

AH LICENSING (HEARING) SUB COMMITTEE

HELD ON MONDAY, 16TH October 2017 AT 11.00 AM

APPLICANT: MLA Leisure Ltd
PREMISES: ROMA, 14 New London Street, EC3R 7NA

Sub-Committee:

Mr Graham Packham (Chairman)
Deputy Jamie Ingham Clark
Mr Michael Hudson

Officers:

Town Clerk – Julie Mayer
Comptroller and City Solicitor – Paul Chadha
Markets and Consumer Protection – Peter Davenport
Markets and Consumer Protection – Steve Blake

Given Notice of Attendance:

Applicant:

Mr Gavin Jones and Mr Ryan Starr (ROMA)

Making representations:

Marianne Fredericks	Ward Member for Tower
Brian Taplow	Apex Hotels
Penny Ritchie Calder	Churchwarden, St Olave Church and Hon Secretary of the PCC
Rev Oliver Ross	Area Dean to the City and Rector, St Olave Church)

Whilst neither had made a formal representation, officers from both the Police and the Environmental Health Service were in attendance. The Chairman, with the concurrence of the applicant and those objecting to the application, agreed to let them speak, as he felt that their contribution would be relevant to the debate.

In Attendance:

Mr John Hall – City of London Police
Ms Siobhan Marshall – Environmental Health Services, City of London Corporation

Deputy Roger Chadwick and Ms Anne Fairweather – Ward Members for Tower.

Licensing Act 2003 (Hearings) Regulations 2005

A public Hearing was held at 11:00 AM in Committee Room 1, Guildhall, London, EC2, to consider the representations submitted in respect of an application for a Variation to a Premises Licence in respect of Roma, 14 New London Street, EC3R 7NA.

The Sub-Committee had before them the following documents:-

Annex – Report of the Director of Markets and Consumer Protection

- Appendix 1 - Copy of Application
- Appendix 2 – Conditions Consistent with the Operating Schedule
- Appendix 3 – Hearing Decision Letter (2 July 2008)
- Appendix 4 – Current Licence
- Appendix 5 – Representations from other persons
- Appendix 6 - Map of subject premises together with other licensed premises in the area and their latest terminal time for alcohol sales Plan of Premises.
- Appendix 7 - Plan of Premises

Before the commencement of the Hearing all parties had the opportunity to view photographs showing the position of the venue in relation to surrounding hotels and residential properties and a DVD of a disturbance outside the venue, in June this year, caused by patrons arriving at and leaving the premises, which would be referred to during the Hearing.

Deputy Jamie Ingham Clark declared a general, non-pecuniary interest by virtue of his position as a Member of the Worshipful Company of Clothworkers, of which Rev. Oliver Ross is Chaplain.

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1. The Hearing commenced at 11:00.
 2. At the commencement of the Hearing, the Chairman invited those making representations to set out their objections to the application.
 3. Mr Brian Taplow, a Manager at the Apex Hotel made reference to a disturbance outside the venue in June this year (as depicted in the DVD referred to above). Members noted that this had occurred shortly after he took up his position at the Hotel. Whilst there had not been an incident on this scale since, he was aware of a history of disturbance from Roma. Mr Taplow advised that the majority of the disturbance emanated from patrons arriving and leaving in their cars; generally being noisy and playing car stereos, hooting etc. Since the June incident, the hotel had worked closely with Roma in respect of their dispersal policy and door staffing. Mr Taplow also detailed other incidents involving his management team and patrons leaving the premises, who were causing a disturbance.
 4. When asked about having to give refunds to guests, Mr Taplow advised that he had offered a complimentary visit to one guest who had a disturbed night. The Hotel had received negative reviews on 'Trip Advisor' about noise surrounding the venue and the Hotel were concerned about their impact on future business. The chairman noted his review of Trip Advisor did not bear this out.

5. Mrs Penny Ritchie Calder, the Churchwarden and Honorary Secretary of St Olave's Church was concerned that the night-time economy of the area was changing and challenged whether the City of London Corporation's Licensing Policy was adapting sufficiently. Mrs Ritchie Calder reminded Members of the provision, within the City of London Corporation's Licensing Policy, whereby residents were entitled to a undisturbed sleep between the hours of 11 pm and 7 am. Whilst noting these concerns, the Chairman advised that such a decision was beyond the remit of this Sub-Committee.
6. The Rev Oliver Ross, resident of St Olave's Church Vicarage, then made representation about the levels of disturbance he frequently experienced from individuals who he believed had been attending the premises. Members noted that this anti-social behaviour ranged from noise on dispersal to urinating and defecating in the church doorway and engaging in sexual activity. Furthermore, the Rector is required to work early on Sunday mornings and is disturbed virtually every Saturday evening, as well as on the other evenings when the premises remained open past midnight. The Rector commented that the Saturday evening/Sunday morning just passed had been possibly the worse ever. The Rector had spoken to the door staff and, while he found them helpful, he felt that their effectiveness in controlling dispersal, particularly for a large volume of people was limited. He advised that when he has asked the venue to turn the music down it made some difference but even at lower volumes, the continual base and vibration caused a disturbance.
7. The Rector had taken recordings but did not have them to hand today. He was often reluctant to call the Police or Environmental Health Team as, generally, any disturbance had dissipated by the time they arrived and therefore he was concerned at disturbing them needlessly. He had approached patrons making a noise when leaving and had received abuse for doing so.
8. A Ward Member for Tower, Ms Marianne Fredericks, then set out the history of the venue, which had been a pub but had been problematic since it became a late night drinking/entertainment venue. Furthermore the Management of the premises had changed hands many times and the Member had found that, once enough evidence had been gathered to seek a review, the Management changed yet again.
9. The Hearing noted that, during this year's City elections, local residents had raised their concerns about public nuisance from Roma and were encouraged to contact the Police and Environmental Services. The Ward Member forwarded complaints from constituents to Environmental Services and an officer had attended but not while Roma was open. The Police had viewed the DVD referred above and had also spoken to closeby venue; 'Proud', but the Ward Member suggested that Proud dispersed away from Hart Street, whereas 'Roma' dispersed towards it.
10. Ms Fredericks suggested that Roma were in breach of their current licensing conditions and suggested they check whether their noise limiters were working correctly. Whilst noting the noise measures in place; i.e. an additional lobby and double glazing, she suggested that they were inadequate as residents still

experienced 'break-through' noise. Ms Fredericks and those making representations therefore felt that if the existing licence were to be extended, this could be catastrophic for the residents and dispersal may continue until 5 am. Ms Fredericks was particularly concerned about the Rector who lived exceptionally close to Roma. In closing her representation, Ms Fredericks urged the applicant to take action in respect of the comments made today or the residents would seek a Review for breach of conditions.

11. The Applicant then set out their case and advised the Hearing that they sought to be more transparent and, by extending the licensing hours in this way, the conditions would be enforceable. Whilst they were not represented today, their Solicitor had provided a statement in support of the Applicant's case, which was read to the Hearing. Members noted that the premises, under its current licence, had the benefit of 12 occasions a year where it could, subject to the agreement of the City of London Police, operate beyond its permitted hours. The Applicant stated that, in the event of this application being granted, he would seek the removal of this permission. The Police were in attendance and confirmed that they could welcome a 'tidying up' of the Licence in this way. The Applicant tabled a revised dispersal policy and accepted they had been taken somewhat off guard by the aftermath of the event in June, due to the sheer numbers that the event had attracted, but there had been no incidents of this scale since. The applicant produced for the committee the dispersal policy they had put in place.
12. The Applicant felt they did their utmost to be neighbourly by keeping in regular contact with the Hotel and the Church and had introduced additional noise reduction measures since the incident in June this year. The Applicant also advised that promoters would be banned from using the premises if an event was particularly rowdy and/or they failed to control dispersal.
13. The Chairman then invited questions, as follows:
 - 13.1 The premises used 4 promoted event suppliers, which were Police approved and management met with promoters before events. Promoters were required to use Roma's equipment. Two events had been cancelled, 1 promoter had been banned following a disturbance and 1 event was cancelled on the basis of being rated by the Police as a medium risk. The Applicant felt the premises had a good relationship with the Police and the Police representative confirmed this.
 - 13.2 Readings were taken outside the premises, on both sides, with a noise meter and this equipment could also detect vibrations from a base rhythm. The Applicant accepted that it could not determine source or directional noise. Members suggested that the premises work with Environmental Health in order to determine readings from the first floor level, which particularly affected the Rector and his family. The Applicant confirmed that they already worked with the Environmental Health Service in respect of calibrating the equipment.

- 13.3 The Environmental Health officers confirmed that both Roma and Proud had been observed and accepted that neither the Environmental Health service nor the Premises could fully control dispersal and would need the Police to intervene if it became particularly troublesome.
 - 13.4 The Police accepted the elevated risk of noise pollution from promoted events generally in this area and the cumulative impact from crime and disorder. The Police therefore felt that the application provided an opportunity to 'tidy up' the Licence and could enable better enforcement of the conditions. The Police also confirmed that they did not have the resources to patrol all late night promoted events. Generally, the Police received more referrals from other premises in this area, however, their risk assessments were in respect of crime and disorder and not noise (i.e. public nuisance).
 - 13.5 The Police had recently asked for a Licence application to be reduced from 6 am to 3 am for premises where the nearest residents were further away than the Rector and his family and advised that they had done so in order to protect the Licence.
14. Those making representations felt that the action of the Police and Environmental Health in this matter had been too reactive and not proactive and granting this application would regularise the disturbance already being experienced.
 15. The Chairman then requested final summary statements, as follows:
 - 15.1 Ms Fredericks felt that the Licence's conditions in respect of public nuisance were already in breach from the break-through noise and the noise and anti-social behaviour of patrons on dispersal and from their cars. Ms Fredericks reminded the Sub-Committee of the narrow streets in this generally quiet area which was being regularly disturbed in the early hours of the morning. Finally, she felt that the applicant should take heed of the comments taken today and seek to comply with the conditions on the existing premises licence before seeking an extension.
 - 15.2 The Applicant reiterated that there had been no serious incidents since June this year, their dispersal policy was robust and they had a good working relationship with the Police. They agreed to work more closely with the Environmental Health Team and would share their emergency contact numbers more widely.
 16. The Sub-Committee retired at 12.25.
 17. At 12:45pm the Sub-Committee returned from their deliberations and explained that they had reached a decision. The Chairman thanked those who had remained to hear the decision of the Sub-Committee.

18. In reaching the decision, the Sub-Committee were mindful of the provisions of the Licensing Act 2003, in particular the statutory licensing objectives, together with the guidance issued by the Secretary of State in pursuance of the Act and the City of London's own Statement of Licensing Policy dated January 2017.
19. Furthermore, the Sub-Committee had regard to the duty to apply the statutory test as to whether an application should or should not be granted, that test being that the application should be granted unless it was satisfied that it was necessary to refuse all, or part, of an application or necessary and appropriate to impose conditions on the granting of the application in order to promote one (or more) of the licensing objectives.
20. In determining the application, the Sub-Committee first and foremost put the promotion of the licensing objectives at the heart of their decision; in this instance the most relevant of those objectives being the prevention of public nuisance. In determining whether a public nuisance would arise, the Sub-Committee relied upon the definition of "public nuisance" contained in Halsbury's Laws of England which defines public nuisance as *"one which inflicts damage, injury or inconvenience on all the Queen's subjects or on all members of a class who come within the sphere or neighbourhood of its operation. The character of the neighbourhood is relevant to determination of the question of whether a particular activity constitutes a "public nuisance."*
21. In reaching its decision, the Sub-Committee took into account the Applicant's good relationship with the Police and willingness to work more closely with the Environmental Health Service; along with their revised dispersal policy, improved noise reduction measures and the lack of any serious incidents since June this year. However, they did not feel that the noise mitigation measures proposed by the Applicant would sufficiently reduce the risk of public nuisance, as noise on dispersal would be beyond their control, given the quiet nature and narrow streets in this area.
22. In reaching its decision, the Sub-Committee took into account the submissions made both in writing and verbally by those opposing the application. Whilst noting a lack of environment health records of the noise disturbance and the fact that they had not made a representation, the Sub-Committee accepted the concerns of the local residents and Apex Hotel about noise disturbance in the early hours of the morning. They were particularly concerned at the close proximity of the Rector and his family and the impact on his working hours on Sunday mornings.
23. The Sub-Committee therefore considered whether or not it was necessary or appropriate to reject the application in its entirety. The Sub-Committee concluded that, whilst acknowledging the Applicant's attempts to address these concerns, did not feel that the measures proposed by the Applicant would sufficiently reduce the risk of public nuisance.
24. The Sub-Committee concluded that residents had the right to expect undisturbed sleep between 23.00-07.00. It acknowledged that residents were already suffering nuisance in the early hours of the morning and in granting the application to extend the permitted hours on Fridays and Saturday would, in all likelihood, result in an increase in the duration of nuisance and disturbance which it considered to be unacceptable. The Sub-Committee therefore decided not to grant a variation to the premises licence. The Sub-Committee were also mindful

of the comments suggesting that the Premises might be in breach of their existing conditions and would urge the Applicant to pay due attention to comments made at the Hearing.

25. The Sub-Committee therefore decided to reject the Application for a Variation to a Premises Licence.

The Chairman thanked all parties for their attendance and explained that written confirmation of the decision would follow.

The meeting closed at 12.55 pm

Chairman

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