

Licensing Sub Committee D - 18 December 2014

Minutes of the meeting of the Licensing Sub Committee D held at Committee Room 4, Town Hall, Upper Street, N1 2UD on 18 December 2014 at 6.30 pm.

Present: **Councillors:** Alex Diner (Chair), Angela Picknell and Aysegul Erdogan

Councillor Alex Diner in the Chair

- 25** **INTRODUCTIONS AND PROCEDURE (Item 1)**
Councillor Alex Diner welcomed everyone to the meeting and officers and members introduced themselves. The procedure for the conduct of the meeting was outlined and those present were informed that the procedure was detailed in the papers.
- 26** **APOLOGIES FOR ABSENCE (Item 2)**
None.
- 27** **DECLARATIONS OF SUBSTITUTE MEMBERS (Item 3)**
None.
- 28** **DECLARATIONS OF INTEREST (Item 4)**
None.
- 29** **ORDER OF BUSINESS (Item 5)**
The order of business was item B7, C1 and B8.
- 30** **MINUTES OF PREVIOUS MEETING (Item 6)**
RESOLVED:
That the minutes of the meeting held on the 23 October 2014 be confirmed as an accurate record of proceedings and the Chair be authorised to sign them.
- 31** **NANNA'S, 274B ST PAULS ROAD, N1 2LJ (Item 7)**
The licensing officer reported that three additional conditions had been submitted by the applicant and one representation had been withdrawn as a result.
- The representative of a local resident spoke against the application. He stated that he objected to an alcohol and music licence. The extractor fan and the seating outside did not have planning permission. He objected on the grounds of public nuisance and crime and disorder. There were already two local establishments that sold alcohol in a small stretch of road that was already saturated and was in a cumulative impact area. He stated that alcohol should not be sold off the premises. Chairs and tables outside would cause a nuisance to residents. He asked that the application be refused but if it was granted there be five additional conditions to include the removal of the external seating area, the installation of a smoke shelter, there be no happy hour promotions, there should be no bottling up between 21:00 and 09:00 hours and proposed condition 7 should have a specific noise limit.

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The Chair informed the meeting that the premises were not in a cumulative impact area. It was noted that the premises had planning consent to operate under use Class A1 and the planning service were satisfied that this application fell under A1 use.

The applicant Sally Stall, stated that a music licence was not required as music would be background level only. The licence was not a late licence and was to run until 10 pm on Friday and Saturday. Permission had been sought for the outside seating. She had agreed to remove one side of seating following discussion with residents. The owners of the premises did not wish A3 use and she was therefore only working within A1 guidelines. There would be no commercial extraction and no smell escape as a result. This would be a café with 20 – 30 patrons who would not be drinking heavily. Following the addition of a further three proposed conditions, one of the local residents withdrew their representation.

In response to questions it was noted that off sales would be sold in closed containers. Craft beer would be sold which was not sold in pints or cans. Drinks would be purchased alongside food and there was no bar for standing in the premises. The applicant agreed to a condition revising the bottling out times from 21:00 hours to 09:00. Staff would be looking outside the premises to ensure that customers were not placing bikes on the railings. There were no plans for a happy hour and there was expected to be usually 6 people outside and at the most 10 people. The applicant advised that she was happy to accept a condition about a smoking canopy but was concerned about the cost.

In summary and in response to questions from the local resident, the applicant stated that the pipes for the extractor would be internal. The applicant had agreed to take away the seating from one side as the neighbours had single glazing and were woken up by people talking at the railings. The resident considered there was potential for escalation.

RESOLVED

a) That the new premises licence in respect of Nanna's, 274b St Pauls Road, N1 2LJ be granted to permit the premises to sell alcohol for consumption on and off the premises: 10:00 to 21:00 Monday to Thursday, 12:00 to 22:00 on Saturday and from 08:00 to 21:00 on Sunday.

b) That conditions as outlined in appendix 3 as detailed on page 35 of the agenda, with the following additional conditions, as tabled at the meeting and the following amendments.

- There shall be no outside seating on the east side of the premises frontage.
- The licence holder shall regularly sweep up outside the premises and shall ensure that the frontage and the immediately surrounding areas are completely swept clean at the end of every day.
- The licence holder shall remind customers by signage not to place any bicycle on residential railings. Any customer placing bicycles on residential railings shall not be served at the premises until the bicycle has been relocated.
- Condition 20 to read. There shall be no bottling out between the hours of 21:00 and 09:00.
- Additional condition. There shall be no reduced price drinks promotions
- Additional condition. The premises shall operate a Challenge 25 policy.

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 noted that the proposed hours for the sale of alcohol were within the core hours set out in licensing policy 8. The Sub-Committee noted that the applicant had

proposed additional conditions after considering the representations from residents including removal of outside seating on the east side of the premises frontage. The Sub-Committee also noted that one of the resident representations had been withdrawn and only two representations remained.

During the hearing the applicant accepted further conditions proposed by the interested party in respect of bottling out and restriction on drinks promotions. In accordance with licensing policy 9 the Sub-Committee were satisfied that the applicant's operating schedule would deliver the highest standards of management and with the conditions in place the licensing objectives would be promoted.

The Sub-Committee considered the proposal from the interested party for a smoking shelter to be put in place but the Sub-Committee decided that this was disproportionate and would not be necessary to promote the licensing objectives.

32

FABRIC, 77A CHARTERHOUSE STREET, EC1 (Item 8)

The licensing officer reported that all parties had been notified of the meeting either by email or in writing.

The police representative reported that Fabric were exceptionally good in their management practices however the review had been submitted as there had been a recent history of eight incidents at the premises, including four which resulted in the death of patrons after having taken illegal drugs. The most recent deaths had occurred in July and September 2014. Whilst it was accepted that searches carried out at Fabric had satisfactory procedures, there had been an increase in the risk to public safety and the police had therefore put forward the minimum of an additional four conditions that were considered necessary. The CCTV and the search conditions proposed had been accepted, whilst the installation of an ID scanning system and use of a drugs dog were under negotiation with the licensee. It was noted that the licensee did not have an objection in principle, however, had concerns about the practical implications of deployment of drug dogs.

The press and public were excluded at this stage of the meeting to consider the exempt papers and upon return the Sub-Committee asked questions of the police.

In response to questions, the police informed the Sub-Committee that generally engagement with the licensee had been good, however recently, where efforts to improve the security and search regime were required, there had been delays in making progress. Police dogs were successfully used around crowded transport hubs. The police did not consider that deployment of drugs dogs for two hours only was sufficient and requested that dogs be used for 50% of the hours of operation to allow flexibility. It was expected that the person would walk past the dog rather than for the dog to pass along the queue. A static position would not give off a scent. The police considered that reducing the age of patrons to 18 would not reduce the drug issue at this stage so was no longer a condition that was being sought. The police considered that the licensee would be able to source dogs in the private sector.

A local resident who lived two minutes from Fabric, reported that the nature of the clientele had changed over the years. Noise nuisance on Friday and Saturday evenings was intolerable and there were no security staff around to deal with any issues in the early hours of the morning. The Sub-Committee noted that this was an issue every weekend and could happen at any time throughout the night. They had regular contact with the licensing team and had attended meetings with Fabric but the security staff were not employed in this area where clientele may take drugs. It was reported that issues had become worse in the last year. Another local resident agreed and reported that he had often been offered drugs in the area. There was evidence of crime and disorder and also public nuisance with

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vomiting/urination and noise from patrons. The siting of public toilets had not made any improvement to the situation.

A resident, speaking in favour of Fabric, reported that the management of Fabric made more effort than most clubs. He considered that the use of ID scanners was unnecessarily harsh for those who were just going out for a good time. When police were informed about drug issues this had been held against Fabric. He had been offered drugs on one occasion in the premises, which the security team then dealt with immediately and he had never witnessed sales of drugs on the premises. He had a degree of sympathy with residents but stated that you should expect some issues when living in a central London location.

There was a ten minute comfort break at this stage of the meeting.

Paddy Whur, the licensee's representative reported that the licensee had been at Fabric for 15 years. It was accepted that on most issues of management there had been no problems. The death of patrons had made an impact on staff and they had been offered counselling. Fabric was supported on Facebook and a petition in support had been signed by over 25,000 members. This was one of the top three clubs in the world and was the best British large nightclub. There were concerns regarding the use of drug dogs, not because they did not want them but because the quality of cover was proving difficult to find. Correct protocols were required and he considered that the condition was impractical to accept. They wanted to use best practice when it came to the use of drug dogs. Regarding the ID scan, they did not consider the need for law abiding citizens to be scanned. A leading company in the use of ID scanners was still having teething problems. Foreign documents were not recognised by the scanner. Currently, if patrons were required to produce ID they are moved to a search area and a more detailed search was conducted. It was noted that the premises were drug swabbed in September. This produced negative swabbing apart from in one place on the dance floor in Room 1. In respect of the noise representation, there had been no evidence of noise escape. The smoking area at the rear was well supervised and it was asked that additional conditions not be imposed. Resident objections could not be attributed to one particular club.

In response to questions it was considered that the legal issues regarding the use of dogs could be resolved. A company to provide drug dogs was difficult to source. The vast majority were not trained to police dog level and current police dogs could not be used. The licensee wanted to introduce the use of dogs in a proper manner. Cost was not an issue. ID checking was currently carried out on an intelligence led basis. Patrons had been banned from the premises and dealt with professionally. Detailed medical records were broken down by age and those patrons aged between 18-21 were not considered to be at additional risk. A last entry time was not appropriate to be included as a condition as it had no basis in the review. Fabric had not alerted police to all incidents as there was an assumption that the ambulance would call the police. Now that Fabric was aware that this was not the case this would now be done. The door supervisors did patrol 150 yards away from the club and it was stated that no other operator did that. The extent of the patrol had to stop somewhere. There was an issue regarding the insurance of staff once outside the immediate vicinity of the venue. The praise received of their paramedic staff in the venue was noted. Fabric were not stating that they would not use drug dogs but wanted to ensure that they were most effective. It was noted that Professor Measham, who would be advising on drug dog protocols, was available from January.

Regarding the licensing authority draft proposed conditions and the response from the licensee on pages 135 – 144 of the supplementary papers the Sub-Committee noted the following:-

Condition 1. The licensing authority accepted this amendment.

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Condition 3. The licensing authority did not accept this amendment, stating that other venues vetted all customers.

Condition 5. The licensing authority stated that they would like to see this retained. The Sub-Committee noted that the licensee would like this condition to be retained on a voluntary basis.

Condition 9. The licensing authority accepted this amendment.

Condition 12. The licensing authority considered this condition would be helpful whilst the licensee considered it to be onerous.

Condition 13 and 23. The wording to be 'subject to police clarification' was to be added to the condition. This wording was agreed by all parties.

Condition 31. For discussion.

Condition 39. The licensing authority agreed to supply the licensee a copy of the Technical Standard for the Places of Entertainment.

In summary, the police stated that the proposed measures were proportionate due to the serious incidents. They had concerns that the ID scanner, if not used for all customers, would be left to the judgement of staff. The use of drug dogs was raised four months ago which was considered sufficient time for details to be drawn up. Their own expert considered that the use of two dogs was ample and not seven, as stated by the licensee.

The noise team stated that the proposed conditions were in order to modernise the original conditions as these were old and written prior to the smoking ban. No calibration certificate had ever been received.

A local resident considered there had been a lack of engagement with residents. He had no confidence in the ability of Fabric to manage noise nuisance. He considered that people who caused the nuisance were Fabric patrons and not from another venue.

A representative speaking in support of Fabric considered that they were willing to engage with residents and this tallied with his own experience with the venue.

The licensee's representative stated that the issue was being taken very seriously by the venue. The Home Office guidance stated that conditions must be proportionate, justifiable and capable of being met. The venue was not responsible for patrons who were not in the immediate vicinity of the premises. This operator was exceptional. They had not contacted police as they were not aware that this was the correct procedure, but would now do so.

RESOLVED

That the premises licence in respect of Fabric, 77a Charterhouse Street, EC1 be modified with the addition of conditions as outlined in Appendix 4 on page 195 of the agenda, including the conditions proposed by the licensing authority on pages 162-170 of the agenda subject to the amendments relating to the licensing authority proposed conditions detailed below:-

Condition 1. Final paragraph to read. In addition, queuing arrangements shall be in accordance with any plan agreed in writing to the venue operators by Local Authority licensing officers or the Metropolitan Police.

Condition 2. First paragraph to read. No patrons shall be admitted or re-admitted to the premises unless they have passed through a metal detecting search arch or scanned with a search wand.

Conditions 13 and 23. Add the wording 'subject to a threshold agreed by the police'.

Condition 31. Add the wording 'if an ambulance is called and customer taken to hospital the police must be notified'.

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 noted that the police recognised that the premises were well managed but that customers at Fabric are exposed to an exceptional risk in relation to illegal drugs. The premises have search procedures in place but recent incidents indicate that these procedures are not sufficient.

The Sub-Committee noted that Fabric in principle did not object to the use of a drugs dog at the premises but requested additional time in order to put a drugs dog into operation. The police submitted that the highest degree of certainty was required as to when the drugs dog would be implemented at the premises, in order for the prevention of crime and disorder licensing objective to be promoted. The Sub-Committee decided that the condition proposed by the police would mitigate further risk to Fabric's customers and that there should be no delay in implementing this. The proposed condition was therefore proportionate and justifiable. The Sub-Committee noted the evidence of Inspector O'Hara and was satisfied that Fabric would be able to source the required drug dogs in the private sector.

The Sub-Committee noted that Fabric had ID scanners in place and that they were looking for the proposed police condition to be amended to give them some discretion regarding customer ID scanning. The Sub-Committee noted that, with regards to invasion of privacy, the police would only download information from Fabric ID scan if an offence was committed at the premises and that introduction of judgement or intelligence led discretion would undermine the purpose of the ID scanning machine. The Sub-Committee was satisfied that the condition proposed by the police was proportionate and would promote the licensing objectives.

The Sub-Committee noted that in accordance with condition 19 of the current premises licence, the venue should have an Operating Plan which was updated sporadically to reflect new operating procedures. The conditions proposed by the licensing authority set out in Appendix 2 would form the new Operating Procedures for the venue.

Fabric submitted a document detailing their proposed changes to Appendix 2 and this was considered as follows:-

- Condition 1. The proposed amendment was accepted.
- Condition 3. This amendment was refused as the Sub-Committee accepted the police condition regarding ID scanners.
- Condition 5. This condition was to be included because the Sub-Committee noted that the provisions were already in place and had been developed over a number of years. The Sub-committee noted the licensing authority's request that the arrangements should be retained and that, in order to promote the licensing objective to prevent public nuisance, it was proportionate and justifiable for this condition to be imposed.
- Condition 9. This condition to be removed.
- Condition 11. This amendment was refused as the Sub-Committee accepted the police condition regarding the use of drug dogs.
- Condition 12. The condition was to be included because the Sub-Committee noted that the premises already undertake monitoring at the premises. The licensing authority submitted that the proposal was in accordance with good practice and

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would ensure that the licensing objective to promote public safety would be promoted.

- Condition 13 and 23. Amendments proposed by the Sub-Committee were accepted by the licensing authority and the police.
- Condition 31. The Sub-Committee noted that Fabric were now aware that they were required to take this action and the Sub-Committee therefore concluded that it was proportionate to include it as a condition.
- Condition 39. The Sub-Committee noted that the Technical Standards for the Places of Entertainment is a document that the Council still works to and Fabric accepted this condition should remain in place.

The Sub-Committee noted the representation from the noise team and that the proposed conditions would modernise the operating procedures in relation to noise control. The Sub-Committee noted that, when the current conditions were originally written, the smoking ban in public places was not in place. The Sub-Committee also noted the evidence of the interested parties regarding noise breakout from the premises and the Sub-Committee was therefore satisfied that the proposed conditions were proportionate and justifiable to promote the licensing objectives.

The Sub-Committee considered the Home Office guidance, paragraphs 11.24 – 11.28 regarding reviews arising in connection with crime. The Sub-Committee noted that where the crime prevention objective was being undermined, revocation should be seriously considered. However, following submissions of all the parties, the Sub-Committee was satisfied that, in this case, the licensing objectives would be promoted with the imposition of the additional conditions.

Note of the Sub-Committee

At the hearing, Fabric provided interested parties with contact details for their management to deal with public nuisance issues. This was welcomed by the Sub-Committee.

33 URGENT NON-EXEMPT ITEM (Item)

The following item was ruled urgent by the Chair as it was necessary to hear the application within seven working days following the last day for objections.

34 THE GREEN SHOP, 237 UPPER STREET, N1 1RU - TEMPORARY EVENT NOTICE (Item 1)

The police reported that in April 2014, two women were served alcohol without being asked for ID and this was then opened for them before they left the premises. A number of breaches of conditions were found at the time of a further visit to the premises and the applicant was called in to an officer panel. In November 2014 a further visit was made and it was noted that CCTV was still not operating. There was a concern that, on the night of the application for the temporary event notice, there would be people in the area who would have already consumed high levels of alcohol and would be vulnerable to being involved in crime, either as a victim or perpetrator. The emergency services would already be stretched to the limit and there would be pressure placed on staff to refuse to sell to customers when drunk.

In response to questions, it was noted that the premises were located in a very busy part of Upper Street, near Highbury Corner and Holloway Road. The police considered that the combination of poor management and the location were both primary reasons for the objection to the application. They were concerned that there could be problems both inside and outside the premises with the large number of people in the area at that time of the morning.

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The licensee reported that the CCTV had now been fixed. All issues found had been addressed. The premises were situated in the least busy end of Upper Street. It was expected that, in the early hours of New Years Day morning there would only be local people in the area. They stopped opening bottles for customers once she was aware that this should not be done. The only item that was picked up on the second visit was the CCTV.

In response to questions, the licensee reported that she had smiled but she was not intending to be rude to the police, but was smiling at customers in the shop. They did not ask for ID in the first instance as they knew the customers as regulars. It was rare that customers asked for bottles to be opened and now they would not open bottles for customers. They would not serve customers who were drunk. The licensee had been in the premises for four years and all staff took their job seriously and did not serve underage. It was stated that the CCTV had now been installed. There was a delay as there had been a misunderstanding about the length of time that recordings needed to be kept but this had now been rectified.

In summary the police stated they had concerns that the CCTV had been installed following an objection to the TENs application. They considered that the refusals and training logs were not fully completed. They still considered that the management of the premises should run to a high standard, particularly on New Year's Day. The licensee reported that the CCTV was the only thing outstanding after the first visit and this had been rectified.

RESOLVED

That the application for a temporary event notice in respect of The Green Shop, 237 Upper Street, N1 1RU be refused and the licensing authority issue a counter notice.

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 noted the documents presented by the licensee at the hearing that evidenced that the licensee had taken action to comply with the premises licence conditions.

The Sub-Committee noted that the police objection was based on concerns about the location of the premises and the standard of management. The premises are located near to Highbury Corner tube station and within the cumulative impact area of Angel and Upper Street. There are a number of licensed premises in the vicinity and in the early hours of January 1, there would be people in the area as the tube will be running all night. The Sub-Committee noted that during the proposed hours of the TEN there would be pressure on the emergency services. Customers will have been drinking through the evening and the premises had not demonstrated the required standard of management to ensure that the licensing objectives would be promoted.

The Sub-Committee considered the track record of the applicant in accordance with licensing policy 28 and were concerned that high standards of management had not been met.

The Sub-Committee also considered paragraph 9.12 of the Home Office guidance and accepted that the representations made by the police were reasonable and proportionate and that the licensing objective to prevent crime and disorder would be promoted.

35 **FABRIC, 77A CHARTERHOUSE STREET, EC1 - EXEMPT APPENDIX (Item)**

RESOLVED:

That the exempt information in the appendix to agenda item B8 be noted (See Minute No 32 for decision).

The meeting ended at 10.50 pm

CHAIR