

MINUTES OF THE LICENSING (HEARING) SUB-COMMITTEE**HELD ON THURSDAY 26 JULY AT 2.30 PM**

APPLICANT: Wright & Bell Ltd
PREMISES: Unit 10 Barts Square, West Smithfield, EC1A 9DS

Sub Committee:

Mr Peter Dunphy (Chairman)
 Mr Michael Hudson
 Mrs Mary Durcan

Officers:

Leanne Murphy - Town Clerk's Department
 Paul Chadha - Comptroller and City Solicitor
 Andre Hewitt - Markets and Consumer Protection

Given Notice of Attendance:**Applicant:**

Craig Baylis	Bryan Cave Leighton Paisner representing Wright & Bell
Sarah Clarke	Managing Director of Wright and Bell Ltd
Nikki Dibley	Executive from Helical (Developers)

Making representations:

Brendan Barns	Resident
Deputy Clare James CC	Ward Member for Farringdon Within
Joel & Mrs Julia Chan	Resident
Veran Patel	Resident
Ann Holmes CC	Resident and Ward Member for Farringdon Within
Carrollanne Lindley	Resident
Natasha Curran	Resident
Nicholas Grosse	Resident
Peter Bowen	Resident
Rick and Susie Carrington	Resident
Wendy and James Darke	Resident
Deborah Tyler	Resident
Peter Bill	Resident
Laurent Veilex	Resident
Rebecca Lawes	Resident
Stephen Turner	Resident
Bernadette Skehan	Resident
Rachel Watkins	Resident
Wendy Darke	Resident
Philippe Berrah	Resident

Dorothy Audley	Resident
Catherine Cox	Resident
Paul Edwards	Resident

In Attendance:

Mr Craig Baylis
 Ms Sarah Clarke
 Ms Nikki Dibley
 Mr Brendan Barns
 Deputy Clare James CC
 Mr Joel Chan
 Mr Veran Patel

Licensing Act 2003 (Hearings) Regulations 2005

A public Hearing was held at 2.30PM 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 Wright & Bell Ltd, Unit 10 Barts Square, West Smithfield, EC1A 9DS, the applicant being Wright & Bell 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 Other Persons

- i) Patel
- ii) Tyler
- iii) Curran
- iv) Bill
- v) CC Holmes
- vi) Veilex
- vii) Bowen
- viii) Carrington
- ix) Lawes
- x) Turner
- xi) Payne
- xii) Chan
- xiii) Skehan
- xiv) Watkins
- xv) Barns
- xvi) Darke
- xvii) Berrah
- xviii) Audley
- xix) Cox
- xx) Lindley
- xxi) Edwards
- xxii) CC James

xxiii) Grosse

Appendix 4: Map of subject premises together with other licensed premises in the area and their latest terminal time for alcohol sales

Appendix 5: Plan of Premises

1. The Hearing commenced at 2.30 PM.
2. At the commencement of the Hearing, Mr Baylis advised the Sub Committee and objectors that an amendment to the supply of alcohol schedule provided in the application was requested and the Applicant was now proposing the licensable hour for Saturday to terminate at 23:30 not 00:00. Mr Baylis also noted concerns of residents regarding outside drinking and confirmed that the Applicant would accept a condition that no sale of drinks would be permitted past 22:00 and that the external area would be cleared of patrons by 22:30. The Chairman stated that the application would be considered with these amendments.
3. The Chairman invited those making representations to set out their objections to the application. Mr Chan advised that he was supportive of a good quality restaurant in the area but had concerns particularly regarding the hours of serving alcohol and food in the external area. He noted that he was happy with the revised external hours but queried whether the hours for the internal restaurant could be reduced to 23:00. Mr Chan was also concerned regarding noise which would bounce off surrounding glass buildings and travel throughout the area and requested assurance that there were plans in place to deal with this. He also requested confirmation that there would be no loud live or recorded music at the premises.
4. Mr Barns advised that he had resided and worked in the area for 20 years. He claimed on behalf of the local community that they were not aware that a restaurant would be developed at these premises and did not believe the location was suitable due to its proximity to Barts Hospital and local residents. Mr Barns was concerned by noise nuisance throughout the day and night, particularly in the narrow passages being used by late night patrons. Mr Barns felt that there should not be an external area with tables and asked for strict limits on drinking and smoking outside the premises and the use of taxis by customers. He argued that a strict management plan was required for the three entrances to the premises and hoped there would be restrictions against having the windows and doors open. Mr Barns also noted that the Butcher's Hook and Cleaver pub was very noisy and did not want a similar situation at these premises.
5. Mr Barns stated that Little Britain had been closed whilst building work took place and felt that late night refreshments would be detrimental to the area as the later patrons could drink at the restaurant, the louder they would be travelling through the area. He asked that the doors be closed at 23:00 from Monday to Saturday and closed at 22:00 on Sundays.
6. Deputy James advised the Sub Committee that she was speaking on behalf of residents in the Ward of Farringdon Within who had approached her with their

concerns. She advised that the development had allowed for a large restaurant in the former QEII building and residents only found out the location of the restaurant when the application was submitted. Deputy James stated that residents were particularly concerned by noise from the premises, particularly the residents of the Spencer Heights and Bartholomew flats.

7. Deputy James advised the Sub Committee that the local community sought six restrictions on the business:
 - a) Only the entrance on the corner of Bartholomew Road to be used in and out of the premises.
 - b) The number of people waiting outside for a taxi or smoking to be monitored and not exceed four people.
 - c) All doors and windows to remain closed at all times except when entering the premises or for delivery purposes.
 - d) Implementation of a noiseless air conditioning unit.
 - e) No external area with tables.
 - f) Last orders for food to be 21:00 with the premises closing at 22:30.
8. The Sub Committee clarified that the condition regarding the air conditioning unit could not be imposed as this was a planning not licensing issue. The Sub Committee also did not believe a condition requesting no more than four people outside was enforceable or realistic. It was noted that a management plan could take into account the views of the local community, but this could not be placed as a condition of the licence. The Comptroller and City Solicitor added that if problems regarding noise were incurred by the local community, the business could be subject to a noise restriction under the Environmental Protection Act which would protect residents.
9. The Chairman then invited the Applicant to set out their case. In response to Mr Chan's question regarding music, Mr Baylis advised that a licence was not required for music before 23:00; however, music would only be used in the background and not as a primary use. Mr Baylis also clarified to Mr Barns that late night refreshment only concerned hot food and drinks and not alcohol. Mr Baylis advised the Sub Committee that when the plan was drafted, he was careful not to exceed the parameters and subsequently enforced a close time of 23:30 instead of midnight. It was noted that the proposed licence start time of 07:00 was for breakfast and patrons would only be able to consume alcohol if purchased with food until 11:00 when the bar opened.
10. Mr Baylis explained that a planning committee had put a host of conditions on the premises with plans for management of the doors, external area and air conditioning unit. He advised that smokers would be asked to stay to the side of the main entrance into the building and that the external area would be supervised at all times with the door at this section only being used to service this area.

11. Ms Dibley advised that throughout the development they had sought to respect the area with the aim of being the main building in Barts. She explained that a restaurant was planned since 2012 along with two other units and had sought high quality operators for the building to be a focal point for the community. Ms Dibley acknowledged the area was not just purely City with a hospital, offices and residents, but saw opportunities with the nearby Crossrail development. It was noted that the front “hero” entrance was selected for smoking as this was the least sensitive area as the door was opposite offices rather than flats. Ms Dibley confirmed that smokers would be managed and that the service entrance would be used for service only with plans set out in the management plan including use of light plants to clearly define the areas where patrons should be. She confirmed that the external area would be cleared at 22:30 but that furniture would not be moved inside until the terminal hour ended due to lack of space. Mr Baylis added that the Applicant would agree to a condition preventing smokers from bringing drinks outside.
12. Ms Dibley noted that the developers leased as experienced landlords and it was in their interest to manage the premises well for residents providing another layer of management for the premises. Mr Chan queried whether the general management could be worked into the licence. Ms Clarke advised that the operating schedule could not be licence conditions. Mr Baylis noted that it was not uncommon to have a condition for the licensee to hold quarterly meetings at the premises inviting the local community. The Chairman provided an explanation regarding conditions and the operating schedule noting that the latter was not legally part of the licence but if the licensee did not operate as stated then the residents could request a review of the licence.
13. Mr Barns queried why the restaurant needed to be open past 22:00. Mr Baylis noted that the terminal hour proposed in the licence was no later than other premises in the area and Ms Clarke stated that 23:30 was regarded a reasonable hour. Mr Barns disagreed noting that the local community did not feel this was reasonable.
14. Mr Chan stated that the local community needed to see an effective management plan laying out timescales and commitments. Mr Baylis noted that this could be discussed at the first meeting with residents.
15. The Sub Committee requested clarification regarding how the licensee planned to enforce that smokers could not go outside with drinks when there was an outside table area which did allow patrons to bring drinks outside and smoke. Ms Clarke advised that the smoking area at the front of the premises was separate from the external outside area and would be managed separately.
16. The Sub Committee noted that the outside area was on a public highway, legally any member of the public was entitled to sit in the external area and queried how this area would be managed if the furniture was still outside until the premises closed. Ms Clarke advised that the tables and chairs would be stacked so they could not be used until the furniture was brought inside. The Sub Committee noted that many venues in the City allowed patrons to drink and smoke outside

around the premises. Ms Clarke clarified that smokers would only be allowed in the clearly defined areas. The Sub Committee queried whether an operating schedule or management plan was already in place and were advised that there was not.

17. The Sub Committee noted the presumption that in quiet residential areas residents should not expect to hear noise from dwellings or licensed premises between 23:00 and 07:00. Mr Baylis advised that the planning conditions allowed for a licence until midnight and they had reduced the terminal hour. In response to a query from the Sub Committee regarding bottle banks, Ms Clarke advised that refuse, including bottles, would take place internally and therefore the noise would not affect residents.
18. Mr Chan concluded that he was happy with the reduced terminal hour for the external area; however, he noted that the internal terminal hour was still late and, unlike other licensed premises in the area, the premises was the only business in an enclosed residential area and would create noise issues for the residents.
19. Mr Barns summarised that he had been involved with the development unit from the beginning and that local residents had never been advised that the planning conditions allowed for a licence until midnight. He argued that the local community never would have agreed to midnight and recommended that this be reduced to 23:00.
20. Deputy James echoed the argument put forward by Mr Barns stating that it was not clear from application plans where the business would be located or what the hours would be. Deputy James agreed that the terminal hour should be reduced to 23:00 and highlighted the importance of the licensee consulting with residents when developing the management plan.
21. Mr Baylis concluded that the Applicant had attempted to be reasonable throughout and had already made a concession by reducing the terminal hour for the external area to 22:30.
22. The Sub Committee retired and considered the application and carefully deliberated upon the representations submitted in writing and orally at the Hearing by those making representations and the Applicant. It was evident that the most relevant licensing objective that required the Sub Committee's consideration was the prevention of public nuisance. In reaching its 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.
23. In determining what constituted a public nuisance, 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”.

24. The Sub Committee regarded noise to be the principal concern to residents. The Sub Committee 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, also noted that other licensed premises operated 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. The Applicant had also offered to reduce the licensing hours on Saturday to 23:30 and not permit the sale of drinks in the external area past 22:00 which would be cleared of patrons by 22:30.
25. The Sub Committee concluded that, with the imposition of suitable conditions and a reduction in the terminal hour on some days of the week 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.
26. 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	07:00 – 23:00
		Thu-Sat	07:00 – 23:30
		Sun	08:00 – 22:30
Late Night Refreshment	N/A	Thu-Sat	23:00 – 23:30
Hours premises are open to the public	N/A	Mon-Wed	07:00 – 23:30
		Thu-Sat	07:00 – 00:00
		Sun	08:00 – 22:30

27. 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.
 - a) All door and windows shall remain closed at all times save for entry or exit, or in the event of an emergency (MC13).
 - b) 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).
 - c) Prominent signage shall be displayed at all exits from the premises requesting that customers leave quietly (MC16).

- d) There shall be no sale of alcohol in unsealed containers for consumption off the premises save that sales for consumption at tables which benefit from a licence granted to the applicant by the highway authority under S.115E Highway Act 1980 are permitted up to 22:00 hours (MC18).
 - e) 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).
28. The Sub Committee also recommended that the Applicant formulate a management plan as a matter of urgency taking into account the views and concerns expressed by the local community.
29. The Chairman thanked all parties for their attendance and explained that written confirmation of the decision would follow.

The meeting closed at 3.23 pm

Chairman

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