

MINUTES OF THE LICENSING (HEARING) SUB-COMMITTEE

HELD ON MONDAY 4 FEBRUARY AT 12.30 PM

APPLICANT: Kuash Limited
PREMISES: Half Cup, Unit 9, 22-23, Bartholomew Close, London,
EC1A 7BB

Sub Committee:

Mrs Caroline Addy (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 Kuash Limited
Mrs Kumari Morar	Applicant, owner of Half Cup

Making representations:

Brendan Barns	Resident
Deputy Clare James CC	Ward Member for Farringdon Within
Ben Winstanley	Resident
Ann Holmes CC	Resident and Ward Member for Farringdon Within
Raymond Clark	Resident
Natasha Curran	Resident
Peter Bowen	Resident
Rick and Susie Carrington	Resident
Deborah Tyler	Resident

In Attendance:

Mr Craig Baylis
Mrs Kumari Morar
Mr Brendan Barns

Licensing Act 2003 (Hearings) Regulations 2005

A public Hearing was held at 12.30pm in Committee Room 1, Guildhall, London, EC2, to consider the representations submitted against a new premises application in respect of Half Cup, Unit 9, 22-23, Bartholomew Close, London, EC1A 7BB, the Applicant being Kuash 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: Conditions consistent with the operating schedule

Appendix 3: Representations from Other Persons

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

Appendix 6: Photograph of public notice

Appendix 7: Copy of newspaper advertisement

1. The Hearing commenced at 12.30 pm.
2. At the commencement of the Hearing, Mr Baylis advised the Hearing that following concerns stated in objections from local residents an amendment to the supply of alcohol schedule provided in the application was requested. The Applicant was now proposing that alcohol sales between 09:00 – 11:00 would be ancillary to a table meal only. Mr Baylis also noted concerns of residents regarding outside drinking and confirmed that the Applicant would accept a condition that no sale of drinks in unsealed containers for consumption off the premises would be permitted past 21:00 and that the external area would be cleared of patrons, tables and chairs by 21:30. The Chairman stated that the application would be considered with these amendments.
3. The Chairman invited the Applicant to set out their case and was asked to provide a more comprehensive outline of how the business would operate. Mr Baylis advised that the offering was a sit down, café operation providing full waiter service which would operate in the same vein as the Applicant's other successful café business in Kings Cross. He noted that there was a very small alcohol turnover of 5% and that the focus was driven by providing upmarket food.
4. The Applicant explained that the site at Kings Cross had been operating for four years, had an outside table area for customers and the premises was also surrounded by residents. The business offer was to provide a relaxing café space for the local community serving quality Indian style tapas food and the Applicant hoped to replicate the Kings Cross site. In response to a query from Mr Barns, the Applicant advised that a minor variation to the plan would be made to allow for a tables and chairs storage facility.
5. The Chairman then invited those making representations to set out their objections to the application.
6. The Hearing noted the statement submitted by Mrs Holmes, who sent her apologies before the start of the Hearing, setting out her objection to a closing time of 23:00 as this would create significant noise nuisance for residents when customers departed the premises. Mrs Holmes also objected to use of the outside

area on the basis of noise nuisance and requested that the licence not allow the sale of alcohol to tables outside the premises.

7. Mr Barns advised the Hearing that he had resided and worked in the area for 20 years. Mr Barns stated that local residents were primarily concerned by late night noise and nuisance, particularly in the narrow passages being used by patrons after hours. Mr Barns objected to a late-night licence and the proposed external area with tables which he felt would affect the tranquillity of the Barts Square area. He stated that he was not opposed to the café per se but did not agree with the build-up of businesses that had been allowed by the developers fearing that St Barts was being turned into a destination venue.
8. Mr Barns did not believe that a café required such late hours and noted that the Kings Cross business owned by the Applicant had a much earlier closing time. He stated that he probably would not have objected if the same terminal hour had been used in this application. The Applicant advised that the Kings Cross business originally closed at 22:00 but this was changed to 18:00 as business for later sales simply was not profitable. The Applicant wished to explore evening trade in this new premises stating that all staff would receive full training to deal with late night patrons and that drinking would only be available if eating food.
9. The Applicant stated that an application for a tables and chairs licence under the Highways Act 1980 had already been submitted. The Sub Committee requested clarification regarding how busy staff could effectively supervise outside patrons. The Applicant advised that staff had always effectively managed the external table area at the Kings Cross venue noting that this premises would be managed in the same way with a dedicated staff member in place. Mr Baylis stated that the Applicant would be agreeable to making this a condition.
10. The Sub Committee noted that the outside area was on a public highway and therefore any member of the public could legally sit in the external area. The Sub Committee queried how the Applicant would control this conduct. The Applicant advised that the supervising staff member would report to the manager who would monitor the situation and act as appropriate in cases of nuisance. The Applicant also confirmed that smokers would not be allowed to take drinks outside.
11. The Applicant confirmed that the inside area would accommodate 60 people and the external area would have six tables holding up to four people each (24 people). It was noted that the outside pavement area was very wide. The Sub Committee stated that a good dispersal policy and staff training to follow the policy would be vital to managing both areas.
12. Mr Barns summarised that he agreed with the points raised by Mrs Holmes in her statement and hoped that the café would not be granted permission for licensable activity outside like the opposite restaurant Stem & Glory. He stated that the area had been quiet for decades and disagreed with outside tables or a late-night element of the application. Mr Barns noted that signage to patrons using Middlesex Passage would be very helpful.

13. 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.
14. 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".
15. 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 reassured by 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 the additional conditions to not permit the sale of alcohol between the hours of 09:00 – 11:00 unless ancillary to a table meal and that the external area (subject to a Tables and Chairs Licence) would stop sales from 21:00 with all tables and chairs cleared and packed away by 21:30.
16. 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. The Sub Committee sought to strike a balance for residents and the business.
17. It was the Sub Committee's decision to grant the premises licence as follows:

Activity	Current Licence	Licensing Hours
Sale of alcohol for consumption on and off the premises	N/A	Mon-Sun 09:00-22:30

18. 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 to patrons asking them not to use Middlesex Passage when departing the area 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 21:00 hours. All tables and chairs which benefit from a Tables and Chairs licence to be cleared and packed away by 21:30 (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).
 - f) There shall be no sale of alcohol between the hours of 09:00 – 11:00 unless ancillary to a table meal.
19. Whilst the Sub Committee noted that it was the Applicant's intention to install CCTV in the premises, it did not consider it necessary or appropriate to make it a condition on the premises licence.
20. The Chairman thanked all parties for their attendance and explained that written confirmation of the decision would follow.

The meeting closed at 1.03 pm

Chairman

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