

MINUTES OF THE LICENSING (HEARING) SUB-COMMITTEE

HELD ON MONDAY 16 MARCH 2020 AT 2.30PM

APPLICANT: City of London Distillery Ltd
PREMISES: City of London Distillery, 23 Bride Lane, EC4Y 8DT

Sub-Committee:

Deputy Keith Bottomley (Chairman)
Marianne Fredericks
Deputy Jamie Ingham Clark

Officers:

Town Clerk – Joseph Anstee
Comptroller and City Solicitor – Frank Marchione
Markets & Consumer Protection - Peter Davenport

Given Notice of Attendance:

Applicant:

Mr Jonathan Smith (Applicant's Solicitor)
Ms Briony Fellowes (Manager, City of London Distillery)
Mr James Stocker (Marketing Director, Halewood Wines and Spirits)
Ms Emma Doughty (Group Legal Counsel, Halewood Wines and Spirits)

Making representation:

Ms Henrika Priest CC
Mr William Gardiner (Resident)
Ms Samantha Hansson (Resident)

Also Present:

Mr Chris Haden (Resident)

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 premises license in respect of City of London Distillery, 23 Bride Lane, EC4Y 8DT, the applicant being City of London Distillery 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: Current Premises Licence for 24 Bride Lane
Appendix 3: Conditions Consistent with the Operating Schedule
Appendix 4: Representations from Other Persons

- i) Resident 1
- ii) Resident 2
- iii) Resident 3
- iv) Resident 4
- v) Resident 5
- vi) Resident 6
- vii) Resident 7
- viii) Resident 8
- ix) Resident 9

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

Appendix 7: Blue public notice

1. The Hearing commenced at 2.30pm.
2. At the commencement of the Hearing, the Chairman introduced himself and the Panel, as well as City of London Corporation officers present, before asking other parties present to introduce themselves. The Chairman then outlined the purpose and procedure of the hearing and stated that all written representations had been read by the Sub Committee, requesting that there be no repetition of the submitted representations.
3. The Chairman invited the Applicant to introduce the basis for the application, with reference to how the premises would be operated in support of the licensing objectives. Mr Jonathan Smith, representing the Applicant, outlined the context and history of the application, plus that of the existing City of London Distillery premises at 24 Bride Lane.
4. Mr Smith stressed that there would be no external drinking provision attached to the application and this had never been sought, contrary to some of the objections submitted. The Applicant noted that other premises in the areas did have this provision, but whilst provision for off sales was part of the application, neither City of London Distillery premises would have provision for external drinking.
5. Mr Smith drew the Hearing's attention to the conditions consistent with the operating schedule, noting that these also prohibited external drinking and off sales in unsealed containers.
6. Mr Smith then advised of a number of amendments they wished to make to the application for the Sub Committee's consideration. These were:
 - To remove the provision for non-standard timings on Bank Holidays and New Year's Eve from all activities.
 - To remove the provisions for both live and recorded music and performance of dance. There would be no live or recorded music under

the Live Music Act, and the Applicant stated that there would be no speakers in the premises

- Amended opening hours as follows:

| <u>Activity</u> | <u>Current Licence</u> | <u>Proposed Licence</u> | |
|--|------------------------|-------------------------|-------------|
| Late Night Refreshment | N/A | Sat | 23:00-00:00 |
| Sale of alcohol for consumption on and off the premises | N/A | Sun | 12:00-22:30 |
| | | Mon – Fri | 10:00-23:00 |
| | | Sat | 10:00-00:00 |
| Opening Hours | N/A | Sun | 12:00-23:00 |
| | | Mon – Fri | 10:00-23:30 |
| | | Sat | 10:00-00:30 |

and

- The addition of model conditions MC16 and MC19 in respect of signage and a telephone number for reporting by nearby residents.
7. Mr Smith then gave the Sub Committee some background history on the City of London Distillery, the variety of products and experiences available and explained the reasons for wanting to expand beyond the basement premises at 24 Bride Lane, such as a bigger food offering and presence at street level. Mr Smith stressed that the two premises would be separate and remain so, but would share staff and a Designated Premises Supervisor (DPS).
 8. The Applicant acknowledged the concerns of the objectors, adding that they were familiar with the area, but also drew the Sub Committee's attention to the email disclosures from the City of London Police and Environmental Health, indicating that there had not been any complaints about the premises during the last 2 years. Mr Smith also compared the proposed opening hours to the other premises in the local area, with the proposed hours making City of London Distillery the earliest or joint-earliest premises to close throughout the week.
 9. Mr Smith reiterated that there would be no external drinking, that City of London Distillery customers would leave earlier than others, and there was a maximum capacity of 30 people, and therefore the premises would not significantly add to the public nuisance.
 10. Mr Smith further argued that City of London Distillery was already a presence in the area and was not an unknown quantity, with the existing premises receiving no complaints directly, and complaints usually directed at the other premises in the area. Mr Smith reiterated that whilst there was a pre-existing problem with noise and nuisance, this had not led to any review hearings and whilst there would be a cumulative impact, it would not be significant.
 11. Mr Smith then advised as to delivery and collection times, with deliveries between 8:30am and 4pm, and no collections before 7:30am. The kitchen would be cleaned by kitchen staff, with remaining cleaning prior to opening between 10am and 12noon, and no late-night cleaning.

12. In response to concerns from objectors, firstly regarding the flat above the unit, Mr Smith advised that only one of the doors on the shopfront could be used, and this would be self-closing. As there would be no speakers, noise should not be an issue. Mr Smith advised that a change of use planning application had been submitted, and the intention was to rebuild the inside of the unit, including the ceiling, which may require sound insulation. Noting the objection on the basis of the European Convention on Human Rights, Mr Smith submitted that this was a qualified right which should be balanced against the circumstances of the decision.
13. In response to questions from the objectors, the Applicant confirmed that there would be no recorded music at the premises. Further to this, Mr Smith advised that Environmental Health was a statutory consultee on the planning application and hoped they would advise on tests and requirements for sound insulation, and they would be guided by the experts on the best way forward during the conversion. In response to a query, the Applicant confirmed that the premises at 24 Bride Lane had wooden floor throughout.
14. The Sub Committee queried why a large kitchen was required for a capacity of 30 people and whether the Applicant intended to apply for a Tables and Chairs licence in the future. The Applicant confirmed that they did not intend to apply for Tables and Chairs as it was not practical at street level, and advised that the size of the kitchen was purely to improve the food offering, adding that food would not be prepared upstairs for the basement premises as the operations would be completely separate.
15. The Sub Committee asked the Applicant to clarify the management of rubbish and recycling collections, particularly empty glass bottles. Mr Smith advised that rubbish and recycling would be placed in receptacles at the end of each night and would not be moved until the next day, meaning nothing taken outside during unsociable hours. Noting an objector's report that delivery vehicles and glass collection sometimes set off alarms or took place as early as 4am on Bride Lane, Mr Smith guaranteed that this would not be City of London Distillery who did not intend to have any deliveries or collections before 07:30 at the earliest.
16. The Sub Committee asked whether the Applicant had considered a double lobby in addition to self-closing doors. Mr Smith responded that there was limited space but they would take it away and consider during the planning process.
17. The Sub Committee asked how the Applicant intended to manage smoking by patrons outside the premises. Mr Smith responded that the Applicant currently managed smoking patrons outside the premises at 24 Bride Lane and had not received any complaints about this. The large front window and CCTV would enable staff to monitor the immediate vicinity outside 23 Bride Lane, which was not possible with 24 Bride Lane. In response to a follow-up query, Mr Smith confirmed that intervention would form part of the Applicant's staff training and could be included in the management plan, and that there would also be signage, as the Applicant was conscious of residents in the flats above the premises.

18. The Sub Committee asked for clarification on the floor plan. In response Mr Smith advised that the floor plan would be amended as the Applicant had since learned that they would be unable to use the middle door. Whilst the floor plan's seating was indicative, Mr Smith stressed that the capacity would be 30 people, excluding staff, and that the majority would be seated. Any corporate events would take place downstairs at 24 Bride Lane.
19. The Chairman invited those making representations to set out their objections against the Applicant. William Gardiner first addressed the Sub Committee, advising that he had read the submissions. He felt that the area had reached a tipping point with regards licensed premises and there was already more than enough for the area, which was not meant to imitate Soho. External drinking and noise nuisance had become a serious problem in Bride Court and residents could not tolerate any more. Mr Gardiner added that City of London Distillery already had a licensed premises and did not need another one. Mr Gardiner also advised the Sub Committee that the problems caused by licensed premises had become so bad he and other residents were considering moving elsewhere.
20. Ms Henrika Priest CC then addressed the Sub Committee. Whilst it was noted that there was no formal cumulative impact policy in place and the amendments by the Applicant were taken on board, the addition of the premises would still make an impact and add to the issues experienced by residents. Patrons smoking outside the premises tended to mingle with external drinkers which increased the public nuisance. Furthermore, in rainy weather smokers tended to shelter in Bride Court causing a direct problem for residents. As 23 Bride Lane was right on the corner, patrons would congregate on Bride Court and the noise was disturbing for a significant radius.
21. Ms Priest added that notices for people leaving the premises were ineffective and patrons simply could not be regulated once they left the premises. The area was simply unsuited to the level of noise generated by licensed premises.
22. Whilst the Applicant reported no direct complaints against them, this may be due to the fact that City of London Distillery patrons could not be told apart from those of other premises. Furthermore, the lack of complaints stemmed from the fact it was difficult to witness and report noise pollution and constant low-level incidents, and review hearings were not generally convened unless there was a major incident. Residents had tried to speak to individual premises without success. Ms Priest argued that late alcohol licenses were already a problem in the area, and City of London Distillery did not need an additional license when they already had a licensed premises there.
23. The Sub Committee noted that they were bound to consider the application in front of them on its individual merit and could not account for the behaviour and history of other premises. However, the Sub Committee urged residents to record and report all incidents to create a bank of information and evidence that could be used should a review be needed, as the Licensing Authority did have powers to penalise wrongdoing by Licensees. The Sub Committee noted that noise and external drinking were the main issues in the area, and that policy to identify and

manage City of London Distillery patrons smoking outside the premises would be beneficial.

24. The Chairman then asked those making representations in objection to sum up their case. In response, Ms Priest and Mr Gardiner explained that they understood the licensing policies and that external drinkers in the area came from other premises, but objected to the application on the basis that it would add to the existing problems, and would present its own problems with regards to smokers and dispersal. The area was becoming more of a destination with an atmosphere unsuited to it, and the application would contribute to this.
25. The Chairman then asked the Applicant to sum up their case. Mr Smith first advised that CCTV could be used to monitor Bride Lane and Bride Court to prevent smokers sheltering in Bride Court, in addition to training staff to intervene and monitor, with action taken against any wrongdoing. Furthermore, there could be some degree of control over people leaving the premises with the ambience and product of the premises. The application was for a premises with a capacity of 30 people, with hours cut back considerably.
26. The Applicant appreciated the concerns of local residents, but there was limited record of formal complaints and City of London Distillery was not mentioned specifically in any of the objections submitted. The Sub Committee was required to balance the arguments in the absence of a cumulative impact policy. Mr Smith then submitted that the Sub Committee should consider the individual application on its merits and set against the licensing objectives. The application was not in a cumulative impact zone and even if it was, on the evidence, the application would not significantly add to the cumulative impact, and on that basis should be granted. The Applicant had modified the application as they knew and appreciated the area, having operated there for some time and intending to do so into the future. The Applicant operated their existing premises successfully and would do the same at this premises if the license were granted.
27. In response to a query from the Sub Committee, Mr Smith confirmed that there would be 4 or 5 employees on site at 23 Bride Lane, split between the bar and kitchen, and they would be in radio contact with 24 Bride Lane downstairs.
28. The Sub Committee then 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.
29. The Sub Committee considered the principle concern was the promotion of the Prevention of Public Nuisance. 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".

30. The Sub Committee regarded noise to be the principal concern to residents, and that cumulative impact was also the reason for much of the objection. The Sub Committee noted that the Applicant had conceded hours and activities, had explained how they intended to operate the premises, and had agreed to a management plan. The Sub Committee noted that the removal of live and recorded music should be recorded and form part of the management plan, and should be submitted to Planning in order to strengthen noise limiting and insulating measures taken as part of this process. The Sub Committee agreed that the capacity of 30 people could be made explicit, as this would help with dispersal, noting that the capacity was explicit on the licence for 24 Bride Lane.
31. The Sub Committee concluded that, with the imposition of suitable conditions, it would be possible for the Applicant to operate the premises in accordance with the licensing objectives, and it was the Sub Committee's decision to grant the premises licence.
32. 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. The Sub Committee noted the conditions suggested voluntarily by the Applicant and agreed to incorporate these, plus the hours as requested by the Applicant.
33. The hours were granted as amended by the Applicant and set out below, with the provisions for live and recorded music, performance of dance and non-standard timings on Bank Holidays and New Year's Eve not forming part of the license.

| <u>Activity</u> | <u>Current Licence</u> | <u>Proposed Licence</u> | |
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| Opening Hours | N/A | Sun | 12:00-23:00 |
| | | Mon – Fri | 10:00-23:30 |
| | | Sat | 10:00-00:30 |

Conditions

1. The number of patrons on the premises should not exceed the capacity of 30.
2. There shall be no sale of alcohol in unsealed containers for consumption off the premises.

3. There shall be no external drinking outside the premises.
4. The premises shall install and maintain a comprehensive digital colour CCTV system. All public areas of the licensed premises, including all public entry and exit points and the street environment, will be covered. The CCTV cameras shall continually record whilst the premises are open to the public and recordings shall be kept available for a minimum of 31 days with date and time stamping. A staff member who is conversant with the operation of the CCTV system shall be present on the premises at all times when they are open to the public. This staff member shall be able to show the police or the Licensing Authority recordings of the preceding two days immediately when requested.
5. Promoted events will not be held at the premises. A promoted event is an event involving music and dancing where the musical entertainment is provided at any time between 23:00 and 07:00 by a disc jockey or disc jockeys one or some of whom are not employees of the premises licence holder and the event is promoted to the general public.
6. Prominent signage shall be displayed at all exits from the premises requesting that customers leave quietly (MC16).
7. 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).
8. A Management Plan be drafted and the premises operated in accordance with this Plan. The Sub Committee suggest that this is reviewed on an annual basis and encourages that Environmental Health and local residents be consulted in the drafting of the Management Plan. The Management Plan should include but not be limited to:
 - The installation of self-closing doors on the premises, and the installation of a double lobby if possible.
 - A schedule for deliveries and collections ensuring all are between the hours of 08:30 and 16:00.
 - That no speakers shall be used on the premises.
 - The use of CCTV along the shopfront and side of the building.
 - The training of staff to appropriately monitor and manage patrons outside the premises, intervening where necessary and where this may be causing nuisance to residents.

The meeting closed at 4.20 PM

Chairman

MONDAY, 16 MARCH 2020

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