

**Licensing Sub Committee A - 16 March 2023**

Minutes of the meeting of the Licensing Sub Committee A held at Committee Room 4, Town Hall, Upper Street, N1 2UD on 16 March 2023 at 6.30 pm.

**Present:**      **Councillors:**      Nick Wayne (Chair), Flora Williamson and Ernestas Jegorovas-Armstrong

**Councillor Nick Wayne in the Chair**

**34      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.

**35      APOLOGIES FOR ABSENCE (Item A2)**

Apologies for absence were received from Councillors Spall and Nargund.

**36      DECLARATIONS OF SUBSTITUTE MEMBERS (Item A3)**

Councillor Flora Williamson substituted for Councillor Spall and Councillor Ernestas Jegorovas-Armstrong substituted for Councillor Nargund.

**37      DECLARATIONS OF INTEREST (Item A4)**

There were no declarations of interest.

**38      ORDER OF BUSINESS (Item A5)**

The order of business would be as the agenda.

**39      MINUTES OF PREVIOUS MEETING (Item A6)**

**RESOLVED:**

That the minutes of the meeting held on 15 December 2023 be confirmed as an accurate record of proceedings and the Chair be authorised to sign them.

**40      THE PLANT CLUB AT THE GREENHOUSE, 49 GREEN LANES, N16 9BU - NEW PREMISES LICENCE (Item B1)**

The licensing officer advised that the fire risk assessment was available at the meeting for consideration.

The Licensing Authority stated that there been no further communication with the applicant. She had visited the premises and seen the corrugated plastic structure with a glass roof. Many complaints had been made by residents. She considered that it would be difficult for the area to be sound proofed, and it was currently like an echo chamber. She recommended that the rear part of the premises should not

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be used after 8pm and any music should be at conversation level. She raised concerns about the fire exit doors and that these did not provide enough protection from the rest of the building. There was cooking taking place in the area and there were offices in the rest of the building. She considered that the premises were not suitable for a fully operational bar with music.

In response to questions by members, it was noted that the fire risk assessment had been commissioned by the landlord and had been carried out in November 2022. The fire risk assessment had identified some quite significant issues with the premises.

Three residents spoke in objection to the application. They stated that the premises was in the middle of residential premises. There were student parties and a members' club that operated in close proximity but with no complaint. There was constant noise escape with this premises. Issues had been known about for years. Noise disturbance could occur from 1 pm to 10pm. The building amplified noise rather than absorbing it. Following advice by an Acoustic Consultant, the noise level had been measured from Thursday to Sunday and the decibel level was in the region of 60 to 70. A vacuum cleaner had a decibel level of 70. A condition on the licence in 2015 asked for a noise survey. The structure was only four metres away from residential premises and neighbours were no longer able to use their gardens. There was also constant light pollution.

In response to questions, the residents stated that the owner knew that this structure was unsuitable. It had been well documented for years, since 2016/2107. Residents had always had to submit noise complaints, but it had never been resolved with the premises. The structure lent itself to a pop-up temporary business and was unsuitable. Any conversation could be heard. The structure needed to be rebuilt and sound proofed and as tenants they could not do this themselves. In response to a question about regularising the situation, residents considered that any licence would not be workable as a noise condition would be broken each day. Problems could result from legitimising the premises because this concerned not only the current operators but anyone who may take over the premises in the future.

The licensing officer informed that the premises had been used as a café from 2015. The building, which had been erected in a loading bay, was unsuitable. A condition on the licence in 2015 had stated that the noise or vibration would not emanate from the yard area after 7pm.

The Sub-Committee considered that if there was any breach regarding planning consent, this should be dealt with by the planning team. The Chair suggested that, should the licence were granted it would include a proposed condition that the rear area should not be used after 8pm. The applicant stated that the business would not be viable if this condition was imposed.

The applicant stated that he operated Thursdays to Sundays and closed early on the Sunday. They normally stopped serving by 9.30 – 10pm and were not intending to add more days. He understood that there was a lack of a good structure. This

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was not a bar or a club and served alcohol with food. Signs were erected asking customers to keep the volume down and to respect the neighbours. They would like a better venue and they were looking for another premises but it fell through. Not using the rear at 8pm would kill the business. Changes to the structure would cost money but they would be investing money for a reason. They could make improvements to keep the decibel level below 70. They were currently operating bring your own alcohol and hoped that they could find a compromise.

In response to questions, the applicant stated that they would buy panels similar to those used along railways to keep out noise. The applicant and his partner would be the only ones selling alcohol.

When questioned about how much of the Fire Risk Assessment Action Plan had been completed, the applicant explained that the landlord had obtained the Fire Risk Assessment and had sent it to them. The applicant did not know much about it as it was the Landlord's responsibility, but he knew that a fire detector was to be moved to the kitchen next week. He considered that installing the panels would improve the noise disturbance as the sound would rise above the panels. Work on the roof would be more difficult. Somebody would be visiting next week to check the works that were being carried out. They hadn't really obtained quotes, but they expected the panels to be about £200 each. If the full work was £10 000 they would not do it but they didn't know how much it would cost at this stage. He considered that if the premises was more attractive, they would only have the same number of customers but would eventually move to another venue.

In summary, the Licensing Authority stated that there was not enough detail in the initial application for the licence. Sound insulation would need to be substantial and the use of the premises should be at the front. It was the risk assessment commissioned by the landlord and his responsibility. She considered that these were not suitable premises for an operational café and bar.

The residents stated that there were already breaches of the licence conditions. They were fed up with constantly complaining and asked that a licence be heavily conditioned or rejected.

The applicant stated that they operated Thursday to Saturday and were on a main road. He stated that it was difficult to find total peace in London. If they were stopped it would change the workers and customers lives. If the use of the rear finished at 8pm it would not be possible to survive. He asked that the Sub-Committee make it a more controllable business rather than they operate bring your own. They would make changes from the structure using their own money.

### **RESOLVED**

The Sub-Committee has decided to refuse the application for a new premises licence in respect of Plant Club Cafe, 49 Green Lanes, N16 9BU

### **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.

Eleven local resident objections had been received. There had been representations made by the Licensing Authority and some conditions had been agreed with the Noise team and the Police.

The Sub-Committee heard evidence that the main problem with the premises was, that the rear area, which was bordered by a garden fence and backing onto residents' gardens, was unsuitable acoustically. The Licensing Authority described the structure at the rear of the premises as a corrugated plastic structure with glass roofing. Both the Licensing Authority and residents agreed that it was an echo chamber. Even normal conversation was quite audible to residents. The kitchen was situated in that structure.

The applicant had proposed a condition as follows: "The sale of alcohol at the premises under this licence shall not be permitted until work has been completed and approved by the Council's pollution team to prevent the use of the premises as a restaurant being a nuisance to nearby residential properties." However, the applicant was vague about what steps had been taken to soundproof the premises although he said that it would cost £200 for each fence panel. He had no clear idea how much the entire work would cost. At the hearing, a fire risk assessment was tabled but the applicant said it had been produced by the landlord and he didn't know much about it.

The Licensing Authority had suggested a condition that the rear of the premises should not be used after 8pm. When questioned, the applicant was clear that he could not accept this condition because it would not be viable for the business.

The Sub-Committee weighed up the benefits of granting a premises licence with conditions and the current situation where the restaurant was operating on a bring your own alcohol for customers. However, it was also apparent that granting a premises licence would not be appropriate or proportionate to the licensing objectives, particularly preventing public nuisance. Under licensing policy 22, the Licensing Authority is committed to preventing public nuisance by protecting the amenity of resident in the vicinity of licensed premises. Licensing policy 8 requires the applicant to demonstrate a commitment to high standards of management. The applicant could not demonstrate comprehensive knowledge of best practice.

The Sub-Committee concluded that the application for a premises licence should be refused.

**41     THE BLOCK, 10-14 WHITE LION STREET, N1 - NEW LICENCE APPLICATION (Item B2)**

The licensing officer reported that the applicant had submitted a bundle of additional evidence. This included two additional proposed conditions. It was confirmed that this application was in the Kings Cross cumulative impact area and hours had been amended to a terminal hour of 11pm.

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The Licensing Authority stated that the initial application had not been clear. She recommended that the terminal hour should be 11pm and that the Sub-Committee should be satisfied about how the business would operate. The applicant had provided an explanation about the issue that had occurred in February and the 11pm terminal hour and conditions had been agreed by the applicant. She accepted it would be too early for a fire risk assessment but would like a copy in the future.

It was noted that there were three resident objections although no resident attended the meeting.

The applicant's representative stated that, although this premises was in the Kings Cross cumulative area it was very near the Angel. The policy issues regarding the Kings Cross area were based approximately a mile away from the hub. The policy provided exceptions; it was not alcohol led, it was principally a workspace and was within framework hours. This was not a bar or a pub and there would not be lots of people standing up and drinking and he hoped that the Sub-Committee could find an exception. Conditions had been agreed with the police and a dispersal policy had been provided. Clients would be charged an annual fee for membership and they could purchase drink if they required. It was expected that clients would head towards Angel at the end of the day. There were residential premises at the rear of the building, but it was not considered that residents would be disturbed. This licence was for members to have a drink at the end of the day or for work functions with a lunch or dinner in the evening and conferences. Events would not be parties of weddings but, for example, project launches. Some events would not involve alcohol at all. The applicant stated that his background was in events, and he wanted to give people who worked in events some space to go to. They may use the space for a couple of hours between meetings, for conference space, networking with canapes and a glass of wine. Membership was heavily subsidised. Additional conditions had been proposed to address concerns. One of these stated that functions would be limited to 25 a year.

In response to questions, it was accepted that the sale of alcohol would be required for lunchtime events from 12 noon but would not be necessary from 10am. The applicant was looking at a ten-year lease. Regarding the issue in February, lessons had been learned and they would oversee security at such an event in the future. At this event the doorman had been taken by surprise by the large number of paparazzi which had caused a traffic jam. For future events the press would be contained in a pen and the applicant had been turning down events that were not considered appropriate. It was an industry led business. It was expected that there would be capacity for approximately 300 people on both floors although the building had an 850 capacity. The applicant was currently focussing on day-time functions. Occupants could not then sublet. Some events would go on into the evening with dinners finishing at 9pm and drinks after. Evening events were important for the business. There was another workspace in Belgravia which was geared more towards creche facilities, and it was expected that this location would be geared towards conference facilities.

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In summary the applicant's representative stated that the sale of alcohol was important to the business. Functions were limited, the application was within framework hours, and he considered that this application fell within the exceptions for the cumulative impact policy. The licensing policy supported businesses and socialising opportunities. He considered that this was a good use of the space and that the Sub-Committee could grant the application.

### **RESOLVED**

That the application for a new premises licence, in respect of The Block, 10-14 White Lion Street, N1 9PD be granted:-

- 1) To allow the sale by retail of alcohol, on supplies only, Monday to Sunday from 12 noon until 11pm and
- 2) The premises to be open to the public Mondays to Sundays 24 hours a day

Conditions detailed on pages 103 to 105 of the agenda shall be applied to the licence and the following conditions:-

- Under this licence, a function of more than 100 people in a part of the premises set apart for that gathering involving the provision of licensable activities which takes place or continues to take place after 10pm;
- Functions are limited to a maximum of 25 per calendar year and a written record of each event, including the date and the nature of the event will be made available to the Local Authority or the Police on request.

### **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 Policies 2 & 3. The premises fall within the Kings Cross 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.

Licensing Policy 3, paragraph 34 refers to problems with noise disturbance, drunken fights and crime due to intoxicated persons in the area. Paragraph 36 states that the licensing authority is committed to working with potential applicants to maintain a well-managed evening economy that meets the needs of residents and businesses while minimising the adverse impacts of crime, disorder nuisance and anti-social behaviour. Exceptions to the Licensing Policy include premises that are not alcohol led, have hours of operation consistent with framework hours and supply alcohol for consumption on the premises with robust arrangements to prevent vertical drinking.

Three local resident objections had been received but the residents did not attend. The Licensing Authority had made a representation but the applicant had agreed that the terminal hour for the sale of alcohol should be 11pm. The Licensing Authority accepted that it was too early for a fire risk assessment to be submitted and was now satisfied with the application.

The applicant explained that the premises would be used as a work space, work functions and events not related to workspace. In addition, it could be available as a space for workers in the event business between shifts. Events which might have an international aspect, could include conferences, networking, project launches, exhibitions and community space, but although there would be private hire this would not be for parties or weddings. The applicant had considerable experience of managing such events and would maintain control. Sub-letting would be prohibited. Functions (gatherings of more than 100 people) would be limited to 25 a year.

In February 2023, complaints had been received from residents and as detailed in the representation by the Licensing Authority, an event had resulted in the street being blocked with traffic and the pavements being congested. However, the Sub-Committee was satisfied that this was highly exceptional. There had been a fashion show and a celebrity had attended with paparazzi. As a result of this experience the applicant was turning down events not considered appropriate.

The Sub-Committee questioned the applicant on the reason for licensing alcohol from 10am. Although the hours requested were in accordance with framework hours, Licensing Policy 6 states that those hours were not predetermined, each application would be considered on its merits and local issues indicated shorter licensing hours in order to promote the licensing objectives. The applicant said that lunches would be served from 12 onwards and accepted that the starting time could be later than 10am.

The Sub-Committee concluded that, with the conditions and with the later starting time for selling alcohol, granting the premises licence would be unlikely to add to the existing cumulative impact in the area. Further, the premises use fell within the exceptions to the Kings Cross cumulative policy.

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

**42      THE HOUSE, 126 DARTMOUTH PARK HILL, N19 5HS - NEW PREMISES LICENCE (Item B3)**

The licensing officer reported that a previous licence had lapsed and this application had been made for the same hours. The hours applied for were confirmed to the Sub-Committee. It was noted that the licence had been used up until the pandemic and had only lapsed in January. Once this had been noticed, the applicant applied for a new licence.

A resident spoke in objection. The House was in the middle of a residential area. The resident appreciated that the applicant responded quickly to concerns but their

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main concern was the noise level in the garden with the late hours at the weekend. Their bedroom overlooked the pub and they were unable to install double glazing as their property was a listed building. They had no concerns about the staff who worked in the premises but raised concerns about the noise level for events. They would prefer not to be in a position where they would need to complain.

In response to questions, the resident stated that she had not lived there for a long time but other neighbours had informed her that the premises had been closed for several years and there had been noise complaints before that.

The applicant stated that she had been running the pub since 2018. It had been a pub for over 50 years, she had taken over the licence. It was not intended to lapse the licence and she had to reapply. She lived above the premises with her daughter so would not wish to live above a noisy pub. The garden had been busy during covid when allowed. There had been a complaint about the noise from the sound system but this complaint had been addressed. She had been gradually reopening since May. There had recently been an event with 150 people until 2am and there had been no complaints. She did not consider this to be a drinks led pub. She had run events, art exhibitions, pilates. This was a creative hub and alcohol was not always sold at events. Schools and charities had held quiz nights. She was considerate of the people in the community.

In response to questions, it was noted that the premises had been reopened from around May/June 2022 for three days a week following work to the pub. She stated that it was not the kind of pub that would cause issues with a late licence. She had recently had an event with 150 people. If she had events with over 50 people she would have a door supervisor. The sound system had a limiter. No more than 6 smokers were allowed outside. The outside was monitored by staff and there had been no complaints in recent times. Customers could not take drinks outside. Although there were events held at the premises it would also be open for the public to have a drink in the bar. She did not have a large amount of customers after 11pm but hospital workers may come for a drink after work. Even in the summer the garden was closed at 9pm and if there was a party, staff would check the building and sound monitor.

In summary, the resident stated that while she appreciated the garden closed at 9pm she was concerned about the late hours, seven days a week. She was concerned about issues caused by staff cleaning up the area and she requested that hours be restricted to framework hours. If there were no problems, a further application could be made.

The applicant stated that the licence had already been at the hours applied for and there had been no problems. Rubbish collection was restricted to no later than 9pm. Staff were trained to be considerate and if there were any issues she invited the resident to talk to her. She had taken over the business in 2018.

### **RESOLVED**

- 1) That the application for a new premises licence, in respect of The House, 126 Dartmouth Park Hill, N19 5HS to allow:-



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- The sale of alcohol, on and off the premises, Mondays to Sundays, from 10:00 to 00:00,
- Live music, recorded music and the performance of dance, Sundays to Thursdays from 19:00 to 22:00 and on Fridays and Saturdays, from 19:00 to 23:00
- Late night refreshment, indoor sporting events, the showing of films, Sundays to Thursdays, from 10:00 to 00:00 and on Fridays and Saturdays, from 10:00 to 01:00
- The premises opening hours, Sundays to Thursdays, from 10:00 to 00:30 and on Fridays and Saturdays from 10:00 to 01:30 as sought.

2) Conditions detailed on pages 156 to 159 of the agenda shall be applied to the licence.

### **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.

Two local resident objections had been received. Conditions had been agreed with the Police, Trading Standards and the Noise team. Three Ward Councillors had written in supporting the proposed conditions and suggesting the hours should be in line with the Licensing Policy.

The Sub-Committee heard evidence that the premises licence had recently lapsed in January 2023. The applicant had been operating under that licence until that point from May 2022 after lockdown ended and building works were completed. There had been no complaints from then onwards. The Sub-Committee heard that there had been earlier complaints resulting from private parties but the applicant was confident that she had taken steps to avoid any recurrence of the problems. The hours sought were the same as those on the previous licence but the conditions were stronger.

The Sub-Committee took into consideration Licensing Policies 2 & 3. The premises fall within the Archway 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.

Local issues in the Archway area include adverse impacts associated with premises supplying alcohol for consumption off the premises, alcohol related anti-social behaviour associated with drinking alcohol in the street and a lack of venues

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providing leisure and social activities (Licensing Policy 3, paragraph 62). Paragraph 58 of Licensing policy 3 describes the main concern as the conduct of off licences.

Licensing Policy 3, paragraph 60 states “to address the imbalance the Licensing Authority wants to encourage applications that bring cultural opportunities for residents”. One of the exceptions to this special policy in Archway is premises promoting cultural activities. The applicant described the premises as being used for arts and a creative hub and community events. She stated that this was not a drinks led public house although there was a bar and people could come in freely.

Licensing Policy 8 requires the applicant to demonstrate a commitment to high standards of management. The applicant demonstrated comprehensive knowledge of best practice and sought advice and implemented it from the Responsible Authorities, understood the legal requirements, licensing objectives, the licensing policy and responsibilities under the Licensing Act 2003.

The Sub-Committee concluded that the applicant had rebutted the presumption against granting the premises licence. The Sub-Committee was satisfied that the operating schedule demonstrated high standards of management and that the proposed use, with the conditions agreed, meant that the premises would not 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.

The meeting ended at 9.30 pm

**CHAIR**