

Licensing Sub Committee D - 12 October 2022

Minutes of the meeting of the Licensing Sub Committee D held at Council Chamber, Town Hall, Upper Street, N1 2UD on 12 October 2022 at 6.30 pm.

Present: **Councillors:** Anjna Khurana, Nick Wayne and Angelo Weekes

Councillor Angelo Weekes in the Chair

20 INTRODUCTIONS AND PROCEDURE (Item A1)

Councillor Weekes welcomed everyone to the meeting and officers and members introduced themselves. The procedure for the conduct of the meeting was outlined.

21 APOLOGIES FOR ABSENCE (Item A2)

Apologies for absence were received from Councillors Shaikh and Croft.

22 DECLARATIONS OF SUBSTITUTE MEMBERS (Item A3)

Councillor Nick Wayne substituted for Councillor Asima Shaikh and Councillor Anjna Khurana substituted for Joseph Croft.

23 DECLARATIONS OF INTEREST (Item A4)

There were no declarations of interest.

24 ORDER OF BUSINESS (Item A5)

The order of business would be as the agenda.

25 THE COMPTON ARMS, 4 COMPTON AVENUE, N1 2XD - REVIEW OF PREMISES LICENCE (Item B1)

The licensing officer reported that there had been additional submissions circulated following the publication of the agenda. These included conditions on other pub licences submitted by the applicant, correspondence relating to the cctv, a case outline from the licensee, additional photos, a letter from the freeholder and an email from the police with conditions agreed.

All evidence had been shown to all parties. The police representation had been withdrawn following agreed conditions detailed on pages 51-53 of the agenda. The noise conditions had also been discussed with the licensee but one remaining condition had not yet been agreed. The members of the Sub-Committee had seen all the videos submitted by the applicants.

In response to a question, it was noted that the applicants had not yet seen the noise conditions.

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The meeting adjourned for ten minutes for the applicants for the review to consider the proposed noise conditions. It was noted that the police conditions were detailed in the report and there were no other police conditions. The noise officer had raised a number of issues that he considered should be addressed by the applicant and these were detailed on page 41 of the agenda.

Following the adjournment, one of applicants stated that she had lived opposite the premises for over twenty six years. She stated that she wished to portray the experience of the immediate neighbours around the Compton Arms. She said that the applicants did not want the pub to shut but wanted peace in their own homes and to be given equal consideration. Other local residents also supported the review but they did not wish to attend the meeting as they did not wish to be identified due to the media campaign which had caused personal distress. She raised concerns about the drinkers outside urinating and leering at young women, often the daughters of neighbours. The pub should be part of the community but should not be about excess profit and greed. She stated that it was not the pub it once was before the current licensee had taken over. The residents wanted to live without fear, with nobody urinating outside and without customers shouting and screaming and blocking the highway. She stated that the issues were getting worse. The applicants cared for both the pub and the community.

A second applicant stated that the video evidence that members had seen did not contravene GDPR regulations. All evidence submitted was indicative of what living in the area was like on a regular basis. There had been no complaints about the premises until the latest licensee. He stated the pub would be viable in the future. They were not asking for a change in hours but asked that the licensee stop breaching their licence conditions. It was acknowledged that there was huge support for this pub but this matter was a licensing issue between its neighbours and the pub. Many commentators did not know the effect the pub had on neighbours. The pub was much noisier than it should be. Conditions had been applied to the licence in 2005 which required an acoustic lobby and an air conditioning unit. Pubs should be acoustically controlled to prevent noise leakage. Greene King did not challenge the conditions and it was considered that the conditions were imposed intentionally. The licensing officer considered that these conditions had been added in error. The applicants considered that the pub did not have an acoustic lobby and was in breach of the licence, whether or not they had been added in error. The applicants considered that these conditions had been added intentionally. He had lived in the area for 24 years and had known five different licensees. The licensee now wished to write his own rules but which did not address the noise nuisance and street drinking. The licensee had bought a pub in a residential area, had broken the law, caused a nuisance and did not expect the residents to stop it. Issues were linked with the younger, more boisterous customers. It was stated that lobbies and air conditioning units were not practical. The applicant stated that it was practical to have an air conditioning unit and to keep windows shut. If the acoustic lobby was impractical, a different solution should be offered. Conditions had been submitted from other licensed premises. All expected that premises in dense residential areas should keep windows closed and also close their gardens early and had constraints on noise. Conditions were legally binding. The applicants did have concerns about the breaches. The licensee was

told to keep windows and doors closed and install air conditioning but chose not to comply. Tables and chairs were put out illegally without a pavement licence and these were only removed following a complaint. The applicants disagreed with the noise conditions proposed but hoped that the appointment of a noise consultant be approved.

In response to questions, one applicant stated that the photos and videos submitted were a representative sample. Some photos/videos could not be taken due to the amount of people outside the pub who could be intimidating. It was considered that the noise was more intense now due to the reports about the pub in social media. It was accepted that the installation of air conditioning would not address the concerns about street drinking or urination. The applicants' stated that arsenal fans were generally well behaved and match days limits were excluded from their request. The applicants' considered that if the pub was cooled with air conditioning there would be less need for patrons to drink outside. It was stated that there had been an increase in boisterous behaviour particularly from Wednesday to Sunday and could be from 4 to 5 pm on sunny days. The character of the pub had changed and most regular patrons had moved on. The nature of the street had not changed and it was predominantly a residential street. The noise disturbance was background chatter and conversation with laughter and shrieking through doors or windows that had been left open. Noise permeated outside the front and increased with the consumption of more alcohol.

The noise team stated that they had not witnessed excessive noise particularly regarding the extractor fan and the chilling units on the roof. The complainant was advised to call after 11pm for the out of hours team but there had been no record of any reports being received. Two complaints resulted in anti-social behaviour being witnessed and these were resolved on the night. In his opinion the premises was too small for an acoustic lobby and this condition should be removed from the licence. Other proposed conditions had mainly been agreed with the licensee. These included that music be kept to background levels, the fixed machinery be kept at a specified decibel level, there be a management dispersal policy agreed by the noise team, there be no vertical drinking in the rear garden, and cleared by 10.30pm and there be no customers drinking outside past ten pm. It was proposed that no more than 15 people should drink outside and customers should not be allowed to accumulate in Hyde's Place, but this had not been agreed by the licensee.

In response to questions, the noise officer confirmed that the noise team had visited the premises and made an assessment regarding noise complaints and concluded that the noise disturbances did not constitute a statutory nuisance. The noise team concentrated their visits on their more problematic venues. It was noted that The Compton Arms had not been seen as a problem venue. Regarding the proposed number of 15 patrons allowed outside the premises, the noise officer stated that he had taken into the consideration the length of façade and width of pavement. It was confirmed that there be no vertical drinking in the rear garden and this would be cleared by 10.30pm. He had taken into account the complaints received. He did not wish that more people gather in Hyde Place to cause noise

issues and which could cause more people to accumulate. He would ask that patrons stay on the pavement near to the side of the premises as much as possible.

Residents spoke in favour of the licensee. One resident stated that he considered that the premises was one of the best run pubs in London and was exceptionally run. This was a terrible time for the hospitality industry. He had not seen any undue noise or chaos by patrons. He had witnessed staff ask patrons to be quiet or to leave. Another resident stated that she lived only a few yards from the Compton Arms and had young children so it was not in her interest to see any anti-social behaviour in the area. She had lived there for 15 years and had not encountered any problems. In her experience people felt safer walking along the street with patrons outside. She considered it to be an asset to the community and was lucky to have the pub as her local. The pub was a big part of the community and restrictions would not make it viable. A third resident stated that she lived opposite the pub as well and it was something she thought carefully over when she moved in. It was not a position where you would expect quiet. Her child had not been woken by noise from the pub but the noise from Upper Street had woken her up. The licensee controlled the behaviour of patrons, the garden closed promptly. The pub offered exceptional food and patrons were not unruly or raucous but there was a happy chatter. She considered that stringent conditions regarding the outdoor space it would not be viable due to the lack of covers. She had never seen fights break out and had been helped upstairs with her pram by patrons. A fourth resident stated that he did not recognise the pub from the information given this evening. The premises previously had fewer patrons and was about to close. He lived in the same street and had never witnessed any fracas. The outside was kept immaculately. This was an historical pub in the heart of the community. The pub was nicely presented and welcoming. The management team were supportive and the pub had been much improved since the current licensee had taken over. He fully supported the licensee. Finally, a fifth resident stated that, although he accepted he did not live as close to the premises as his fellow speakers, the atmosphere was part of the reason he had chosen to live in Islington and he had often taken friends to the Compton Arms. Closing the rear garden at 10.30 was consistent with other pub gardens in the borough. He considered that a WhatsApp group was a good thing. Living opposite a pub was the joy of living in the city and it had never felt intrusive.

The licensee's representative stated that submissions by those making the review were not agreed. The licensee had not instigated the campaign on public media. The character of the pub had not changed. The licensee wished to buy the pub and had significantly improved the premises with the standard of food. It had a successful food operation and had been voted second best pub in Time Out. People had congregated for Arsenal games outside for years, long before the current licensee had taken over. This had been a significant investment. The licensee had installed a roof over the rear area and was an experienced operator. The kitchen had been kept open during Covid and residents' meetings had been held and these would continue. Compton House Rules had been introduced. There had been one instance of urination which was when a patron was told to leave the premises. Photos of the premises and a case outline had been submitted and inspections had

taken place by Shield Associates. These had all been positive and made in an effort to make improvements. An acoustic lobby was not appropriate for this premises. This was a condition that had been put on in error as was the installation of air conditioning, which was not feasible due to the size and character of the pub. Patrons had stood outside for many years with no issues and off sales to drink outside were important in terms of viability given the size of the pub. There was a door supervisor presence on match days to ensure patrons were managed. It was not accepted that the premises were causing a noise issue and the licensee had been very keen to work in partnership with the applicants for the review. There were two completely contrasting views. Patrons inside and outside on match days were not an issue. Complaints had increased post Covid, however it is accepted that there were two proven complaints. One was a staff party and the other was the first arsenal home game after lockdown where more people had turned up than expected. A door supervisor was now in attendance. Apart from those complaints, there had been no nuisance found or action needed. Over 2000 people were in support of the premises. There had been no representation from the Licensing Authority. Conditions had been agreed with the police and there had been an ongoing dialogue with the noise team about their proposals on pages 41 to 43 of the report. It had been agreed that there be no vertical drinking in the garden, no sales to the garden area after 10pm but to allow customers to remain until 10.30pm if seated at 8pm to finish. No drinking outside the front after 10pm. This was an important part of the premises from a viability point of view. It was submitted that the premises were managed properly. It was accepted that there were occasions when customers were in the road. He proposed that the condition could read that the premises licence holder use all reasonable endeavours and it was difficult to define 'as close to the premises as possible'. He asked that the Sub-Committee not limit numbers outside on arsenal match days. The licensee requested 25 patrons outside on other occasions whilst the noise officer had asked for 15. This had not been agreed and he stated that the number would be a matter for the Sub-Committee. The s182 guidance stated that remedial action if necessary, should be proportionate. It was understood that the licence is outdated. It was a very important pub, 2000 residents supported the licensee and there were five residents in attendance, there are residents who close by. The proposed conditions are in the agenda pack.

In response to questions, the licensee stated they would want the number of 25 customers outside to allow some flexibility. Sometimes it was hard to differentiate between customers and people walking down the road. The number outside was rarely above 15. All windows and doors would be closed which makes the pub very hot. Not everyone could sit down as it was a small pub so customers may wish to stand outside. He had no objection to not using Hydes Place and Compton Avenue in principle but was concerned if this condition was applied to the licence. He considered that the numbers outside could be well managed and the number of 25 was felt to be reasonable. The premises had one door supervisor for Arsenal home games or for a significant event such as a wedding. There have been no violent episodes or thefts in four years. He would like to think that the premises was communicative with the complainants. If there were more people outside than were allowed we would ask patrons to return later. It would be kept friendly. The

licensee said he had never been more proud of his management team and he had felt validated by the amount of submissions in support.

In summary, the applicant considered that the residents speaking in support of the licensee did not live as close as they reported. He considered that the pub was a gold mine. He stated that no sound recordings had been made and results from noise complaints had been judgmental. He said that there was reason to say that noise issues had been a statutory nuisance. He asked that there be no breaches of the license conditions. The applicants' did not mind there being drinking outside on match days. The doors and windows had previously been kept closed so there had been no previous complaints. There had been 61 complaints but only two visits. The conditions in the licence now were valid and he considered that the licensing officer research was flawed.

The noise officer stated that statutory noise nuisance was subjective but based on case law. The officers witnessed how often it occurred, the time of day and how it affected persons inside their own property. They would make observations. In the opinion of noise officers they considered that there were no issues apart from on the two occasions detailed which were resolved on those evenings.

A resident stated that they do live as close to the premises as they had previously stated. She had lived there for 15 years and there had always been people drinking outside the pub. With the square footage of the premises and the need to employ door supervisors, it was not a gold mine as had been claimed.

The licensees' representative stated that, as detailed in the home office guidance s182, the police were the primary opinion on crime and disorder and the responsible authorities as professionals helping the Committee. The conditions proposed were detailed at pages 48-53 of the agenda. He asked that the Sub-Committee consider the evidence of 2000 letters of support and those that spoke at the meeting, that there had been no nuisance found on many occasions by the noise officer, the conditions proposed as the licence was old and outdated, that numbers outside be not imposed for arsenal games, a number for outside to be agreed for other occasions and the words best endeavours be included in the noise condition for managing outside.

Following deliberation, the Chair read out the decision as detailed below.

RESOLVED

- 1) That the premises licence, in respect of The Compton Arms, 4 Compton Avenue, N1 2XD be modified as follows:

Conditions attached as detailed on pages 48 to 50 of the agenda (which includes the removal of conditions related to air conditioning and acoustic lobbies), the proposed police conditions detailed at pages 51 to 53 of the agenda and the conditions from the noise team as detailed below, shall be applied to the licence.

- All music and amplified sound shall be kept to background levels

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- The existing fixed plant and machinery shall be such that when operating the cumulative noise level LAeq Tr arising from the proposed plant, measured or predicted at 1m from the facade of the nearest noise sensitive premises, shall be a rating level of at least 5dB(A) below the background noise level LAF90 Tbg. The measurement and/or prediction of the noise should be carried out in accordance with the methodology contained within BS 4142: 2014 and completed within 28 days of the issue of the licence, including any necessary remedial works to the fixed plant and machinery.
- The licensee shall develop a Noise Management and Dispersal Policy to control noise coming from the venue, including people noise, and to control noise from customers either congregating outside or leaving the area. The Noise Management and Dispersal Policy shall be agreed with the Council's Licensing Authority and be reviewed and revised periodically or after incidences to ensure that public nuisance is prevented from recurring.
- There shall be no vertical drinking in the rear garden.
- The rear garden shall be cleared of customers by 10:30pm each night.
- There shall be no customers drinking outside the premises past 10pm each night.
- There shall be no more than 20 customers outside the front of the premises drinking; customers shall be restricted to drinking as close to the premises as possible and not encroach the pavement on the opposite side of Compton Avenue and customers should not be allowed to accumulate in Hyde's Place or beyond Hyde's Place in Compton Avenue. Should 20 customers be exceeded, management shall ensure that customers are dispersed within 15 minutes.
- On all dates when football matches at the Emirates stadium are held, there be no maximum number of customers outside the premises.

In addition, the following conditions shall also be applied to the licence.

- The licensee shall adopt best practices eg Control of Noise from Pubs and club and other voluntary codes of practice including the BBPA and Portman Group point of sale promotions.
- The licensee shall effectively manage the movement of people, including staff, and traffic arriving and leaving the premises.

REASONS FOR DECISION

The Sub-Committee listened to all the evidence and submissions and had read all the material, seen the videos and photographs submitted. 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 Licensing Sub Committee very carefully considered this application for a review, which included more than 2000 representations from members of the public and sought to take such action, based on the evidence, as was appropriate to the licensing objective of prevention of public nuisance, proportionate to the circumstances and in the public interest.

The Sub-Committee heard evidence that the applicants were disturbed by noise mainly by people congregating outside on the street and talking loudly and shrieking. The noise team had received 61 complaints, which they attended but on only two occasions did they assess a statutory nuisance. In addition, the applicants to the review referred to noise escape through a window and a door. It was alleged that young girls had been leered at. The applicants pointed out that the conditions relating to air conditioning and acoustic lobbies were not being complied with. While these conditions were on the premises licence, the licensee's representative said that these were inappropriate given the size and character of the building. The licensees submitted that the premises was noted for the quality of its food and being a small premises, made use of the rear garden to accommodate diners. The final sitting for dinner was 8pm with the last orders for alcohol at 10pm and the yard to be cleared by 10.30pm.

The Sub-Committee concluded that there was little evidence that nuisance was being caused by noise escaping through a window and that the problem seemed to be, the congregation of people in the street.

Substantial conditions had been agreed with the licensee and the police had withdrawn their representation. The Sub-Committee took into consideration the representations made concerning the noise teams proposed/agreed conditions. Home Office Guidance 2018 states at paragraph 2.17 "Conditions relating to noise nuisance will usually concern steps appropriate to control the levels of noise emanating from premises. Any conditions appropriate to promote the prevention of public nuisance should be tailored to the nature and characteristics of the specific premises and its licensable activities".

Home Office Guidance 2018 states at paragraph 11.20 "It is expected that licensing authorities should so far as possible seek to establish the cause or causes of the concerns that the representations identify. The remedial action taken should generally be directed at these causes and should always be no more than an appropriate and proportionate response to address the causes of concern that instigated the review."

The Sub-Committee was satisfied that the amendment of conditions was appropriate to the licensing objective of the prevention of public nuisance, proportionate and in the public interest.

The conditions aimed to address concerns raised, while ensuring that the licensed premises can continue to be an asset to the community.

26 **EXCLUSION OF PRESS/PUBLIC (Item D1)**

RESOLVED

That the press and public be excluded during consideration of the appendices of the report as the presence of members of the public and press would result in the disclosure of exempt information within the terms of the Local Government Act 1972 for the following reason:-

Category 1 – information relating to any individual.

- 27 **THE COMPTON ARMS - EXEMPT APPENDIX (Item D2)**
RESOLVED that the appendices to the report be noted.

The meeting ended at 9.45 pm

CHAIR