

MINUTES OF THE LICENSING (HEARING) SUB-COMMITTEE**HELD ON TUESDAY 2 OCTOBER AT 10.30 AM**

APPLICANT: Herbivore Restaurants Ltd t/a Stem & Glory
PREMISES: Stem & Glory, 60 Bartholomew Close, EC1A 7BF

Sub Committee:

Marianne Fredericks (Chairman)
 Graham Packham
 Mary Durcan – sent apologies

Officers:

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

Given Notice of Attendance:**Applicant:**

Liam O'Hare	Agent for the Applicant
Louise Palmer	Owner, Stem & Glory
Nikki Dibley	Executive from Helical (Developers)

Making representations:

Dawn Patel	Environmental Health
Brendan Barns	Resident
Philippe Berrah	Resident
Peter Bowen	Resident
Natasha Curran	Resident
Peter Bill	Resident
Rick and Susie Carrington	Resident
Raymond Clark	Resident
Catherine Cox	Resident
Ann Holmes CC	Resident and Ward Member for Farringdon Within
Deputy Clare James CC	Ward Member for Farringdon Within
Rebecca Lawes	Resident
Alexander Leadill	Resident
Raj Mody	Resident
Stephen Turner	Resident
Deborah Tyler	Resident

In Attendance:

Mr Liam O'Hare
 Mrs Louise Palmer Masterson
 Ms Nikki Dibley
 Mr Brendan Barns
 Mrs Ann Holmes CC
 Ms Dawn Patel

Licensing Act 2003 (Hearings) Regulations 2005

A public Hearing was held at 10.30 AM in Committee Room 1, Guildhall, London, EC2, to consider the representations submitted in respect of an application for the supply of alcohol on and off premises with inside and outside dining areas in respect of Stem & Glory, 60 Bartholomew Close, EC1A 7BF, the applicant being Herbivore Restaurants Ltd t/a Stem & Glory.

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

Appendix4: Representations from Other Persons

i) Barns

ii) Berrah

iii) Bowen

iv) Curran

v) Bill

vi) Carrington

vii) Clark

viii) Cox

ix) Holmes

x) James

xi) Lawes

xii) Leadill

xiii) Mody

xiv) Turner

xv) Tyler

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

1. The Hearing commenced at 10.30 AM.
2. At the commencement of the Hearing, Mr O'Hare advised the Sub Committee and objectors that the Applicant had years of experience in the industry, was a dedicated business owner of restaurants and a yoga studio and was at the forefront of the vegan experience. The Applicant had spent two years looking for a location for a London branch of her Cambridge based Stem & Glory restaurant and had selected this venue based on the village feel of the area. The restaurant would operate with a healthy lifestyle ethos in line with the Cambridge branch which had received a number of accolades and that alcohol sales would make up

a small percentage of the restaurant offering (17.5%). It was noted that £620k of Crowdfunding had been achieved to fund the project

3. Mr O'Hare advised that a telephone number would always be available to residents to report any concerns and that he himself would be available to attend the site within 20 minutes if needed. He believed the application to be considerate and in line with another business in the area which had not received any representations and voiced a desire to develop good relations with the local residents who would hopefully be customers.
4. The Chairman invited those making representations to set out their objections to the application. Mr Barns, who spoke on behalf of a number of residents in area, advised that he was impressed by the business model but did not agree with development by Helical in general who were seeking to develop Barts Square into a destination area rather than the tranquil area that was sold to the local community. He advised that residents desire peace and quiet and would have objected to the development altogether if they had known the development would include a number of bars and restaurants.
5. Mr Barns was particularly concerned regarding the external area and the noise nuisance this would create for local residents throughout the day and night, particularly in the narrow passages being used by late night patrons. He did not feel that an external area with tables should be permitted and asked for all doors and windows to remain closed to limit noise. Mr Barns noted that the behaviour of patrons could not be controlled once they left the premises and that noise made by customers would be amplified through the passages, especially around the late closing time. He asked that requests to customers regarding peaceful leaving, the use of mobile phone, etc, be posted in the premises.
6. Mrs Holmes, who stated that she had sought a dispensation on this occasion for her role as Common Councilman and was acting purely as a resident, noted that there had been lots of objections from residents mainly regarding noise. She noted the plans from Helical had only shown one restaurant at the development, yet two restaurants had already been licensed and residents were fearful that more would be added to the development.
7. Mrs Holmes advised that 60 Bartholomew Close was surrounded by residents on all sides, noting that new residents at the development had purchased based on the tranquil offering from the developers. She argued that even in the early evening, residents were entitled to a quiet life which would be achievable if the one entry door was managed and closed at all times, but an outside area offering food and drinks would not be suitable for residents.
8. The Chairman then invited the Applicant to set out their case. In response to comments regarding noise and the outside area, Mr O'Hare advised that the alcohol would only be sold to people ordering food, that low music would only be used in the background and that the doors and windows would remain closed. He added that there would be a modest number of people allowed outside and the area would be covered by two members of staff at all times. The outside area

would close promptly at 22:00 and a gradual closing would be implemented throughout the evening.

9. Mr O'Hare explained that the venue was not set up for mass alcohol use and that its customers would be mindful and understand the nature of the premises. There would be no regulated events, no promotion of the venue or vertical drinking. He stated that there would be a compact alcohol offering which was all vegan and high-priced.
10. The Chairman queried how important an outdoor dining space was to the venue as this would not add to the tranquil environment of the area which was being sold by the developers. Ms Dibley did not feel that an outside area would affect the tranquillity of the area noting that the developers had spent a lot of money and energy throughout the development to respect the area and personally select clients that would enhance Barts Square. She explained that the Applicant had a passionate business case and the premises would be managed with strict stipulations. Ms Dibley felt that the addition of an external area was a reasonable request and the premises would become uncommercial without this offering.
11. Mr Barns disagreed stating that an outside area was not included in the commercial business plan of the development and residents did not want it. He argued that Helical were not a charity but a commercial enterprise making huge amounts of money off this development and felt that commercial enterprise should change for residents, not the other way around.
12. Mrs Holmes stated that noise was the biggest concern and an environmental health issue for residents. She noted that noise from the restaurant would occur until late every night and if this included an outside area, patrons would exit from all sides rather than being managed from the inside.
13. The Sub Committee queried how wide the pavements were. Mr O'Hare advised that their readings estimated that the pavement was 3.5m from the outside of the front door and there would be a total of six tables.
14. The Sub Committee enquired what the hatched area in red on the premises plans was; Mr O'Hare confirmed this was for disabled parking. The Sub Committee queried how they would stop vehicles parking on the pavement and Ms Dibley advised that this area would be infrequently used by vehicles. It was noted that the low ambient traffic/background noise in the area, would mean that noise made by customers would be noticeable to residents and the Square would transmit noise like an echo chamber, even if customers were just talking normally. An Environmental Health Officer in the room confirmed that Environmental Health had limited powers to manage noise caused by people talking but would seek a licensing review if complaints were regular. The Chairman stated that the Sub Committee could only impose conditions relevant to the four licensing objectives.
15. The Sub Committee noted that the outside area was on a public highway and legally any member of the public was entitled to sit in the external area. It was queried how this area would be managed if the furniture was still outside until the premises closed with no storage and how this could be taken in quietly at

midnight. Mr O'Hare advised that the furniture was stackable which would be stacked quietly so they could not be used until the furniture was brought inside.

16. The Sub Committee queried if there was a DPS in place. Mr O'Hare advised that the Applicant's husband was the DPS but noted that he was a personal friend and lived locally meaning he could attend the premises within 20 minutes if needed to deal with any problems.
17. The Sub Committee requested clarifications regarding the premises plan provided by the Applicant. The City Solicitor & Comptroller queried if the Applicant was seeking to include the outside area as part of the licensed premises and Mr O'Hare stated yes. The Sub Committee advised that the map plan was not compliant with S.17 as it did not identify where the fire safety apparatus was located. The red line defining the licensable area was also not clear and the Sub Committee questioned the wording used alongside this. Mr O'Hare apologised for his mistake regarding the on and off premises lines and the wording. Following legal advice from the City Solicitor & Comptroller, it was agreed that the Sub Committee would deliberate on the evidence as discussed on a conditional basis but would not issue its decision until the updated maps were received and considered. The Sub Committee enquired about the parking spaces in front of the premises. The Hearing was informed that these were for disabled parking only.
18. The Sub Committee asked how many new residents would be moving to the development. Ms Dibley advised the Sub Committee that there were 236 flats in Barts Square in total with 92 flats left and the building would be completed in 2020.
19. Mr O'Hare concluded that the Applicant had taken on board all concerns raised by residents and would remain reactive by making the contact number of the on-site manager available with any issues triggering immediate action. He stated that the restaurant would be licensed with a mindful drinking ethos and that they would support the local area through Pub Watch schemes and promotion of a vegan lifestyle. There were also instruments in place from the Landlord and Responsible Authorities to ensure that the premises would operate well.
20. Mr Barns summarised that he did not doubt the sincerity of the operators, but the local community were in fear of the noise pollution that would be caused by the customers despite being vegan. He objected to the late-night refreshment timings and the outside seating area.
21. Mrs Holmes was not reassured that noise made by people in the outside area could be controlled which would be increased by the other nearby venue also having outdoor tablespace. She argued that only inside noise could be managed if the doors and windows were kept closed.
22. The Chairman thanked all attendees for their comments and advised that a written decision letter would be sent to all relevant parties within five working days of receiving the altered plans from the Applicant's agent.

23. 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.
24. 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".
25. The Sub Committee regarded noise nuisance as the principal concern for residents, in particular noise associated with the proposed use of the area outside the premises. The Sub Committee was of the view that in addition to noise caused by patrons using the outside area, there was the additional potential for noise nuisance to occur when staff moved tables and chairs into the premises at close of business.
26. The Sub Committee noted that this was a new business for the area and, whilst conscious of the fact that there were other licensed premises operating in the locality, noted that the premises was in the heart of a primarily residential area, with apartments directly above and surrounding the premises. Ms Dibley Executive from Helical Plc had informed the Sub Committee that this new residential pocket in the City would consist, when fully completed, of a further 236 residential apartments.
27. The Sub Committee agreed that due to the low ambient levels of noise during the day and specifically at night, along with the design of the local buildings, hard landscaping and the passageways, this would create a noticeable canyon-echo effect of noise and therefore noise nuisance for the local residents.
28. Furthermore, the Sub Committee was concerned that by permitting the external public pavement area to be included in the licensed premises "on sales" area it could prevent members of the public from having unobstructed use of the pavement, in particular those members of the public with pushchairs and wheelchair users. Consequently, the Sub Committee decided that licensable activities should not be permitted on the external public pavement area as marked on the new plan submitted by the Applicant and that the permitted licensed area should be restricted to the internal areas of the premises only.
29. The Sub Committee therefore concluded that, with the imposition of suitable conditions and removal of the outdoor area from the plan of the licensed premises, 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.

30. 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 11:00 – 23:00 Thur-Sat 11:00 – 23:30 Sun 11:00 – 22:30
Late Night Refreshment	N/A	Thur-Sat 23:00 – 23:30

31. The Sub Committee then considered the issue of conditions proposed by the Applicant consistent with their operating schedule (Appendix 2, page 29 of the Hearing papers). It was concluded that it was necessary and appropriate to impose the following conditions upon the licence to address the concerns relating to public nuisance:

- a) All doors and windows shall remain closed at all times save for entry or exit, or in the event of an emergency (MC13).
- b) Prominent signage shall be displayed at all exits from the premises requesting that customers leave quietly (MC16).
- c) 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).
- d) A 'Challenge 25' Scheme shall operate to ensure that any person attempting to purchase alcohol who appears to be under the age of 25 shall provide documented proof that he/she is over 25 years of age. Proof of age shall only comprise a passport, a photo card driving licence, an EU/EEA national ID card or similar document, or an industry approved proof of age identity card (MC21).

32. In addition to the conditions above, the Sub Committee also imposed the following conditions:

- e) There shall be no sale of alcohol in unsealed containers for consumption off the premises (MC18).
- f) That the plan of the premises submitted in support of the application be amended to remove the external area entirely from the permitted "On Sales" licensed area.

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

The meeting closed at 11.25 am

Chairman

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