

**Licensing Sub Committee D - 14 April 2016**

Minutes of the meeting of the Licensing Sub Committee D held at Committee Room 5, Town Hall, Upper Street, N1 2UD on 14 April 2016 at 6.30 pm.

**Present:**           **Councillors:**       Flora Williamson (Chair), Satnam Gill and Aysegul Erdogan

**Councillor Flora Williamson in the Chair**

- 112        INTRODUCTIONS AND PROCEDURE (Item A1)**  
Councillor Flora Williamson welcomed everyone to the meeting and officers and members introduced themselves. The procedure for the conduct of the meeting was outlined.
- 113        APOLOGIES FOR ABSENCE (Item A2)**  
None.
- 114        DECLARATIONS OF SUBSTITUTE MEMBERS (Item A3)**  
None.
- 115        DECLARATIONS OF INTEREST (Item A4)**  
None.
- 116        ORDER OF BUSINESS (Item A5)**  
The Sub-Committee noted that Items B2 and B3 had been withdrawn from the agenda. The order of business would be B1, B4 and B5.
- 117        MINUTES OF PREVIOUS MEETING (Item A6)**  
**RESOLVED**  
That the minutes of the meeting held on the 9 February 2016 be confirmed as an accurate record of proceedings and the Chair be authorised to sign them.
- 118        DIRTY MARTINI, 74 UPPER STREET, N1 0NY - PREMISES LICENCE VARIATION (Item B1)**  
The Sub-Committee noted the additional information from the applicant circulated separately. This would be interleaved with the agenda papers.

The local authority stated that their representation was maintained. The premises were in a cumulative impact area and further measures had not been provided. The supporting information supplied was welcomed. These were an historical problem premises but the new operators had operated since July 2015 with a number of temporary event notices and had received no complaints from residents, the noise team and the police. Hours in the licensing policy for bars were currently up until midnight and the applicant would need to explain the operation for the premises after midnight.

Councillor Gary Poole reported that he had serious concerns regarding the nature of the venue and its sensitive location. The premises would impact on the night-time economy which raised particular concerns past midnight. The hours did not reflect the framework hours in the licensing policy. Residents were transient in nature and a young mum had left

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as this area as it was untenable for families. The policy was designed to protect residents and it was vital that the policy be upheld. He stated that there was no rebuttable presumption for this application, it was an alcohol led venue, larger than the exceptions in the policy and did not fit within the licensing policy.

The applicant's representatives stated that the previous occupiers of the premises did not have anything to do with the current applicant and previous problems should not be held against this operator. Police had not objected to the application and had been supportive. The applicant managed six other late night premises, closing between 1.30 am and 3.00am, most of which had residents as near neighbours and had comprehensive management procedures. Regarding the representations, one was from a neighbour who did not live immediately above the premises and two were from residents who did not live close by. The police who had previously submitted a review and the noise team, who had supported the review, had not submitted a representation. The applicant had a positive relationship with the neighbour directly above the premises who had reported no issues since July 2015. Refurbishment, including installation of sound insulation, had been carried out on the premises. The applicant had demonstrated over the last nine month period that the premises were well run by a responsible operator. The local authority had no issues with the temporary event notices. The applicant had tried to contact an interested party on several occasions with no success. The temporary event notices (TENS) had all been granted with no objections. Seven were granted until 2am and 16 granted until 3am. These had provided good evidence that the premises would not add to the cumulative impact. An interested party had stated that hours were being breached but late hours would have been during the operation of TENS. During the TENS, CCTV had been provided at the rear of the premises and the applicant had been fully co-operative. To his credit, the applicant had turned around a problem premises in a very short period of time to the satisfaction of police and the near neighbours. It was stated that the grant would be unlikely to add to the cumulative impact. The importance of the policy was recognised and the applicant worked with the residents.

In summary, the representative stated that the applicant managed late night operations in other areas, he had turned this premises around a short time, the noise team and police had not objected even though the police had brought a review previously. Inspections made by the licensing team had been consistently positive. The applicant had demonstrated, over 23 TENS, that late night operation could take place without complaint, including over Christmas. The presumption of rebuttal had been proved in this case and the Sub-Committee were requested to depart from their policy and grant the application as an exception.

In response to questions it was noted that the late night hours would be Thursday to Saturday and not all days of the year. The TENS that had been held should give the Sub-Committee comfort as most were to 3am and included Bank Holiday periods. There were no incidents on any of these days even though this is a stress area. The premises had been carefully scrutinised since July 2015 and had no problems. There were reasons to depart from policy based on TENS and also on the period of time traded. The premises had been turned around in a very short period of time. The police and noise team had the responsibility to check compliance. The representative stated that she could not see what else could be done to overcome the threshold. The premises would not be very different after half past midnight.

The Chief Executive of Dirty Martini stated that his premises operated within strong guidelines. He had the benefit of experience within the brand. There was waitress service to tables. The perimeter of the building would continue to be checked. Food was available and policies would continue after midnight.

The representative stated that the nearest neighbour had no problems with the application and had not objected. The TENS had demonstrated how they would operate until 2am and these had worked consistently. All residents had contact details although they should not be

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required. The applicant built liaison with residents from the beginning. They had strict policies in place. At peak times a manager would be with security at the front door and an internal manager on the floor and in the bar. The company had strict guidelines, had a dispersal policy, would wind down at the end of the evening to provide a different environment, would move customers in the right direction and have a team at the front until customers had left. This was a cocktail bar with also sold bottled beer, was female friendly, had a food offer, put focus on food as much as drinks and the management was hands on. More food was sold during early business hours. Music was broad spectrum but was not dance music. There was no dance floor. 40% of custom was pre-booked and contact details of customers would be on-line. CCTV had increased from four to sixteen cameras. Cocktails were mainly sold earlier in the evening with more bottled beers, wine and champagne being sold later. It was stated that the additional hours were required for more corporate events and also offered customers more options. This was a safe environment which was not reflected elsewhere. There was an expectation that they would not bring more people into the area. Customers in the premises would remain longer. The impact from the previous premises was negative and the new licensee had not added to the impact and had reduced the impact of the previous badly managed premises. There was a long term vision for the company and they would want to remain in Islington long term. More sites were to be opened this year.

In summary, Councillor Gary Poole stated that there would be a substantial increase on the licensing objectives. The licensing policy was seeking to regulate an increase in drink led/spirit led operations. There had been no attempt to challenge the nature of the alcohol offer in this venue. There had been no evidence of mitigation in the application. There would be a substantial increase in the cumulative impact, this case did not meet the exception rule and there was no evidence of mitigation.

In summary, the applicant stated that this venue was not likely to add to the cumulative impact. A condition was offered that there be a last entry time of midnight or half past. This condition had been operated during the TENs and had been supported by the police. They did not consider that they could do anything further to rebut the presumption.

### **RESOLVED**

That the premises licence variation in respect of Dirty Martini, 74 Upper Street, N1 ONY be refused.

### **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, the national guidance and the Council's Licensing Policy.

The Sub-Committee took into consideration Licensing Policy 2 and Home Office guidance 13.20-13.23.

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

The Sub-Committee noted that the hours sought were not within the core hours specified in licensing policy 8.

It was concerned that the granting of the variation licence would undermine the licensing objectives. In accordance with Licensing Policy 7, the Sub-Committee noted the cumulative

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impact that the proliferation of late night venues and retailers in the borough was having on the promotion of the licensing objectives. The number of late night premises was now at a level where to allow more would adversely impact on the licensing objectives.

The Sub-Committee accepted that the previous problems associated with the premises were historic and involved a different operator and that there had been a significant improvement in standards under present management. However, the Angel and Upper Street area was designated a cumulative impact zone because it had reached saturation point in terms of noise, nuisance and general disturbances by late night visitors to the area. It was inevitable that an extension of hours to 2am from Thursdays to Saturdays would result in an addition to public nuisance in the area as a whole as people left the premises. There was a high density of premises selling alcohol in the immediate vicinity. The premises were alcohol led and an extension of the hours would mean that existing customers would carry on drinking for longer.

The Sub-Committee did not consider that the applicant had demonstrated in the operating schedule that there would be no negative cumulative impact on public nuisance and the applicant had failed to rebut the presumption of negative cumulative impact on the licensing objectives.

The Sub-Committee considered that no further conditions could be proposed which could minimise the negative cumulative impact on public nuisance.

The Sub-Committee noted paragraph 7 of licensing policy 2 that exceptional circumstances did not include the fact that the premises would be well managed and run or that the application operated similar premises elsewhere without complaint. The applicant had emphasised that the premises had operated 23 TENS without complaint or objection. However, there was a significant difference between TENS for particular events and a regular extension of licensing hours over weekends, including Thursdays. The Sub-Committee did not consider that there were exceptional circumstances for this application justifying it in departing from its policy.

It was proportionate and appropriate to the licensing objective of public nuisance and in the public interest to refuse the variation.

**119**     **AN APPLE A DAY, 621 HOLLOWAY ROAD, N19 5QX - NEW PREMISES LICENCE (Item B2)**

The Sub-Committee noted that this item had been withdrawn from the agenda.

**120**     **NAMBUCCA, 596 HOLLOWAY ROAD, N7 6LB - PREMISES LICENCE VARIATION (Item B3)**

The Sub-Committee noted that this item had been withdrawn from the agenda.

**121**     **GROUND FLOOR, 15 BENWELL ROAD, N7 7BL - NEW PREMISES LICENCE (Item B4)**

The applicant reported that this was a premises in a warehouse development. He had a restaurant near the Islington/Hackney borders which he had been operating for two years and would like to repeat this business at these premises. He had met with residents. They had concerns about problems arising on match days and takeaways. He stated that patrons would need to reserve tables. Wine was sold with food. No spirits or alcopops were sold. He wanted to bring Michelin star food to Holloway.

In response to questions it was noted that this restaurant would focus on sustainable seafood from Devon. Beer would only be a small percentage of sales and sold in 2/3<sup>rd</sup> pint measures. Reservations would need to be made for tables and on matchdays alcohol

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would not be served 90 minutes before or after the game. He was not catering for a match crowd. No bottled beers or take away would be sold. The van that currently occupied that area would be moving further away.

In summary, the applicant stated that this was a food led premises, they would close at 11pm and they had received no complaints about their other restaurant.

### **RESOLVED**

That the application for a new premises licence in respect of the Ground Floor, 15 Benwell Road, N7 7BL be granted to allow the sale of consumption of alcohol, on and off the premises on Monday to Friday 12:00 to 23:00 and from 10:00 to 23:00 on Saturday and Sunday with the conditions as detailed on pages 154 and 155 of the agenda.

### **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 conditions had been agreed with the licensing authority and that there were no objections from responsible authorities.

The Sub-Committee noted that the applicant had experience of running a restaurant on the Islington/Hackney borders. The restaurant was to focus on sustainable seafood. Wine would be served ancillary to food. Beer would be approximately 2 per cent of alcohol sales and would be served in schooners which measures 2/3rds of a pint. Beer would not be on display. Tables were available by reservation only and bookings would not be taken by persons entering from the street.

The Sub-committee noted the conditions proposed regarding the restrictions on alcohol on matchdays. The restaurant was not catering for football fans.

The applicant had met with the residents who had objected and had explained that the style of the restaurant was not what they had anticipated and the restaurant was not connected with the trailer outside which sold hotdogs. The Sub-Committee noted that the residents had not attended the meeting.

The Sub-Committee noted that the hours sought were within the hours specified in licensing policy 8.

The Sub-Committee considered that the granting of the licence with the conditions was proportionate and in the public interest and appropriate to the licensing objectives.

### **122 NANNAS, 274B ST PAULS ROAD, N1 2LJ - PREMISES LICENCE VARIATION (Item B5)**

The Sub-Committee noted that an application for late night refreshment on Fridays and Saturdays until midnight had also been made.

The applicant stated that she had been operating the premises for eighteen months until 9pm during the week and 10 pm at the weekends. The area was generally quiet. There had been an objection from a local resident who had mainly generic concerns. Food was served alongside drinks. They were operating with A1 planning consent so there was a restriction on cooking.

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### **RESOLVED**

- 1) That the application for a premises licence variation for Nanna's, 274b St Pauls Road, N1 2LJ be granted to allow:-
  - a) The sale of alcohol for consumption on and off the premises Sunday to Thursday, 08:00 to 23:00, 08:00 to midnight on Friday, 09:00 to midnight on Saturday and from 09:00 to 23:00 hours on Sunday.
  - b) Late night refreshment from 23:00 to midnight on Fridays and Saturdays.
- 2) Conditions as detailed on page 181 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.

The Sub-Committee took into account licensing policy 8 and noted that the application for variation was within core hours.

The premises sold food alongside alcohol and operated as a café catering for tea, coffee, beer and wine drinkers. The applicants' response to the resident dealt with the objections raised and the resident did not attend the Sub-Committee meeting.

There had been no representations made by the responsible authorities.

The Sub-Committee considered that the granting of the variation would not have a negative impact on the licensing objectives.

The meeting ended at 8.05 pm

**CHAIR**