

## MINUTES OF THE LICENSING (HEARING) SUB COMMITTEE

HELD ON 27 NOVEMBER 2012 AT 3:00 PM

**PREMISES USER: MR JOHN O'DONNELL**

**PREMISES: THE DUKE & DUCHESS, 2-3 CREED LANE, LONDON  
EC4V 5BR**

### PRESENT

#### Sub Committee

Deputy Edward Lord OBE JP (Chairman)  
Marianne Fredericks CC  
Alderman Simon Walsh

#### City of London Officers

Caroline Webb - Town Clerk's Department  
Ru Rahman - Comptroller and City Solicitor's Department  
Peter Davenport - Markets & Consumer Protection  
Steve Blake - Markets & Consumer Protection

#### The Premises User

Mr John O'Donnell, Premises Licence Holder at the Duke & Duchess

#### Objection Notices

John Hall and Inspector Rita Jones, the City of London Police  
Garry Seal, Environmental Health Officer, City of London Corporation

#### In Attendance

Rakesh Hira, Town Clerk's Department  
Natasha Dogra, Town Clerk's Department  
Donald Pedley, Local Resident  
Tony Hibbard, to support Mr O'Donnell  
Matthew Dancer, to support Mr O'Donnell  
Howard Thompson, to support Mr O'Donnell

#### Licensing Act 2003 (Hearings) Regulations 2005

- 1) A public hearing was held at 3.00pm in the Committee Rooms, Guildhall, London, EC2, to consider the objection notices submitted in respect of a temporary event notice made by Mr John O'Donnell for the premises known as 'The Duke & Duchess, 2-3 Creed Lane, London EC4V 5BR'.

The Sub Committee had before them a report of the Director of Markets and Consumer Protection, which appended copies of:-

Appendix 1: Copy of the Temporary Event Notice

Appendix 2: Representations from responsible authorities

Appendix 3: Copy of the Current Licence

Appendix 4: Plan of the Premises

Appendix 5: Map of subject premises together with other Licenced Premises in the area and their latest terminal time for alcohol sales

Details of the proposed temporary event were as follows:

Date of Event: 1<sup>st</sup>/2<sup>nd</sup> December 2012

Time for Event: 23.00 to 02.00

Licensable Activities Sought:

- i. Sale of alcohol
- ii. Provision of regulated entertainment
- iii. Provision of late night refreshment

Maximum number of People: 120

- 2) The hearing commenced at 3.00pm.
- 3) The Chairman opened the hearing by introducing himself, the other Members of the Sub Committee and the Officers present.
- 4) It was noted that no members of the panel had any personal or prejudicial interest.
- 5) The Sub Committee sought clarification in regards to the objection notices and whether they had been served in accordance with statute. The City of London Police and Environmental Health both stated that they had not served their objection notices on each other, therefore neither notice should be considered, but Mr O'Donnell confirmed that he would be content to proceed with the hearing.
- 6) The City of London Police and Environmental Health apologised for the oversight and assured the Sub Committee that the same error would not be made twice.
- 7) Mr Hall informed the Sub Committee that the premises had a low record of crime and disorder and was considered to be a well-run premises by the Police. The main cause for concern was the potential for public nuisance to residents in the local vicinity as patrons left the premises or if they were outside smoking.
- 8) The Sub Committee noted that objections to a temporary event notice should not be based on the anticipation of public nuisance, particularly when the premises in question had no previous history of miss-

management. There was no evidence to suggest that the event would be badly run or be the cause of public nuisance to local residents.

- 8) Mr Seal informed the Sub Committee that the main area of concern of Environmental Health was the potential for noise disturbance to local residents, by either patrons smoking outside or leaving the premises. He highlighted that a small number of complaints were received in regard to a premises known as 'Society Bar' of which Mr O'Donnell was the Designated Premises Supervisor before the 'Duke & Duchess' and felt that there was a reasonable risk of noise disturbance to local residents.
- 9) The Sub Committee stressed their concern that public nuisance at a previous premises was being attributed to Mr O'Donnell without any evidence that he was even at the premises at the time of the complaints. Members highlighted that the accusations could be bordering on defamatory.
- 10) The Sub Committee questioned whether Environmental Health had applied the appropriate test in order to determine whether or not they were satisfied that the event would undermine the licensing objectives before submitting their objection.
- 11) Mr O'Donnell informed those present that the employees of the client for whom the event would be held for, the Covent Garden Flower Market, work on a shift pattern. He assured the Sub Committee that in the 18 months he had been running the premises, there had been no complaints received and the premises would be managed as it normally would be during the two extra hours of opening time should the TEN be granted.
- 12) He confirmed that there would not be a DJ present at the event, food would be served and background music would be played until 01.00 hours, with the premises due to close at 02.00 hours. The delay should allow a slow dispersion of patrons and security staff would be at the premises for approximately 90 minutes after closing.
- 13) The Members of the Sub Committee withdrew to deliberate and make their decision, accompanied by the representatives of the Town Clerk and the Comptroller and City Solicitor.
  - i) A Temporary Event Notice was served on the Local Authority on 13 November 2012 by Mr John O'Donnell for an event to be held in respect of the premises 'The Duke & Duchess'. In response, objection notices were served by the City of London Police on 14 November 2012 and the City of London Environmental Health Pollution Team on 16 November 2012 pursuant to section 104(2) of the Licensing Act 2003, on the basis that the proposed event would undermine the 'public nuisance' licensing objective.

- ii) At the hearing to consider the objection notices, the Sub Committee had to determine whether it would be appropriate to issue a counter notice for the promotion of a licensing objective.
- iii) Having heard from Mr O'Donnell, the City of London Police and the City of London Environmental Health Pollution Team, the Sub Committee could not see any reason as to why the premises, which had no previous history of public nuisance or disorder, could not hold the event and therefore decided not to issue a counter notice.
- iv) The Sub Committee was confident that Mr O'Donnell would uphold the conditions of the licence for the period of time between 00.00 hours and 02.00 hours and as the TEN was for on sales only, it was expected that no alcohol would leave the premises.

**The meeting ended at 3.30 pm**

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Chairman

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