

MINUTES OF THE LICENSING (HEARING) SUB COMMITTEE

HELD ON 21 MAY 2013

APPLICANT: CHARMED LONDON LTD
PREMISES: COS BAR, 148 QUEEN VICTORIA STREET, LONDON,
EC4V 4BY

PRESENT

Sub Committee:

Marianne Fredericks CC (Chairman)
Rev Dr Martin Dudley CC
Peter Dunphy CC

City of London Officers:

Rakesh Hira – Town Clerk’s Department
Alistair MacLellan – Town Clerk’s Department
Paul Chadha – Comptroller & City Solicitor’s Department
Peter Davenport – Markets & Consumer Protection Department
Steve Blake – Markets & Consumer Protection Department

Applicant:

Represented by Alice Hawker and supported by Terence O’Sullivan (Part-Owner, Cos Bar) and Charlotte Cantillon.

Representations of objection:

Chris Boden CC
Bernadette Smith

In attendance:

Jamie Ingham Clark CC
Michael Hudson CC
Graham Packham CC
Ikuko Kurahone

Licensing Act 2003 (Hearings) Regulations 2005

- 1) A public Hearing was held at 10.30am in the Committee Rooms, Guildhall, London, EC2, to consider the representations submitted in respect of an application for the premises ‘Cos Bar, 148 Queen Victoria Street, London, EC4V 4BY’.

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: Current Premises Licence
- Appendix 3: Current Conditions
- Appendix 4: Conditions Consistent with the Operating Schedule
- Appendix 5: Representations from Other Persons (22)
- Appendix 6: Map of subject premises together with other licensed premises in the area and their latest terminal time for alcohol sales
- Appendix 7: Current Plan of Premises

In addition the following documents, which were circulated to all parties prior to the Hearing, were also considered:

- Two letters dated 1 May 2013 from Charlotte Cantillon (on behalf of Cos Bar) to all parties making a representation.
 - Letter dated 13 May 2013 from Charlotte Cantillon (on behalf of Cos Bar) to all parties making a representation.
- 2) The Hearing commenced at 10:30am.
 - 3) The Chairman opened the Hearing by introducing herself, 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.
 - 5) The applicant sought a variation to the current premises licence to extend the terminal hour on Friday and Saturday from 01:00 hours to 03:00 hours as follows:

<u>Activity</u>	<u>Current Licence</u>	<u>Proposed Licence</u>
Sale of Alcohol	Sun-Thu 10:00 – 00:00	Sun-Thu 10:00 – 00:00
	Fri-Sat 10:00 – 01:00	Fri-Sat 10:00 – 03:00
Exhibition of films, Indoor Sports Events	Sun-Thu 10:00 – 00:00	Sun-Thu 10:00 – 00:00
	Fri-Sat 10:00 – 01:00	Fri-Sat 10:00 – 01:00

Recorded Music	No Restrictions	Sun-Thu 00:00	10:00 –
		Fri-Sat 03:00	10:00 –
Live Music	Not currently licensed	Sun-Thu 00:00	10:00 –
		Fri-Sat 03:00	10:00 –
Anything of a similar description to live and recorded music	Not currently licensed	Sun-Thu 00:00	10:00 –
		Fri-Sat 03:00	10:00 –
Late Night Refreshment	Sun-Thu 10:00 – 00:00 Fri-Sat 10:00 – 01:00	Sun-Thu 23:00 – 00:00 Fri-Sat 23:00 – 03:00	
		Only licensable from 23:00 although from 10:00 on application	
Provision of facilities for dancing	Not currently licensed	No longer a licensable activity.	

- 6) The Chairman invited Ms Hawker to provide an outline of the application and the concessions proposed. She highlighted that Cos Bar management had written to those who had made representations and after meeting with Deputy Edward Lord CC were content with adding further conditions to the premises licence. These were, in addition to those listed on the Operating Schedule, to only use the house speakers for amplified music, directing smokers to the Queen Victoria Street exit and to remove the variation for the extended hours on Fridays. Ms Hawker explained that customers who came on a Saturday night to Cos Bar would predominately be those who wanted to attend a particular event and not local businesses or City workers.
- 7) Mr Boden, who spoke on behalf of other persons making representations too, explained that whilst the management of Cos Bar were competent and reasonable, the variation would result in increased noise and a disturbance to local residents. He pointed out that in line with the City Corporation's Licensing Policy an acoustics assessment should have been carried and as it had not been it was difficult to ascertain if there would *not* be a noise nuisance.
- 8) Mr Boden explained that there was also the question of the cumulative impact on the local area, given that there were three other licensed premises in the immediate vicinity open till late hours. Mrs Smith noted

that she had purchased her property eight years ago on the understanding that it was adjacent to licensed premises, however, the current application for extended hours went beyond what she had expected.

- 9) Mrs Smith pointed out that as she lived in the adjoining building she could hear the hand dryers being used in Cos Bar during the night and that as she was pregnant this would cause particular noise nuisance in the future with the proposed extended hours of operation. Ms Hawker explained the layout of the premises highlighting that there was a hall way between the bar area and the toilets.
- 10) In response to a question from a Member of the Sub Committee regarding complaints about Cos Bar it was noted that there had been no formal complaints made to Environmental Health and that there had been one informal complaint from Deputy Edward Lord CC in February 2013 which had been speedily dealt with. Ms Hawker highlighted that to resolve the speaker issue the premises would only use house speakers and not those brought by the promoter.
- 11) Ms Hawker stressed that in the past, Cos Bar has successfully run a number of promoted events and that it wanted to add to this success. She noted that they had carried out pre-application consultation with the Responsible Authorities, and that they had engaged with residents when practical criticism had arisen. She emphasised that the programme of 27 promoted events until 02:30/03:00 hours on a Friday/Saturday night had passed successfully and without complaint and that the Responsible Authorities had not been aware that a late night event had taken place at all.
- 12) In response to a question by a Member of the Sub Committee relating to Temporary Event Notices (TENs), Ms Hawker explained that the application sought had been submitted as TENs had been used and a more permanent solution to host late night events was now requested.
- 13) Ms Hawker emphasised that Cos Bar had a good history since it had opened over seven years ago and was looking forward to actively engaging in the City Corporation's Traffic Light Scheme. In relation to the comments made by Mr Boden on producing an acoustics report it was noted that this was only required when a new premises licence was sought and that it was not necessary or proportionate to carry this out for this application. Ms Hawker pointed out that the variation should be considered on its own merits.
- 14) In response to a question by a Member of the Sub Committee relating to the dispersal of customers, Ms Hawker reported that customers generally walked to Queen Victoria Street to arrange for a taxi and not always to Carter Lane.

- 15) It was noted that when promoted events took place the bar would close at 02:00 hours and the premises would be closed at 02:30 hours with staff leaving approximately 20 minutes after this. SIA registered door staff were employed and assisted in dispersing customers.
- 16) Ms Hawker explained that the applicant would be content with removing Live Music as a licensable activity from the application if this assisted the Sub Committee.
- 17) In response to a question by a Member of the Sub Committee on the advertisement of the notice of variation, Ms Hawker explained that an advert was placed in the Evening Standard, two letters were sent from Cos Bar to residents and some residents would have received an email from Andrew Green in the Markets & Consumer Protection Department.
- 18) Mr O'Sullivan pointed out that due to the refurbishment of Blackfriars Station there had been a drop in trading of approximately 30 – 35% and that the business had not recovered and therefore it would be detrimental if the variation was not granted.
- 19) It was noted that the regular promoted events which took place on Saturday's included a Latino night and a professional lesbian night which had both been running successfully for over a year with no problems or complaints.
- 20) In response to a question from Mr Boden on noise vibration, Ms Hawker said that they felt it best if they reacted to noise nuisance issues as they arose and that at that point a noise or vibration assessment could take place.
- 21) It was noted that the Notice displayed on the premises outside Cos Bar was on white background and not blue, as required, however the Sub Committee were content with proceeding with considering the application as a Notice had been placed in the newspaper, viewable on the City Corporation web pages and was widely known to the local residents as 22 objections had been submitted.
- 22) All parties were given an opportunity to sum up and then 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.
- 23) The Chairman said that a full decision would be circulated in due course and thanked all parties for attending.

The meeting closed at 11.57am

Chairman

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Decision letter circulated to all parties on 28 May 2013

1. This decision relates to an application made by Charmed London Ltd for a variation to a premises licence in respect of the premises 'Cos Bar, 148 Queen Victoria Street, London, EC4V 4BY'.

The application sought to extend the current terminal hour on Friday and Saturday from 01:00 hours to 03:00 hours as follows:

<u>Activity</u>	<u>Current Licence</u>	<u>Proposed Licence</u>
Sale of Alcohol	Sun-Thu 10:00 – 00:00 Fri-Sat 10:00 – 01:00	Sun-Thu 10:00 – 00:00 Fri-Sat 10:00 – 03:00
Exhibition of films, Indoor Sports Events	Sun-Thu 10:00 – 00:00 Fri-Sat 10:00 – 01:00	Sun-Thu 10:00 – 00:00 Fri-Sat 10:00 – 01:00
Recorded Music	No Restrictions	Sun-Thu 10:00 – 00:00 Fri-Sat 10:00 – 03:00
Live Music	Not currently licensed	Sun-Thu 10:00 – 00:00 Fri-Sat 10:00 – 03:00
Anything of a similar description to live and recorded music	Not currently licensed	Sun-Thu 10:00 – 00:00 Fri-Sat 10:00 – 03:00
Late Night Refreshment	Sun-Thu 10:00 – 00:00 Fri-Sat 10:00 – 01:00	Sun-Thu 23:00 – 00:00 Fri-Sat 23:00 – 03:00 Only licensable from 23:00 although from 10:00 on application
Provision of facilities for dancing	Not currently licensed	No longer a licensable activity.

2. The Sub Committee considered the application and carefully considered the representations submitted in writing and orally at the hearing by the applicant, a local resident and those representing local residents.
3. In reaching the 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 2011.
4. Furthermore, the Sub Committee took on board the duty to apply the statutory test as to whether an application should or should not be granted, that test being that the application should be granted unless it was satisfied that it was necessary to refuse all, or part, of an application or necessary to impose

conditions on the granting of the application in order to promote one (or more) of the licensing objectives.

5. In determining the application the Sub Committee first and foremost put the promotion of the licensing objectives at the heart of their decision. In this instance, the most relevant of those objectives being the prevention of public nuisance.
6. In reaching its decision the Sub Committee took into account the nature of the operation proposed by the applicant. The Sub Committee concluded that, in discharging its duty to promote the licensing objectives, it was not necessary to reject the application. In this respect the Sub-Committee took into consideration the fact that there had been no representations from the responsible authorities and that the additional conditions suggested by the City of London Police had been accepted by the applicant. Furthermore, it was noted that the applicant had operated a number of late night events under temporary event notices without any complaints from local residents. With regards to the assertion that noise from the provision of regulated entertainment could give rise to nuisance in the adjoining residential property, the Sub-Committee was of the view that there was sufficient physical separation between the part of the licensed premises where regulated entertainment would take place and the adjoining property. Whilst acknowledging the representations from residents in the Carter Lane area in respect of potential for public nuisance resulting from this application, the Sub Committee was not convinced that the proposed extension of hours would adversely affect these residents.
7. The Sub Committee then considered whether it was necessary and appropriate to impose any conditions upon the licence, to promote the relevant licensing objectives and concluded that it was necessary and appropriate to impose conditions upon the licence so as to address the concerns relating to public nuisance.
8. It was the Sub Committee's decision to grant the variation to the premises licence, subject to amending the application, as offered by the applicant, as follows:
 - Extending the terminal hour on Saturday **only** from 01:00 hours to 03:00 hours.
 - Removing Live Music as a licensable activity from the application.
 - No off-sales for the Sale of Alcohol or Late Night Refreshment.
9. The Sub Committee decided to impose the following conditions:
 - The premises shall install and maintain a comprehensive digital colour CCTV system. All public areas of the licensed premises, including all public entry and exit points, will be covered enabling facial identification of every person entering

in any light condition. The CCTV cameras shall continually record whilst the premises are open to the public and recordings shall be kept available for a minimum of 31 days with date and time stamping. A staff member who is conversant with the operation of the CCTV system shall be present on the premises at all times when they are open to the public. This staff member shall be able to show the police or the Licensing Authority recordings of the preceding two days immediately when requested.

- The premises licence holder shall advise the Police of any promoted event* that is to take place at the premises by completing a Risk Assessment form (696) provided by the Police and submitting this to the City of London Police Licensing Office, and the Metropolitan Police Clubs and Vice Unit (SCD9), at least 14 days before the event. A further debrief form provided by the Police must be completed by the premises licence holder and submitted to the Police not more than seven days after the event.

**A promoted event is an event involving music and dancing where the musical entertainment is provided at any time between 11:00pm and 7:00am by a disc jockey or disc jockeys one or some of whom are not employees of the premises licence holder and the event is promoted to the general public.*

- An incident log shall be kept at the premises and made available on request to the Police or an authorised officer of the City of London Corporation. The log will record the following:
 - (a) All crimes reported to the venue
 - (b) All ejections of customers
 - (c) Any incidents of disorder (disturbance caused either by one person or a group of people)
 - (d) Seizure of drugs or offensive weapons
 - (e) Any faults in the CCTV system or searching equipment or scanning equipment
 - (f) Any refusal of the sale of alcohol during the hours the premises is licenced to sell it.
 - Amplified music shall only be played through the premises' own amplification system and the use of other means of sound amplification is prohibited.
 - Prominent signage shall be displayed at all exits from the premises requesting that customers leave quietly.
 - 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.
10. The Sub Committee noted the applicant's offer to direct patrons wishing to go outside the premises to smoke towards the Queen Victoria Street exit and refuse re-entry to those who did not. The Sub Committee was also of the opinion that the promoter, or promoters, should be made aware of the conditions placed on the premises licence prior to running an event.

11. The Sub Committee considered the existing conditions, set out at Annex 2 (Conditions consistent with the Operating Schedule) and was of the opinion that these be revoked and replaced with the above conditions.
12. The Sub Committee noted the applicant's enthusiasm to address issues relating to litter around the premises and door staff through the City of London's Code of Good Practice for Licensed Premises.
13. If the Sub Committee was wrong and the conditions prove insufficient to prevent a public nuisance associated with these premises, all parties are reminded that any responsible authority, business, resident or a Member of the Court of Common Council is entitled to apply for a review of the licence which may result, amongst other things, in a variation of the conditions, the removal of a licensable activity or the complete revocation of the licence.
14. If any party is dissatisfied with the decision, he or she is reminded of the right to appeal, within 21 days, to a Magistrates' Court. Any party proposing to appeal is also reminded that under s181(2) of the Licensing Act 2003, the Magistrates' Court hearing the appeal may make such order as to costs as it thinks fit.