

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

HELD ON TUESDAY 31 JULY AT 01.45 PM

**APPLICANT:** Brewdog retail limited  
**PREMISES:** Brewdog, Unit 3, The Minister Building, EC3R 5EA

### Sub-Committee:

Michael Hudson (Chairman)  
Deputy Keith Bottomley  
Graham Packham

### Officers:

Town Clerk – Richard Holt  
Town Clerk – George Fraser  
Comptroller and City Solicitor – Paul Chadha  
Markets and Consumer Protection – Andre Hewitt

### Given Notice of Attendance:

**Applicant:** Ms Felicity Tulloch (Kuits solicitors) and Mr James Brown (Brewdog Operations Director)

### Making representations:

Ms Marianne Fredericks	Ward Councillor
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### In Attendance:

Mr Iain Simmons	Assistant Director (City Transportation)
Mr John Petrie	Ward Councillor

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### Licensing Act 2003 (Hearings) Regulations 2005

A public Hearing was held at 01.45PM in Committee Room 1, Guildhall, London, EC2, to consider the representations submitted in respect of a variation application for a premises license for the sale of alcohol in respect of, Brewdog, Unit 3, The Minister Building, EC3R 5EA, the applicant being Brewdog retail limited.

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: Management Policy and Additional conditions  
Appendix 3: Premises License  
Appendix 4: Representation from Ward Councillor  
Appendix 5: Map of subject premises together with other Licensed premises in the area and their latest Terminal time for alcohol sales  
Appendix 6: Premises Plans

The Hearing commenced at 01.45 PM.

1. At the commencement of the Hearing, the Chairman explained the produce of the hearing and introduced the Member serving on the Panel as well as officers.
2. Felicity Tulloch (Kuits solicitors) and James Brown (Brewdog) made submissions in support of the application. Mr Brown began by briefing providing the Sub-Committee with a contextual background to the company Brewdog Retail Ltd and Brewdog's site on Great Tower Street. He said that this premises is considered one of Brewdog's flagship locations and is used as a centre of excellence and training site.
3. Mrs Tulloch, the applicant's legal representative, explained to the Sub-Committee that the premises licence had been granted in February 2018 and that the external part of the demise had been used for eating and drinking from this time. Mrs Tulloch further noted that she was unaware of any premises in the local area of Great Tower Street which are required by their premises licence to limit outside patrons and maintained the application from her client was to simply achieve parity with similar establishments in the local area. Moreover, Mrs Tulloch drew the Sub-Committee's attention to the fact that none of the responsible authorities had chosen to make a representation against the application.
4. Mrs Tulloch informed the Sub-Committee that the applicant had been collaborative in the application process by being in contact with both the objector and the licensing authority before the notice of the hearing.
5. Responding to Mrs Tulloch's suggestion that Great Tower Street was a secondary highway (because it had a 20 mph speed restriction) the Sub-Committee Chairman explained that the whole of the City of London, with some exceptions which fall under TFL's jurisdiction, had a twenty mile an hour speed limit and that he considered Great Tower Street, a bus route, to be a busy highway for traffic and pedestrians.
6. The applicant provided the Sub-Committee with a proposed 'External Area Management Policy' and explained that they would be content to have the specifics of this Policy enforced as conditions of the Licence should the application be granted. The 'External Area Management Policy', was presented to all parties present and was considered by the Sub-Committee, included the following points:
  - There shall be no sales of alcohol in open containers for consumption off the premises after 11pm.
  - The external pavement area shall be cleared of patrons by no later than 11pm.
  - When the premises is carrying on licensable activities at least 2 meters of clear, unobstructed access for

pedestrians must be maintained on the pavement external to the pavement at all times.

- When the premises is carrying on licensable activities after 17:00 hours on Wednesday at least two registered door supervisors shall be on duty, and after 17:00 hours on Thursday and Friday at least 5 registered door supervisors shall be on duty, to monitor the outside area.
  - The premises licence holder shall ensure that members of staff (and door staff when employed) monitor and manage customers who wish to drink, dine or smoke outside of the premises, so as to ensure that no nuisance is caused by them.
  - Bins shall be provided for smokers to dispose of cigarette litter.
  - Signs will be displayed in appropriate locations requesting customers keep noise to a minimum.
  - Patrons who disregard the signage and verbal instructions regarding noise will be asked inside/or to leave the premises.
  - The external area used by customers shall be covered by premises' CCTV system.
  - The area will be cleaned regularly throughout its use, and at the end of each evening, to include the sweeping and washing of the pavement.
  - Empty glasses shall be cleared and collected promptly
  - Breakages and spillages shall be cleared and cleaned promptly.
7. Mrs Tulloch also informed the Sub-Committee that a Member for the Ward of Billingsgate Common Councilman John Petrie, who was present at the hearing but not able to give evidence or address the Sub-Committee as the licensing authority had not been informed prior to the hearing, was in support of the application. The applicant and the legal representative summarised their points by stressing their commitment to the 'External Area Management Policy' and asking the Sub-Committee to note that, with the exception of the noted incident in May 2018, the current external area had been managed well.
8. The Sub-Committee Chairman then invited Ms Fredricks to ask questions of the applicant.
9. Ms Fredericks began by asking the applicant how the premises planned to resolve the issue operational issues in controlling those patrons outside of their demise. James Brown answered this point by explaining the provisions described 'External Area Management Policy' and the skill of the staff on the premises.
10. Responding to a point made in the applicant's representation Ms Fredericks further questioned the applicant as to why they believed that the patrons of other premises would bring alcoholic drinks, purchased at

other premises, with them when standing on the street adjacent to the Brewdog. James Brown replied that he attributed this to the lower costs at other premises.

11. The Sub-Committee Chairman then invited the other Members of the Sub-Committee to ask the applicant their questions.
12. Members began by asking the applicant what percentage of the pavement the applicant would estimate would be left free for the pedestrians. The applicant replied that an accurate percentage was not available, but 2 meters would be left clear, as outlined in the 'External Area Management Policy'.
13. Members further questioned the applicant on the issue of vertical drinking outside of the premises demise using an image taken from the website TripAdvisor. The applicant answered this by suggesting that this image was most probably taken during a brief period during which the premises struggled to fully control vertical drinking and that this had now been resolved.
14. A Panel Member regarding the licensing team's inspection in May of 2018 and why it was that the premises had the issues. The Applicant replied that the premises management had been surprised by their customers desire to use the outside space and this, coupled with the warmer weather, had caused the issues. The applicant went onto reiterate that the new management policy had resolved these issues.
15. The Chairman invited Ms Marianne Fredericks (Common Councilman) to outline her reason for submitting an objection against the application for a variation on the premises license from Brewdog retail limited. Iain Simmons Assistant Director (City Transportation) was also present however as all parties had not been made aware of his role as a witness, further to advice from the Comptroller & City Solicitor's representative, it was explained that Mr Simmons could only confirm the evidence provided in advance of the hearing and not provide any further evidence of his own.
16. Replying to the concerns raised by the applicant's legal representative the Sub-Committee Chairman informed the applicant that all of the members of the Sub-Committee were fully aware of the details of the locality, two of the three Members serving on the City of London Corporation's Planning and Transportation Committee, so any information regarding traffic management provided by Mr Simmons would not impact on the decision made.
17. Ms Fredericks listed the reasons which she felt were important when considering the application.
18. Firstly, Ms Fredericks began by outlining how an increased number of patrons outside the external area of the demise of the premises would

likely affect pedestrian safety as they are forced toward, and on occasion into, the road to avoid them. Ms Fredericks informed the Sub-Committee of a specific instance she witnessed on the 4th May 2018 when almost the entire pavement was blocked by patrons of Brewdog's premises.

19. Secondly Ms Fredericks also drew the Sub-Committee's attention to an inspection of the Premises by members of the licensing team during which in excess of 50 customers were drinking outside of the licensed demise of the premises in breach of the licence and much of the pavement was blocked causing pedestrians to be forced into the road to pass by. During this inspection it was also noted that some staff members at the premises were not aware of the requirement of the premises licence detailed in Annex 2 condition 3. The Sub-Committee considered a letter dated the 22nd of May 2018 provided by the licensing officer which provided further details of the inspection. While Ms Fredericks agreed the management of outside drinkers by the premises staff had improved since this incident noting that this was due to the current licence condition which permitted sales only within the demise of the premises which allows the premises staff to be more active in the management of their customers.
20. Thirdly Ms Fredericks explained to the Sub-Committee that Great Tower Street is currently unusually quiet in terms of traffic due to the repairs being performed on a nearby gas main and that the increased traffic after the completion of these works would likely exacerbate the effect on public safety. Finally, Ms Fredericks explained to the sub-committee that she felt the applicant's proposed External Management Policy would be unworkable in practice highlighting the issue of five door staff managing a frontage of approximately 80 metres and that the premises would not have any authority to manage the behaviour of patrons outside of the premises boundary.
21. The Chairman then invited the applicants to set out their case. The applicant did not have any questions of the objector.
22. The Chairman then invited questions from the Sub-Committee, as follows: firstly, the Sub-Committee asked Ms Fredericks how much room she estimated was free between the extent of premises and the bike racks present on the road. Ms Fredericks explained that she thought there was less than 2 meters and highlighted that the traffic was likely to increase.
23. At 02:50pm Mr Iain Simmons left the hearing.
24. The Sub-Committee asked Ms Fredericks if she was aware of the exact number of residents in the local area. Ms Fredericks replied confirming that she did not have an exact number for the resident population.
25. Further the Sub-Committee questioned what distance left free for the pedestrians Ms Fredericks would find satisfactory. Ms Fredericks

responded that whatever distance the Sub-Committee chose she was not confident that the premises could control patrons off the premises.

26. The Chairman informed the parties they would be notified of the decision as soon as possible any in any event within five working days. The Sub-Committee then retired to consider the application. The Sub-Committee retired at 03:15pm.

- 1) The sub-committee considered the application and carefully considered the representations submitted in writing and orally at the hearing by the Applicant and Applicant's legal representative Ms Felicity Tulloch and Mr James Brown, by Ms Marianne Fredericks.
- 2) 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. In this instance, the Sub-Committee determined that the relevant licensing objective was that of public safety.
- 3) The Sub-Committee concluded that, in the event that the application was granted, there was a probable risk to the public safety of pedestrians passing and re-passing along the pavement on Great Tower Street outside the premises. In reaching this conclusion the Sub-Committee took into account that the frontage of the premises extended for a considerable distance along the length of Great Tower Street; there was a bus stop located directly outside the premises and a bicycle rack situated at the junction of Great Tower Street and Mark Lane; Great Tower Street was a busy pedestrian thoroughfare during rush hour periods; and Great Tower Street also handles a considerable amount of traffic although this was not currently the case due to the presence of roadworks which restricted vehicular access to and from Eastcheap and Great Tower Street. As such the Sub-Committee resolved that there was a strong likelihood that pedestrians would not be able to pass freely along the pavement outside the premises and could be forced into the road. Furthermore, members of the public wanting to use the bus stop could have difficulty doing so and the presence of the bicycle rack at the junction could create additional pedestrian congestion.
- 4) The Sub-Committee considered the Applicant's submissions that other licensed premises did not have conditions on their licences restricting outside drinking but noted that many premises had licences issued under previous licensing legislation and had rights that were "grandfathered over" when the responsibility for licensing was transferred to local authorities; and the fact one licensed premises did not have a condition preventing open containers of alcohol being removed from the premises did not mean such a condition

should not be imposed as a licence condition in respect of other premises.

- 5) The Sub-Committee also noted that there had been earlier instances of the Applicant's patrons drinking on the pavement which had required the intervention of the licensing authority.
- 6) The Sub-Committee then went on to consider whether the measures put forward by the Applicant and detailed in its "External Area Management Policy" were sufficient to allay the Sub-Committee's concerns. The Sub-Committee were of the view that the Applicant's undertaking that it would maintain a clear and unobstructed 2 metre wide access for pedestrians was inadequate and, ultimately, unachievable. The Sub-Committee also considered whether alternative measures (such as a greater clear and unobstructed access for pedestrians; or a defined clear and unobstructed access for pedestrians or maximum pavement usage, which ever gave the greater unobstructed access for pedestrians) could be granted and whether any conditions that might be imposed, if the application was granted, would be enforceable. The Sub-Committee did not accept that the Applicant would be able to exert control over patrons who were not within the curtilage of its premises and that door supervisors had no authority over persons who were on the public highway and consequently would be unable to manage the area in the manner in which it proposed, and that it would not be possible to impose a clear and enforceable condition to govern use by patrons of the premises once those patrons were on the public highway.

27. The Sub-Committee concluded that in light of its concerns in respect of the public safety of pedestrians using Great Tower Street and the Applicant's inability to effectively address these concerns the application is refused.

**The meeting closed at 03:15 pm**

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Chairman

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