

NOTICE OF DECISION

LICENSING SUB-COMMITTEE – 9 MAY 2019

**LICENSING ACT 2003: THE DUTCHIE, 58A CAMBERWELL CHURCH STREET,
LONDON SE5 8QZ**
1. Decision

That the application made by NMAS Enterprise Limited for a premises licence to be granted under Section 17 of the Licensing Act 2003 in respect of the premises known as The Dutchie, 58a Camberwell Church Street, London SE5 8QZ be granted as follows:

Licensable activity	Hours
Opening Hours	Sunday to Thursday: 11:00 - 23:00 Friday and Saturday: 11:00 - 00:00
The sale by retail of alcohol (on sales only):	Sunday to Thursday: 11:00 to 22:30 Friday and Saturday: 11:00 to 23:30
The provision of late night refreshment (indoors)	Friday and Saturday: 23:00 to 23:30
The provision of regulated entertainment in the form of recorded and live music (Indoors)	Sunday to Thursday: 11:00 to 22:30 Friday and Saturday: 11:00 to 23:30
Additional non-standard timings:	1 August, 6 August, 1 October (When these days fall on Friday and Saturday only): 11:00 to 02:00 (the following day) Sundays prior to Bank Holidays Mondays: 11:00 to 00:00 On any day prior to a Public Holiday: 11:00 to 00:00 On these days all licensable activities shall cease 30 minutes before closing time.

2. Conditions

1. That the premises will install a CCTV system and maintain this system in good working order; the system will be of evidential quality in all lighting conditions and should be able to capture a clear facial image of all persons that enter the venue. All public areas will be covered including the bar and smoking areas. That all CCTV footage shall be kept for a period of thirty one (31) days and shall, upon request, be made immediately available for inspection to officers of the police and the council.

2. There shall be at least one member of staff on duty at all times the premises are in operation under its licence trained and proficient in the operation of the CCTV system capable of operating and retrieving footage on request of the Police or other authorised officer.
3. That all staff are trained in their responsibilities under the Licensing Act 2003 and training records to be kept and updated every six months and shall, upon request, be made immediately available to officers of the police and the council.
4. That the maximum occupancy of the premises shall not exceed 120 customers.
5. That save for emergencies, customers shall only enter and exit the premises via the doorway on Camberwell Church Street.
6. That all vehicles dropping off or collecting passengers and food at the premises must be requested to do so on Camberwell Church Street and not Camberwell Grove
7. That all waste must be put out for collection on Camberwell Church Street and not on Camberwell Grove.
8. That the premises licence holder shall operate in accordance with a written dispersal policy (or subsequently amended version) as submitted in advance to the licensing authority and environmental protection which shall be kept at the premises and made available for inspection by authorised officers or the police.
9. That clear legible signage shall be prominently displayed both inside and outside the premises where it can be easily seen and read, reminding customers this is a residential area and requesting that customers leave the area in a quiet and orderly manner.
10. That the following persons associated with the previous management and ownership of the premises are not knowingly to be permitted to enter the premises whilst licensable activities are being carried on, or otherwise be involved in the day to day management of the premises: Omo Ayoade.
11. That a Personal Licence holder is on the premises and on duty at all times after 20:00 when intoxicating liquor is supplied.
12. That on any occasion when the premises is open after midnight, at least one SIA registered door supervisor will be engaged on Friday and Saturday nights. They will be employed from 21.00 when the premises is open after midnight until the end of business and all patrons have vacated the premises. They will be engaged to monitor admission and re-admissions to the premises, security, protection, screening, dealing with conflict and ensure that conditions related to the use of the outside area are adhered to and that the dispersal policy for the premises is implemented. At all other times the premises licence holder must engage door supervisors in accordance with a risk assessment.
13. That all children on the premises shall be accompanied by a responsible adult after 21:00.
14. That on any occasion when the premises is open after 00:00 (midnight), there shall be no new entry or re-entry to the premises after 00:30.

15. That a local taxi cab number shall be displayed at the premises and taxis will be directed to pick up from Camberwell Church Street.
16. That written records of training shall be kept and made available to police or council officers on request.
17. That the premises shall actively engage with and work with police and safer neighbourhood team.
18. That management and staff shall discourage persons loitering outside the front of the premises and ensure that no drinks will be permitted outside the front of the premises at any time.
19. That a suitable container shall be provided for cigarette butts.
20. That a member of staff shall be detailed to monitor the use of the front, including smokers and tidiness of the area.
21. That a member of staff shall be detailed to monitor departing customers at closing and shall encourage customers to leave the area quietly and not to loiter outside the premises.
22. That no more than five patrons shall be permitted on the Camberwell Church Street frontage to smoke at any time when the premises is open and trading.
23. That all deliveries, collections and external cleaning shall occur between the hours of 08:00 and 20:00 on any day.
24. That a Challenge 25 proof of age policy shall be operated at the premises and only photographic driving licence, valid passport or proof of age card with the bearers photograph and the PASS logo/hologram on it will be accepted as proof of age.
25. That all staff shall be trained for their role on induction and refresher training given at regular intervals of six months thereafter. Training for their role will include:
 - a) The operation of Challenge 25
 - b) Identifying persons under 25
 - c) Making a challenge
 - d) Acceptable proof of Age ID and checking it
 - e) Making and recording refused sales
 - f) Avoiding conflict and responsible alcohol retailing.
26. That notices shall be prominently displayed at the entry and point of sale stating that CCTV & Challenge 25 are in operation and provisions of the Licensing Act regarding underage/proxy sales.
27. That a written refusals log shall be kept and made available to Police or Council Officers upon request.
28. That service to tables will be by waiting staff only.
29. That intoxicating liquor shall not be sold or supplied on the premises otherwise than to persons taking a substantial table meal and for consumption by such persons as an ancillary to their meal with the exception of patrons awaiting to be seated within a designated waiting area in the basement with a maximum of eight patrons at any time.

30. That there shall be no events held which are organised by externally promoted artists, DJs and MCs.

3. Reasons

The reasons for the decision are as follows:

The licensing sub-committee heard from the applicant who advised that they were a family owned and operated company providing high quality Caribbean food and beverages sold via their a la carte table service restaurant and a counter service. The applicant opened their first restaurant in Croydon town centre in April 2016. Prior to making the application, the applicant had sought a transfer of the existing license, but the existing licence holder was seeking approximately £18,000 being the amount they spent in obtaining the licence. This was not financially viable. The applicant stated they sought a licence that reflected the conditions of the existing license (number 865254, dated 10 October 2018).

The licensing sub-committee heard from the representative from the Metropolitan Police Service who advised the premises were located within Camberwell and as a restaurant and bar it fell under the Camberwell cumulative impact area. The premises had a substantial history, having previously operated as a night club subject to significant enforcement action, including revocation and a Closure Order via the Magistrate's Court. The police raised concerns that the application in its current form could easily open as a club. It was also highlighted that the premises (in Croydon Town Centre) regularly had promoted events.

The representative for licensing as responsible authority advised the sub-committee that since the applicant had clarified that premises was a restaurant (as opposed to a restaurant - bar), the premises no longer fell within the types of premises subject the cumulative impact policy area. The officer also stressed that the hours requested by the applicant fell outside of Southwark's statement of licensing policy, the historical issues at the premises, resulting in the previous licence being revoked in addition to an existing licence (number 865254), which could cause confusion for enforcement purposes.

The licensing sub-committee noted that the representation from the environmental protection team had conciliated.

The licensing sub-committee also noted the comments made by the planning department, despite not amounting to a valid representation.

The licensing sub-committee heard from party 12 who stated that the circumstances at the premises were the same as when it had operated as the previous Club Couture. The premises was located in a residential area and the community would be seriously disturbed, particularly if the premises were similar late night establishment. Reference was also made to the applicant's accounts and the charge on the company NMAS Enterprise Limited held by Alfandafi Private Equities Limited (code 0887 6305 0001) and the solvency of the company. Enquiries were made during a brief recess and solely limited as to whether there was any connection between the freeholder of the premises and the mortgagor. The enquiries made, suggested there was no connection. The sub-committee determined that the solvency of the company was an irrelevant consideration, in terms of this application.

The sub-committee heard from party 8 who also referred to the history of the premises and the operators having a blatant disregard of the previous licence conditions. Reference was

also made to the applicant's lack of engagement with the local residents during the consultation period and as a result, did not have confidence with them.

Party 3 informed the licensing sub-committee that had previously the premises attracted crime and anti-social behaviour. The premises had previously operated as a nightclub, and its negative effect it had on the local community.

The licensing sub-committee then heard from the ward councillor (party 1) who objected to the application and stated that the premises was located in a primarily residential area and referred to the premises history of DJs' promotions that attracted crime and anti-social, drug dealing, knife crime and the possession of firearms. Since the revocation of the licence in 2013 residents have had relative peace and have been able to enjoy a good quality of life without fear. The ward councillor advised that due to the history, residents' fear that if a premises licence is granted, the venue would transform into a nightclub, and residents quality of life would be detrimentally effected.

The licensing sub-committee noted the other 23 written representations from other persons that related to all four of the licensing objectives, the concerns of the proximity of the premises to residential properties, the potential for nuisance with a licensed premises opening so late.

The licensing sub-committee considered the application very carefully and fully appreciated residents concerns particularly in light to the history of the premises that led to the licence being revoked in 2013. During discussion, the residents indicated that they were content with the tight restrictions imposed on licence number 865254 and therefore, concluded a similarly worded licence would promote the licensing objectives.

It is recommended that the premises use recyclable takeaway food containers and also straws. In addition on social media/internet, encourage patrons to use public transport.

Should the applicant breach the premises licence, residents are reminded of their right to call the licence in for review, which as residents are aware amongst other things, could result in the premises licence being revoked.

In reaching this decision the sub-committee had regard to all the relevant considerations and the four licensing objectives and considered that this decision was appropriate and proportionate.

4. Appeal rights

The applicant may appeal against any decision:

- a. To impose conditions on the licence
- b. To exclude a licensable activity or refuse to specify a person as premises supervisor.

Any person who made relevant representations in relation to the application who desire to contend that:

- a. The licence ought not to be been granted; or
- b. That on granting the licence, the licensing authority ought to have imposed different or additional conditions to the licence, or ought to have modified them in a different way

may appeal against the decision.

Any appeal must be made to the Magistrates' Court for the area in which the premises are situated. Any appeal must be commenced by notice of appeal given by the appellant to the justices' clerk for the Magistrates' Court within the period of 21 days beginning with the day on which the appellant was notified by the licensing authority of the decision appealed against.

Issued by the Constitutional Team on behalf of the Director of Law and Democracy.

Date: 9 May 2019