendments.

Condition 26 to read. The outside area shall not be used after 21:00 hours.

Condition 27 to read. No consumption of alcohol shall take place outside after 21:00 hours and drinks will not be taken out of the premises except for consumption at tables with food at all other times.

Condition 28 to read. The outside tables and chairs shall be cleared away, or rendered unusable by 21:00 hours.

Condition 29 to read. Adequate notices shall be displayed to inform patrons of the requirement to close the outside area by 21:00 hours

Condition 31 to read. Smoking shall be restricted to the front of the premises after 21:00 and kept to 4 people at all times.

An additional condition. The maximum capacity of the premises shall be fifty persons and the maximum outside capacity at any one time shall be 20 persons.

The following conditions to be deleted. Conditions 5, 13, 19 and 20.

### **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 Policy 2. The premises fall under the Bunhill and Clerkenwell cumulative impact area. Licensing policy 002 creates a rebuttable presumption that applications for new premises licences that are likely to add to the existing cumulative impact will normally be refused, unless an applicant can demonstrate why the operation of the premises involved will not add to the cumulative impact or otherwise impact adversely on the promotion of the licensing objectives.

The Sub-Committee noted that the applicant had amended his application to fall within the exceptions within licensing policy 2 and in particular, that the capacity of the premises inside and out would be limited to 50 persons. The Sub-Committee also noted that the sale of alcohol would be ancillary to the sale of food and that the hours of operation were within the core hours of licensing policy 8.

The Sub-Committee heard evidence from the interested parties on the impact of noise nuisance. The interested parties indicated that a balance could be struck if all patrons left the outside of the premises by 9pm. The interested parties welcomed the proposal of the applicant not to have any tables and chairs on Banner Street.

The Sub-Committee was satisfied that with the imposition of conditions, there would be no adverse cumulative impact on the licensing objectives.

**Note of the Sub-Committee**

The applicant is reminded that planning permission will be required before the sale of alcohol is to take place from the premises.

18

**THEATRE DELICATESSEN, 119 FARRINGDON ROAD, EC1R 3DA - NEW APPLICATION (Item 3)**

The Sub-Committee noted a neighbourhood impact plan that had been circulated and would be interleaved with the agenda papers. It was noted that an application for temporary use had been made to the Planning Department.

The noise officer reported that all conditions had been accepted by the applicant.

The licensing authority stated that it was broadly in support of the application, although had concerns regarding the proposal for a pop-up restaurant in the months before Christmas and asked for more clarity around these proposals. It was noted that the lease expired in 2017.

The applicant reported that he had been running premises on a similar basis in Marylebone High Street since 2007. He had spoken with residents and a number of them were now on the volunteer roster. These were ticketed events only and they were looking at extended hours for the run up to Christmas.

In response to questions, it was noted that staff would be assigned to each area. All audiences leaving would have direct contact with a member of staff who would help with their dispersal. There was to be a total occupancy of 120 persons in the basement which would be staggered throughout the evening. Alcohol would be served with food in the restaurant and would be served at performances. These would be ticketed performances and alcohol would only be sold to those who had a ticket to a performance. The applicant agreed to amend a condition to Challenge 25.

In summary the local authority considered it had been helpful to hear how the process had been managed and left the decision regarding the exception to the core hours to the Sub-Committee.

The applicant reported that this arrangement would not exist after the expiry of the three year lease. Alcohol was ancillary to the performance or to the restaurant.

**RESOLVED:**

That the new premises licence in respect of Theatre Delicatessen, 119 Farringdon Road, EC1 be granted:-

- iv) To permit the sale of alcohol for consumption on the premises, the performance of plays, exhibition of films, provision of live music and recorded music: 10:00 to 23:00 hours on Sunday to Thursday and 10:00 to 23:30 on Friday and Saturday.
- v) The opening hours to be: Sunday to Thursday, 9:30 to 23:30 and Fridays and Saturdays 09:30 to 00:30. Additionally for the basement only to 00:30 Sunday to Wednesday and to 01:30 Thursday to Saturday.
- vi) Additionally for the basement only, performance of plays, sale of alcohol and provision of late night refreshment to midnight, Sunday to Wednesday and to 01:00 on Thursday to Saturday from 12 November 2014 and Saturday 21 December 2014 only.

Conditions as outlined in appendix 3 as detailed on page 143-145 of the agenda with the following amendments:-

## **Licensing Sub Committee B - 11 September 2014**

Condition 20 to read. Anyone purchasing alcohol who appears to be under 25 years will be asked for ID to prove they are over 18 years.

Condition 14 to read. The arrangements at the premises, including means of escape provisions, emergency warning equipment, the electrical installation and mechanical equipment shall be subject to Council approval and shall at all times be maintained in good condition and full working order.

Condition 38 to read. Fireworks or other pyrotechnics will not be used other than with the prior consent of the Council.

### **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 Policy 002. The premises fall under the Bunhill and Clerkenwell cumulative impact area. Licensing policy 002 creates a rebuttable presumption that applications for new premises licences that are likely to add to the existing cumulative impact will normally be refused, unless an applicant can demonstrate why the operation of the premises involved will not add to the cumulative impact or otherwise impact adversely on the promotion of the licensing objectives.

The Sub-Committee noted that the premises would not be alcohol led and that they would operate within the core hours set out in licensing policy 8 except for the limited 6 week run of the pop up restaurant in the basement of the premises. The Sub-Committee noted that the applicant had operated similar premises in Marylebone without complaint. The applicant had met with local residents and had satisfactory noise reduction and dispersal plans in place. The sale of alcohol would be ancillary to performances and the Sub-Committee was satisfied that the ticket only operation of the premises would ensure that the licensing objectives were promoted.

The Sub-Committee was satisfied that with the imposition of conditions, there would be no adverse cumulative impact on the licensing objectives.

### **Note of the Sub-Committee**

The applicant is reminded that the premises should not be used until planning permission is approved.

The meeting ended at 8.25 pm

**CHAIR**