

London Borough of Islington

Licensing Sub Committee A - 24 March 2022

Minutes of the meeting of the Licensing Sub Committee A held by Zoom on 24 March 2022 at 6.30 pm.

Present: **Councillors:** Nick Wayne (Chair), Phil Graham and Marian Spall.

Councillor Nick Wayne in the Chair

- 167 **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.
- 168 **APOLOGIES FOR ABSENCE (Item A2)**
Apologies for absence were received from Councillors Poyser and Khurana.
- 169 **DECLARATIONS OF SUBSTITUTE MEMBERS (Item A3)**
Councillor Phil Graham substituted for Councillor Dave Poyser and Councillor Marian Spall substituted for Councillor Anjna Khurana.
- 170 **DECLARATIONS OF INTEREST (Item A4)**
There were no declarations of interest.
- 171 **ORDER OF BUSINESS (Item A5)**
The order of business would be as the agenda.
- 172 **MINUTES OF PREVIOUS MEETING (Item A6)**
RESOLVED:
That the minutes of the meeting held on 25 January 2022 be confirmed as an accurate record of proceedings and the Chair be authorised to sign them.
- 173 **TRAMPOLINE, 27 CAMDEN PASSAGE, N1 8EA - NEW PREMISES LICENCE (Item B1)**
The Sub-Committee noted that this item had been adjourned to the meeting on the 7 April 2022.
- 174 **D AND D GROOMING LOUNGE/DEEZ LOUNGE, 347 HOLLOWAY ROAD, N7 ORN - NEW PREMISES LICENCE (Item B2)**
The licensing officer introduced the applicant, his representative and the responsible authorities. He reported that since the application had been submitted the hours had been revised and a revised layout plan had been submitted. A planning consent had been circulated from the applicant. The Chair noted that the consent was dated 8 July 2021. The licensing officer reported that this outlined the permission for the barber shop and restaurant however, the issue regarding the temporary structure remained.

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The Police stated that the applicant had submitted an alcohol application for the barber shop in August 2020. The police had visited in December 2020, during lockdown, and found four males smoking shisha at the rear of the premises. During a visit in January 2022, males were again found to be smoking shisha at the rear in an enclosed space. He stated that he had severe reservations in the granting of a licence. He had no confidence that the applicant would adhere to any of the conditions and he objected to the grant of the application.

The Licensing Authority stated that a penalty notice had been served on the applicant and the Sub-Committee would need to give consideration as to whether or not the applicant could comply with conditions and manage the premises lawfully in an area with a number of outlets. There were issues with Planning regarding the outside structure and a notice would be served. The hours proposed were within policy hours but there must be confidence in the ability of the applicant to manage the premises lawfully.

The Trading Standards officer stated that there had been an incident during December 2020 whilst the Coronavirus regulations were in force and businesses were not permitted to open. The service had received information that the business was open. Upon attending, officers could see at the rear of the building a semi-permanent structure which was enclosed and males smoking what appeared to be shisha. A fine was issued under the Covid Regulations and had been paid. Smoking indoors could have been punished in any event under the Health Act. The Sub-Committee needed to be sure that this was a responsible business.

In response to questions, the police stated that January 2022 was the second time that people had been found to be smoking in the rear premises. This was a very busy area which was saturated with bars and pubs. If the applicant could not comply he could not see how he could be trusted with an alcohol licence. He had zero confidence in the applicant and the premises would be difficult to police. The Sub-Committee noted that the premises was in a cumulative impact area.

The applicant's representative stated that the applicant had accepted that he had received a fixed penalty notice. This application had been revised from the original application and only applied to the middle area of the premises, which was the restaurant area. He had been given the fixed penalty two years ago. They expected to have a lot of conditions. The premises had planning approval. This was not an application for shisha but only for the restaurant area. The engineer had set up the noise machine for 24 hours. Only one resident had objected about noise and there had been no objections from planning. There were no noise issues from the restaurant area which was proven in the acoustic report for the planning approval. The rear structure was not subject to this application. He asked that the applicant be given a chance as he had a restaurant licence. He was the designated premises supervisor and could answer to incidents. Any incidents had been over a long period of time.

The applicant stated that in 2019 the premises was a barber shop. He needed to close in December 2020 due to Covid regulations but he had two or three friends round. He paid the fine and said he was sorry. He asked that the Sub-Committee consider the changes he had made. He did get approval for the kitchen and barbers shop. He had five children to provide for. The premises was mixed use and this had been approved. He said that he had not yet done the smoking area as it would cost up to £40000 and it was a temporary structure. He had made the restaurant area. The licence was only for a small area and was nothing to do with the back garden.

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In response to questions, the applicant said that he would operate as a restaurant and barber shop. He would operate the minimum hours and comply with conditions. He was focussed on the restaurant and conditions that he would follow. His representative said that a good set of conditions had been proposed. The manager should be given a chance to prove himself. He had not been given a proper chance and only limited hours were being requested. The applicant had already compromised in accordance with the requirements of the Responsible Authorities. Any incidents were not inside the room but in the garden. The applicant said he had apologised and did not want to be out on the street. He apologised for previous mistakes but this licence would be for a small area and was nothing to do with the back garden. Officers would not find any breaches of conditions within the restaurant area. In response to a question regarding cumulative impact the applicant's representative stated that the licence would not have a negative impact. If the property was vacant this would create more anti-social behaviour and an empty business would affect the community and create more crime. They had reduced the hours from the original application to framework hours. Customers could currently bring their own alcohol and there had not been any issues. He had been managing that with their receipts and a time end of 11pm. When asked if he was aware of the proposed conditions, the applicant stated that he had to be closed at 11pm and show CCTV if there was an incident. He would have an incident book and would co-operate with the licensing authority.

In summary, the Police stated that the applicant had not offered anything more and, regarding the cumulative impact the police had only heard that the applicant wanted to be given a chance. This licence had already been refused and there had been two further incidents since. The applicant had stated that there was a change of business but the business seemed very confused. The police stance remained the same. The police had no confidence in the application and did not have any confidence from visits and interactions. The Licensing Authority stated that the Sub-Committee should bear in mind previous non-compliance. The applicant only wanted to use the middle area and she thought that would mean that the rear structure would be used for smoking. She considered that the restaurant should be completely closed from the rear area to prevent noise issue. There was a screen and it did not appear to be a properly constructed wall. If there was a small restaurant in the middle area this could be granted with a smoking area at the rear although this had residents overlooking who had submitted representations. There was also previous non-compliance to take into account. The Trading Standards officer stated that the police and the licensing authority had greater interaction with the applicant and their submissions should carry more weight.

The applicant's representative stated that there had only been one incident since the previous application. The first application was a barbers shop and that had been the issue. This was now a compromise to reduce the application to the bare minimum. The applicant had learned the hard way. He respected the concerns. This application was very different from the previous application. The applicant stated that he had invested a lot of money in the premises and asked the Sub-Committee to consider the specific area for the restaurant. He would comply with all the conditions proposed.

RESOLVED

That the application for a new premises licence, in respect of D and D Grooming Lounge, 347 Holloway Road, N7 0RN, be refused.

REASONS FOR DECISION

This meeting was facilitated by Zoom.

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

Two local resident objections had been received. There had been representations made by the Licensing Authority, Police and Trading Standards. Conditions were agreed with the noise team.

Planning had made a representation concerning the use of the unauthorised rear extension as work that had been carried out did not accord with planning consent.

The Sub-Committee took into account that the premises were situated in a cumulative impact area, past compliance of current management and whether the applicant could demonstrate commitment to a high standard of management. Licensing Policy 7 states that the Licensing Authority seeks to encourage the highest standards of management in licensed premises and expects this to be demonstrated in the operating schedule. In particular, applicants are expected to explain how they will promote the licensing objectives and address the relevant guidance. The Licensing Authority had raised concerns about the lack of detail in the operating schedule and that the applicant had not addressed the fact that the premises were in a cumulative impact area. When questioned, the applicants' representative said that the Sub-Committee needed to give the applicant an opportunity to show that he could manage the premises and he emphasised that empty premises were likely to have a negative impact and more problems and more crime. This was not a satisfactory response.

Licensing Policy 8 states that when assessing the applicant's ability to demonstrate a commitment to high standards of management the Licensing Authority will take into account whether he can demonstrate comprehensive knowledge of best practice, has implemented any advice that had been given by the responsible authorities, is able to understand legal requirements, can demonstrate knowledge of the licensing objectives and Licensing Policy and also his responsibilities under the Licensing Act 2003. Further, the applicant must be able to run a business lawfully and in accordance with good business practice and demonstrate a track record of compliance with legal requirements. The Sub-Committee noted a number of failures to comply with the law including Covid regulations and indoor smoking. A penalty notice had been issued. The Planning Department had mentioned the possibility of serving an enforcement notice in relation to the rear extension. Police had described an occasion that the applicant had tried to divert them to the front of the building rather than opening a door to the back area where people were unlawfully smoking. The police said that they had zero confidence in the applicant's ability to adhere to any conditions and would find it difficult to check the lounge at the back.

The applicant pointed out that he had attempted to compromise over a long period of time. He had made a mistake and had paid the fine in relation to the Covid regulations but he had learnt from this. He had children in his family to pay for and a lot of time had been wasted.

The Sub-Committee was not satisfied that granting the premises licence was proportionate and appropriate to the promotion of the licensing objectives and the applicant had failed to rebut the presumption incumbent on him that premises licences in this cumulative impact area would normally be refused on the grounds of the likely cumulative impact on the licensing objectives of preventing crime and disorder and public nuisance.

175 57 NEWINGTON GREEN, N16 9PX - NEW PREMISES LICENCE (Item B3)

The licensing officer reported that, as a result of discussions with the applicants and the residents, amended conditions 16 and 30 had been circulated.

One local resident stated that he did not object to the application but raised concerns regarding the extractors as there had been problems from other restaurants in the area and he would have concerns if this applicant moved away. It was understood that any extractor equipment would need a separate planning application and they would have an interest in ensuring that any system was compliant. He considered that the applicant would be an asset to the area and thanked the licensing officer in his work with the applicant and the residents. A second resident stated that she would reiterate support for the applicant and would be pleased if there was additional oversight if any external extractors were part of a separately planning process and would like confirmation that this would be the case. Residents would want the ability to control the external extractor units in the future.

The licensing officer informed that if proposed condition 30 was inserted onto the licence any breach could be enforced should the licence holder use gas appliances, burners or deep fat fryers. The legal officer advised that the licensing officer could check whether or not this condition was being complied with and a review application made or prosecution if necessary. Any noise or odour issues could be investigated by Environmental Health and planning enforcement could take action regarding external structures.

One applicant, who stated he trained as a butcher and specialised in French charcuterie was working with two wine importers. He supported organic farms and he hoped to address the concerns of residents. They did not intend to use external extraction. The two directors had over twenty years' experience between them working front of house. They had seen how extraction systems should be installed using recirculating air. They wished to have as little impact outside the building and they knew how frustrating it was having odours from cooking in flats. They wished to run a successful business and hoped that that this would be a venue for local residents in the area. They understood their responsibility on local residents and the authorities. They had a small walk in fridge. There was a courtyard outside and the external unit would be in the basement level of the floor. They would use air conditioning only when absolutely necessary and not 24 hours. They understood the cumulative impact of another extractor unit at the rear. They had no plans to use the old ventilation system and would remove it.

In response to questions, it was noted that wines were shipped into a bonded warehouse. They would not be delivering food from the bar. One applicant stated that he delivered 15 boxes on a Friday morning but this was fifteen minutes from the shop and there was no intention to change this. The applicants' agreed to additional conditions regarding the use of non-motorised vehicles and a minimum order of food with alcohol.

RESOLVED

- 1) That the application for a new premises licence, in respect of 57 Newington Green N16 9PX, be granted to allow:-
 - a) the sale of alcohol, on and off supplies, Sunday to Thursday from 12 noon until 11pm, Fridays and Saturdays from noon until midnight;
 - b) The playing of recorded music, Fridays and Saturdays from 11pm until midnight;
 - c) The provision of late night refreshment, Fridays and Saturdays from 11pm to midnight;
 - d) The premises to be open to the public, Sunday to Thursday from noon until 11.30pm and Fridays and Saturdays from noon until half past midnight.
 - e) To agree the following non-standard timings on days preceding Bank Holidays.
 - The sale by retail of alcohol, on and off supplies from noon until midnight
 - The playing of recorded music from 11pm until midnight
 - The provision of late night refreshment from 11pm until midnight
 - The premises to be open to the public from 12 noon until half past midnight.
- 2) That conditions detailed on pages 130 to 132 of the agenda shall be applied to the licence with the following amendments:-

Condition 16 to read:- The delivery of licensable goods to the premise shall be restricted to the hours between 10:00 and 20:00 hours Monday to Saturday. No deliveries of licensable goods to the premises shall be made on a Sunday or a Bank Holiday.

Condition 30 to read:- Until such time as adequate extraction and ventilation is installed as agreed by the Local Authority Planning and Environmental Health Departments, there will be no use of Gas Appliances, Charcoal Burners or Deep Fat Fryers to cook with at the premises.

Additional conditions:-

- All deliveries shall be made by non-motorised vehicles.
- Deliveries of alcohol from these premises shall be with sales of food at a minimum amount of £15 and above only.

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.

Four local resident objections had been received and two residents attended. They had been concerned about possible noise and smell nuisance from equipment on the premises including air conditioning. However, agreement had been reached on additional conditions and they emphasised that their concerns were not so much connected with the present applicants as the use of the premises if the applicants moved on. There were no representations from responsible authorities.

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The Sub-Committee heard evidence that deliveries of alcohol would not be supplied from the premises but from a bonded warehouse. There was an online food outlet which operated on Fridays only from the premises and motorised vehicles were not used for these deliveries. The Sub-Committee was concerned to protect residents in the future as well and the applicants agreed to conditions about the use non-motorised vehicles and a minimal food requirement for deliveries of alcohol from the premises.

The Sub-Committee concluded that the granting of the licence with the agreed conditions would not cause any foreseeable impact on any of 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 the operating schedule demonstrated high standards of management.

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

176 VOTE OF THANKS (Item)

The Chair stated that this was his last meeting before the election and thanked officers for their work over the past four years. Officers and members also thanked the Chair for his services to the Sub-Committee.

The meeting ended at 8.05 pm

CHAIR