

## MINUTES OF THE LICENSING (HEARING) SUB-COMMITTEE

HELD ON FRIDAY 20 APRIL AT 10.30 AM

**APPLICANT:** Benk & Bo Bakery Ltd  
**PREMISES:** Benk & Bo, 4-6 Gravel Lane, E1 7AW

### Sub-Committee:

Mr Peter Dunphy (Chairman)  
Deputy Jamie Ingham Clark  
Mr Michael Hudson

### Officers:

Town Clerk – Leanne Murphy / George Fraser  
Comptroller and City Solicitor – Paul Chadha  
Markets and Consumer Protection – Steve Aznar  
Markets and Consumer Protection – Rachel Pye

### Given Notice of Attendance:

**Applicant:** Mr Antony Burger

### Making representations:

Ms Siobhan Marshall	Environmental Health
Mr Sigifredo Hoyos	Resident
Mr Greg Nott	Resident
Mrs Michelle Warman	Estate Manager for Middlesex Street on behalf of residents

### In Attendance:

Mr Antony Burger  
Ms Mariell Amelie  
Ms Siobhan Marshall  
Councilman John Fletcher

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### Licensing Act 2003 (Hearings) Regulations 2005

A public Hearing was held at 10.30AM in Committee Room 1, Guildhall, London, EC2, to consider the representations submitted in respect of an application for a recorded music license in respect of Benk & Bo, 4-6 Gravel Lane, E1 7AW, the applicant being the Benk & Bo Bakery Ltd.

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

Hearing Procedure  
Report of the Director of Markets & Consumer Protection  
Appendix 1: Copy of Application  
Appendix 2: Conditions consistent with the operating schedule

Appendix 3: Representations from responsible authorities

i) Environmental Health

Appendix 4: Representations from Other Persons

i) Hoyos

ii) Nott

iii) Warman

Appendix 5: Map of subject premises together with other licensed premises in the area and their latest terminal time for alcohol sales

Appendix 6: Plan of Premises

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1. The Hearing commenced at 10.30 AM.
2. At the commencement of the Hearing, the Chairman invited those making representations to set out their objections to the application. It was noted that of those making representations, three were absent (one of which was being represented by a Councilman of the ward of Portsoken) and there were two previously agreed speakers.
3. Ms Siobhan Marshall (Environmental Health) advised that her department had received a number of complaints since Benk & Bo had opened, e.g. on 7 December an out of hours event complaint was received by a City of London employee (who is also a resident) regarding noise created by people leaving the premises, dispersal of patrons and the use of a metal staircase. Ongoing liaisons regarding this resident's experience and concerns regarding the noisy metal staircase have continued. Another incident of disturbance of noise at 11pm was also noted and pictures of the retro metal staircase were shown to the Sub Committee. Environmental Health subsequently requested a noise management policy from Benk & Bo which to date had not been received despite numerous requests.
4. Councilman John Fletcher, speaking on behalf of Mr Sigifredo Hoyos as agreed prior to the hearing, advised that he had spoken with residents of the estate regarding the business and met Mr Antony Burger at the weekend. He highlighted that the business model of Benk & Bo was of interest to himself and local residents so there was no animosity towards the business itself; concerns of residents surrounded the issue of noise caused by people leaving the premises late at night, noise caused by the metal staircase inside the premises and smoking and drinking on the pavement outside the premises.
5. Councilman Fletcher drew the Sub Committee's attention to the list of other licensed premises in the area provided in Appendix 5 advising that La Piazzetta, the Empanada Café and Beer Hawk were all directly below flats of residents. He explained that La Piazzetta has received some noise complaints despite having a vast open space in front of it, however, the restaurant is not open on the weekends; the Empanada Café is situated behind a stairwell which retains any noise and Beer Hawk closes at 8pm. However, Benk & Bo has a straight, blank wall creating an echo chamber across the flats. Councilman Fletcher summarised that he wanted the business to succeed but to reassure residents a compromise on the business plan regarding timings would be needed.

6. The Chairman then invited the Applicant to set out their case. The Applicant, Mr Antony Burger, introduced his application by explaining that the business was based on the idea of “DIY community spirit” and that the premises had been chosen very carefully as a place which would bring everyone in the local community together. The Sub Committee were advised that the business was split into different sections: a bakery, shared desk spaces, an events space and kitchens. Mr Burger provided a handout to the Sub Committee and those making representations which summed up the aims of the business and set out the noise and dispersal policy for the business in writing. Ms Marshall felt that the dispersal policy provided was scant and would only work as an appendix to a full management plan.
7. Mr Burger’s business partner, Ms Mariell Amelie, advised that the licence was only required for private functions and, as responsible business owners, they would only permit responsible alcohol consumption. The business was not open to walk-ins off the street and all events were pre-booked.
8. In response to concerns regarding the metal staircase, the numbers of people at events at night and dispersal, Mr Burger advised that events reached a maximum of 50 people and generally ended by 10pm; that attendees were advised the location of nearby stations or provided with taxi details to ensure they would leave the premises promptly and that there was a second staircase which could also be used to disperse people causing less noise and quicker dispersal at night. Councilman Fletcher advised that residents would be happy with an end time of 10pm.
9. Members noted that the metal staircase would always have been a problem to residents whether this licence was approved or not and the Applicant stated that they were happy to work on the stairs to dampen the noise and use the back staircase at night.
10. The Chairman then invited questions, as follows:
  - 10.1 The Comptroller and City Solicitor noted that the application was missing the Personal Licence number of the proposed Designated Premises Supervisor. The Applicant advised that he had not received it before the application but was now in receipt of a Personal Licence number.
  - 10.2 The Sub Committee requested clarification on why the finish time on the application was 11pm, the statement suggested 10.30pm but the Applicant had noted that events finished at 10pm. Ms Amelie advised that 11pm would be the maximum time as they had wanted to allow time for people to finish their drinks. The Sub Committee felt this should be brought down as a licence until 11pm would mean people could purchase alcohol until this time.
  - 10.3 The Sub Committee noted that it was unusual to have the same late licencing time of 11pm for every day of the week. The Sub Committee requested that hours be agreed and asked attendees to consider a

suitable terminal hour incorporating 30 minutes to finish drinks and the hours for each day of the week as the residents required this information.

- 10.4 The Sub Committee regarded noise to be a principle concern to residents and queried whether music would be played at night and what the policy was regarding emptying bottles, delivery, waste removal, etc, to ensure confidence with locals that this has been properly considered. The Applicant advised that low sonar speakers controlled only by staff would play background music only and that the bins and deliveries occurred in the back carpark so the noise would not affect residents.

11. The Chairman then requested final summary statements, as follows:

- 11.1 The Sub Committee were advised by the Applicant that the business was following the City of London's good practice code and were given assurances that all issues would be dealt with in an open manner with residents. Mr Burger and Ms Amelie concluded that they were open to compromise on the licence and would proceed as advised by the Sub Committee.

- 11.2 The Chairman stated that all documents should have been provided in advance of the hearing, particularly the noise and dispersal policy requested by Environmental Health, and urged the Applicant to take this more seriously in future. The Chairman added that a hearing could have been avoided if there had been more transparency and dialogue at an earlier stage of the application.

12. The Sub-Committee retired at 11.18 AM.

13. At 11:28 AM 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.

14. The Sub-Committee considered the application and carefully deliberated upon the representations submitted in writing and orally at the Hearing by those making representations and the Applicant. 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.

15. 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"*.

16. In reaching its decision, the Sub Committee took into account the submissions made both in writing and verbally by those opposing the application. The Panel noted that this was a new business and, whilst conscious of the fact that the premises was located in a residential pocket of the City, noted that there were other licenced premises in the area. The Sub Committee accepted the residents' concerns as to the potential for noise disturbance late at night but were confident that the measures proposed by the Applicant in an attempt to address these concerns would sufficiently reduce the risk of public nuisance.
17. The Sub Committee also noted that the Applicant had tried to address issues in consultation with residents. Furthermore, during the course of the Hearing, the Applicant had also offered to reduce the licensing hours on Monday to Saturday and to not supply alcohol on Sundays.
18. 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, with the imposition of suitable conditions and a reduction in the terminal hour for licensable activities, it would be possible for the Applicant to operate the premises in accordance with the licensing objectives. The Sub Committee sought to strike a balance for residents and business.
19. The Chairman reported that it was the Sub-Committee's decision to grant the premises licence as follows:

Activity	Current Licence	Licensing Hours
Supply of Alcohol	N/A	Mon – Wed 12:30 – 22:00 Thu – Sat 12:30 – 22:30 Sunday – None

20. The Sub Committee then considered the issue of conditions and concluded that it was necessary and appropriate to impose conditions upon the licence so as to address the concerns relating to public nuisance.
1. A written dispersal policy shall be in place and implemented at the premises to move customers from the premises and the immediate vicinity in such a way as to cause minimum disturbance or nuisance to neighbours (MC15).
  2. Prominent signage shall be displayed at all exits from the premises requesting that customers leave quietly (MC16).
  3. There shall be no sale of alcohol in unsealed containers for consumption off the premises (MC18).
  4. The Licence holder shall make available a contact telephone number to nearby residents and the City of London Licensing Team to be used in the event of complaints arising (MC19).

21. The Sub Committee also recommended that the Applicant liaise with Environmental Health to satisfy its conditions and prepare a full and effective dispersal policy as a matter of urgency.
22. The Chairman thanked all parties for their attendance and explained that written confirmation of the decision would follow.

**The meeting ended at 11.35 am**

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Chairman

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