

MINUTES OF THE LICENSING (HEARING) SUB-COMMITTEE

HELD ON WEDNESDAY 12 AUGUST AT 2PM

APPLICANT: Daisy Green Food Ltd
PREMISES: Daisy Green, 2 London Wall Place, EC2Y 5DH

Sub-Committee:

Deputy Jamie Ingham Clark (Chairman)
John Fletcher
Sophie Fernandes

Officers:

Town Clerk – Leanne Murphy
Comptroller and City Solicitor – Frank Marchione
Markets & Consumer Protection - Peter Davenport, Rachel Pye

Given Notice of Attendance:

Applicant:

Prue Freeman (Director, Daisy Green)

Making representation:

Dr Dimitri Varsamis (resident)
Helen Kay - Chair, Barbican Association
Mary Bonar - Chair, Wallside House Group
Nigel Pilkington (resident)
Hank Lu (resident)
Fionnuala Hogan - representing Ms Hilary Sunman as the new Chair of Willoughby House Group

Apologies:

Ravi Rupal (resident)

Licensing Act 2003 (Hearings) Regulations 2005

A virtual public Hearing was held at 2.00pm to consider the representations submitted in respect of an application to vary the premises licence in respect of Daisy Green, 2 London Wall Place, EC2Y 5DH, the Applicant being Daisy Green Food 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: Minutes from previous hearing - 13 August 2019
Appendix 3: Current Premises Licence
Appendix 4: Current conditions consistent with the operating schedule

Appendix 5: Representations against the application

- i) Hogg
- ii) Young
- iii) Makin
- iv) Lu
- v) Sunman
- vi) Anderson
- vii) Goldberg
- viii) Bonar
- ix) Pilkington
- x) Zhao
- xi) Papakyprianou
- xii) Einwiller
- xiii) Casstles
- xiv) Rupal
- xv) Varsamis
- xvi) Kay
- xvii) Li
- xviii) Dixon

Appendix 6: Representation in support of application

Appendix 7: Map of subject premises together with other licensed premises in the area and their latest terminal time for alcohol sales

Appendix 8: Plan of Premises

Appendix 9: Blue public notice

1. The Hearing commenced at 14:00.
2. At the commencement of the Hearing, the Chairman stated that all written representations had been read by the Sub Committee and requested that there was not a repetition of the submitted representations.
3. The Chairman invited the Applicant to introduce the basis for the application and set out their case.
4. Ms Freeman advised that Covid-19 had hit the business hard as they could not achieve the normal level of customers within the premises. The space outside was therefore more important and could be used sensibly and managed by staff. It was noted that the business was surviving through locals and the small number of workers in the City, as opposed to visitors from elsewhere, with Barbican residents making up approximately 70% of trade.
5. Ms Freeman acknowledged the local resident's nervousness to vary the licence due to perceived potential implications for drinking in London Wall including late night noise, policing crowds, access to toilet facilities, littering and Sunday noise. However, Ms Freeman felt that in the last twelve months the premises had operated respectfully towards its locals and demonstrated their aim as a destination for locals and workers.

6. With regards to issues concerning toilets, the Chairman noted that many public toilet facilities within the City had now been reopened.
7. Ms Freeman hoped that all could co-exist during these difficult times and to negate any concerns the Applicant offered an amendment to the application to request a cut-off time of 18:00 for weekday off-sales and no off-sales at weekends. This would allow the business to target the weekday afternoon trade. Notifications, additional staff and bins would also be implemented, plus staff would work with the Landlord's security team to ensure the space was being used as intended.
8. Ms Freeman hoped, with time, the business would prove to residents that they were a good operator with good intentions and may apply for a further variation in the future.
9. The Chairman invited the Objectors to ask the Applicant questions regarding their statements.
10. Mr Lu queried how far the London Wall security staff could police and patrol the London Wall area, e.g. did this reach as far as Salters' Garden which was a hidden space that could be subject to gatherings if off-sales were permitted.
11. Ms Freeman stated that security patrols would have the ability to patrol the whole area and staff would also be on site to assist; however, the earlier timing should prevent evening anti-social behaviour in the area which had not been experienced by clientele to date.
12. Ms Bonar noted that the City Corporation owned some of the land in question and hoped that there would be cooperation to ensure the space was well policed and that litter was managed. It was noted that skateboarders had been an issue in the past. The Chairman stated that the Hearing could only consider matters relating to the four licensing objectives and skateboarding and litter were not licensing issues and should be reported to the Environmental Health team. Ms Bonar felt that public nuisance concerns should be considered before they occurred, and the City Solicitor reiterated that only the Licensing Act regulations were relevant to this Hearing.
13. Ms Kay highlighted that the space outside the restaurant was huge and enjoyed by locals and workers alike. The space belonging to the premises was four meters from the demise, not the entire area, but the sale of off-sales would encourage groups of drinkers in the area outside of this space.
14. The Sub Committee enquired if the plan was to apply for a Tables & Chairs Licence if the variation was granted. Ms Freeman confirmed this was not the plan and the variation would simply to allow the business to add to the offer alongside other operators in the area.
15. The Sub Committee asked if vertical drinking was allowed at the premises. The Applicant confirmed vertical drinking was allowed on the premises; however, the

business was operating with table service only as per the current Covid-19 regulations.

16. The Sub Committee queried if the business had received any complaints concerning its service. Ms Freeman advised that a complaint was received a few weeks ago just after 21:00 when the premises stopped selling drinks to customers on the terrace, packed down and patrons either dispersed or came inside as per the conditions of the licence. Ms Freeman confirmed that the Licensing Officer was content that they were adhering to the conditions.
17. The Sub Committee enquired if the contact telephone number made available to locals and the City of London Licensing Team by the Licence Holder in the event of complaints arising, was being used. The Applicant confirmed that complaints had only gone directly to the Licensing Authority.
18. The Chairman invited those making representations to set out their objections against the Applicant.
19. Mr Pilkington informed the Hearing that off-sales were rejected by the Sub Committee at the last Hearing as the premises was very close to residents. Mr Pilkington was also concerned that the sale of off-sales would encourage people to drink in an area of tranquil living and historic value which would require heavy policing. These concerns were considered by Mr Pilkington to be more important than the estimated revenue boost of 5-10% that the Applicant expected off-sales to bring to the business.
20. Dr Varsamis advised that half of the 90 flats within Roman House faced the premises, which did not have great sound insulation. Dr Varsamis also observed that whilst the venue obtained its licence in August 2019, it did not open until December and was forced to close due to the pandemic. The venue had therefore not been open for 12 months and its operation had not been observed for very long.
21. Dr Varsamis stated that he had observed breaches of customers drinking after 21:30 and the premises windows remaining open when they should remain closed after 21:00. The tables and chairs belonging to the premises also often encroached on the public space outside of their demise. Dr Varsamis concluded that he was sympathetic regarding the impact of Covid-19, but more time was needed to observe operation before a variation could be considered at the premises.
22. Ms Kay advised that the Barbican Association had helped promote Barbie Green and its members visited the venue. However, there was now an issue of trust with the management as once again there had been no consultation with the local community concerning the application.
23. The Barbican Association was also concerned by alleged breaches to the conditions and did not feel that Applicant had a clear strategy to deal with drinkers and groups when they talked with the Liaison Group on Monday. This was concerning as there was already a culture of large gatherings of drinkers outside

drinking establishments in the City. The Barbican Association therefore did not support the variation as it considered off-sales to increase the likelihood of noise nuisance incurred affecting the many flats overlooking the premises.

24. Ms Bonar requested, in the event that the variation be granted, that more security be employed by Daisy Green and/or the Landlord and that the timings proposed were the new proposed timings by the Applicant and not the original application times.
25. Ms Freeman asked Ms Kay what creative ways were being suggested for the business to work with the Barbican Association. Ms Kay offered no suggestions but stated that the Barbican Association knew their local community and wished to liaise. The Sub Committee agreed it was important to have engagement with the local community.
26. The Sub Committee asked the Objectors present if they would support the variation with the proposed reduced hours and no off-sales at the weekend. The Objectors felt that mission creep was highly likely if this variation was granted and that it would encourage an assumption of using a space that did not belong to the premises at the detriment of locals. The Objectors therefore wished to nip this in the bud before problems occurred.
27. The Chairman offered all parties the opportunity to make a concluding statement.
28. The Applicant summarised that most of the concerns were regarding anti-social behaviour, crowds and nuisance which should be avoided by the 18:00 finish. Ms Freeman highlighted that an additional 5-10% in sales would be extremely significant during the current pandemic and would help the business survive. Ms Freeman hoped a compromise could be made as there was a desire to be a long-term operator in the area.
29. There were no concluding comments from the Objectors.
30. The Chairman thanked all attendees for their comments and explained that a written decision letter would be sent to all parties within five working days by email only.
31. The Sub Committee retired at 14:54 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.
32. 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".

33. The Sub Committee regarded noise nuisance to be the principal concern to Objectors. The Sub Committee noted this was a business that had operated without any significant issues to date 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 Applicant had also made significant concessions to help address the key concerns of the Objectors.
34. The Sub Committee also felt that an increase of 5-10% in sales was hugely significant to the business, which was struggling due to the impact of the coronavirus pandemic.
35. The Sub Committee concluded that 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 the business, and it was the Sub Committee's decision to grant the variation of the premises licence to permit off-sales between the hours of 11:00 and 18:00 Monday to Friday only with no off-sales at the weekend. The Sub Committee did not consider there to be a need for any additional conditions.

The meeting closed at 2.54 PM

Chairman

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