

MINUTES OF THE LICENSING (HEARING) SUB COMMITTEE

HELD ON 12 MARCH 2013 AT 2.00 PM

APPLICANT: PUNCH TAVERNS PLC
PREMISES: BIRD OF SMITHFIELD, LONDON EC1A 9LB

PRESENT

Sub Committee:

Kevin Everett (Chairman)
Marianne Fredericks
Deputy Douglas Barrow

City of London Officers:

Julie Mayer -Town Clerk's Department
Paul Chadha-Comptroller & City Solicitor's Department
David Smith – Director of Markets and Consumer Protection
Peter Davenport - Markets & Consumer Protection Department
Lee Sandford – Environmental Health (Responsible Authority)

Applicant:

Represented by Matthew Phipps, Solicitor (TLT LLP)
Andrew Quibell – Client's Business Relationship Manager
George Muir – General Manager
Sian Austin – Operations Manager
Stephen Collins – Managing Director

Representations of objection:

Deputy Edward Lord – Common Councilman, City of London
Deputy Wendy Mead – Common Councilman, City of London

Licensing Act 2003 (Hearings) Regulations 2005

1) A public hearing was held at 2pm in the Committee Rooms, Guildhall, London, EC2, to consider the representations submitted in respect of an application for the premises 'Bird of Smithfield', London EC1A 9LB

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

Appendix 1: Copy of Application

Appendix 2: Conditions consistent with the operating schedule

Appendix 3: Plan of Premises

- Appendix 4: Representations from responsible authorities
- Appendix 5: Representations from Other Persons
- Appendix 6: Map of subject premises together with other licensed premises in the area and their latest terminal time for alcohol sales

A management procedure, business plan and updated plans were also taken into consideration.

- 2) The hearing commenced at 2.00 pm
- 3) The Chairman opened the hearing by introducing himself, the other Members of the Sub Committee, the officers present and the nature of the application.
- 4) It was noted that no Members of the Sub Committee had any declarations. However, Deputy Edward Lord, who was representing the local residents, advised those present that he is the Chairman of the City of London Corporation's Licensing Committee. However, Deputy Lord was present as an advocate, which had no bearing on the impartiality of the Hearing.
- 5) The application for a premises licence, following amendments by the applicant, was as follows:

<u>Activity</u>	<u>Current Licence</u>	<u>Proposed Licence</u>
Supply of Alcohol	Not Applicable	Mon to Thu 07:00 – 02:00 Fri – Sat 07:00 – 03:00 Sun 09:00 – 02:00 Sale on roof terrace only from 12:00 to 23:30 Mon-Sun.
Recorded Music	Not Applicable	Mon to Thu 07:00 – 02:00 Fri – Sat 07:00 – 03:00 Sun 09:00 – 02:00 Background music only on roof terrace and only between 10:00 and 23:30 Mon-Sun.
Films, Live Music and anything similar to Live and Recorded Music	Not Applicable	Mon to Thu 07:00 – 02:00 Fri – Sat 07:00 – 03:00 Sun 10:30 – 02:00 After 23:00 Live Music is in

		Basement only.
Late Night Refreshment	Not Applicable	Mon to Thu 23:00 – 02:30 Fri – Sun 23:00 – 02:30 LNR on roof terrace restricted between 23:00 to 00:00 Mon-Sun

- 6) The applicant's representative, Mr Matthew Phipps, informed the Sub Committee that the Sunday trading times were noted incorrectly in the committee papers (page 4) and that licensable activities would finish at 02:00 hours for Sale of Alcohol, Recorded Music and Films, Live Music and anything similar to Live and Recorded Music and music and for Late Night Refreshment would finish at 02:30 hours. The confusion had arisen from the use of the 24 hour clock on the application form.
- 7) Members noted that the conditions of the current licence and the new one before the sub committee were very close; the substance of the variation being to extend the period of occupation of the roof terrace (currently 11pm) to 12 midnight, with alcohol sales ceasing at 11.30 pm. There was also a small variation to moderate hours for New Year's Eve.
- 8) Mr Phipps advised assured the sub committee that the terrace would be supervised at all times, there would be background music only and no regulated entertainment.
- 9) If Members were minded to grant the application, the existing licence would be surrendered.
- 10) The sub committee noted that a previous application for this premises had included an entertainment licence for 'strip tease' but this no longer applied.
- 11) Mr Phipps expanded on the Business Plan and refurbishments to the premises, which had been approved by the local authority. The applicant sought to enrich the local community with a high quality dining offer, run in a similar manner to a private dining club. The proposed pricing structure would guide the clientele.
- 12) Mr Phipps explained that the current application was new and not a variation, as the applicant wanted to make a clear distinction between the old and new operation and highlight the new layout and spirit of the establishment.
- 13) The Sub Committee noted that the Police had sought two amendments, which were set out in the Annex at the rear of the application. The Sub Committee noted that the Police had asked for an assurance that there would be no promoted events.

- 14) In responding the objections raised, Mr Phipps felt that they might be disproportionate; given there were commercial properties on either side.
- 15) The Sub Committee noted that there was a residential property closeby, currently unoccupied, and the current owner would be seeking a residential let. Mr Phipps felt that an objection about currently unoccupied premises was unreasonable and based on presumption, given that there had been no history of complaints.
- 16) The Chairman invited Deputy Lord to speak on behalf of the local residents. Deputy Lord was concerned that, when a licence was first granted to the premises at 26 Smithfield, there were far less residential units in the area. The Sub Committee noted that 11-12 Smithfield is a permanent residential block, containing 21 occupied flats.
- 17) Deputy Lord was also concerned that this was the third application for 26 Smithfield in three years and the previous ventures had failed. The Sub Committee were asked to be mindful that, should this happen again, the nature of the establishment might change within a short period of time.
- 18) Mr Phipps advised that, whilst this was partially true, the business had been trading well at the point of the recent sale. The Sub Committee noted that there had been no trading activity since September 2012, due to the current refurbishments.
- 19) The residents, represented by Deputy Lord, felt that the long opening hours were unnecessary for such a high-end establishment. Mr Phipps defended the position as the later hours were intended for the basement bar. The Sub Committee were reminded of the City of London's Licensing Policy, which invites a range of closing times within a locality. Mr Phipps advised the sub committee that the applicant would be unlikely to take full advantage of the opening hours, i.e. on quiet evenings such as Mondays.
- 20) The applicant agreed to cease off-sales at 10 pm.
- 21) There were further concerns raised about smoking on the roof terrace but the sub committee were reminded that, whilst undesirable, smoking is not a licensable activity and this would cease on closure of the roof terrace.
- 22) Deputy Lord asked the sub committee to be mindful of the minutes from a previous Hearing (12.12.2011), where public safety concerns had been raised about patrons interacting with the market activities.
- 23) Mr Phipps advised that the applicant had sought to engage with the local Ward Members but the offer had not been reciprocated.

- 24) The Chairman invited Mr Lee Sandford (Environmental Health Officer) to speak. Mr Sandford confirmed that there had been no history of complaints about the premises at 26 Smithfield.
- 25) All parties were given an opportunity to sum up and 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.
- 26) **It was the Sub Committee's decision to grant the licence, with the following amendments:**
- a) **No use of the roof terrace shall be permitted between 23.30 hrs and 07.00 hrs**
 - b) **The removal of condition 5 which was not considered necessary or appropriate**
 - c) **There shall be no promoted events on the premises.**
 - d) **There shall be no sale of alcohol for consumption off the premises after 22.00 hours**
- 27) The Chairman said that a full decision would be circulated in due course and thanked all parties for attending the hearing.

The meeting ended at 5 pm

Chairman

Contact Officer: Julie Mayer
Tel. no. 020 7332 1410
E-mail: julie.mayer@cityoflondon.gov.uk