

MINUTES OF THE LICENSING (HEARING) SUB COMMITTEE

HELD ON 6 AUGUST 2013

APPLICANT: THE CITY OF LONDON CORPORATION, EC2P 2EJ
PREMISES: THE GUILDHALL SCHOOL OF MUSIC AND DRAMA,
EC2Y 9BH

PRESENT

Sub Committee:

Edward Lord OBE JP (Chairman)
Peter Dunphy CC
James Tumbridge CC

City of London Officers:

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 Craig Baylis (Partner, Berwin Leighton Paisner LLP) and supported by Tom Harrington (Deputy Head of Estates and Facilities Management, GSMD)

Representations of objection:

Robert B Barker
Trevor Kavanagh (on behalf of Brian Parkes)
Tim Macer
Nazar Sayigh

In attendance:

Marianne Fredericks CC
Vivienne Littlechild CC
Peter Lisley (Assistant Town Clerk, Town Clerk's Department)
David Smith (Director of Markets and Consumer Protection)
Xanthe Couture (Town Clerk's Department)
Philippa Sewell (Town Clerk's Department)

Licensing Act 2003 (Hearings) Regulations 2005

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 'The Guildhall School of Music and Drama, 1 Milton Street, EC2Y 9BH'.

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 Other Persons (4)
- Appendix 5: Map of subject premises together with other licensed premises in the area and their latest terminal time for alcohol sales

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

Letter dated 31 July 2013 from Alistair MacLellan detailing an amendment to the original application and enclosing a revised Visitor Management Plan

Letter dated 2 August 2013 from Alistair MacLellan providing additional photographs from Mr Barker and Mr Macer, detailing concerns that map on page 53 of original agenda pack did not reflect building 'footprint' of new GSMD, and a further revised Visitor Management Plan

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1. The Hearing commenced at 10:30am.
 2. The Chairman opened the Hearing by introducing himself, the other Members of the Sub Committee, the officers present and the nature of the application.
 3. It was noted that no Members of the Sub Committee had any declarations of interest, that the Licensing (Hearing) Sub Committee was entirely independent of the Guildhall School of Music and Drama. Those making representations confirmed they had no concerns over the nature of the application.
 4. The application, as amended, sought to provide for:
 - 5. Supply of Alcohol**
Mon to Sun 10:30 – 22:30
 - 6. Plays, Films, Live Music, Recorded Music, Performances of Dance**
Mon to Fri 08:00 – 22:30
Sat & Sun 10:00 – 22:30
 - 7. Supply of Alcohol, Plays, Films, Live Music, Recorded Music, Performances of Dance, Late Night Refreshment**
On no more than 12 occasions per calendar year the terminal hour shall be 23:30.

8. The Chairman asked those present if they were content with the application, as amended. Mr Baylis replied that the Applicant was content, and in response to a request from Mr Barker it was agreed to further amend the application by adding Public Holidays to Section L of the Application.
9. In response to a question from the Chairman, the Applicant confirmed that the application for the terminal hour to be 2330hrs on no more than 12 occasions per year applied to the application as a whole.
10. The Chairman outlined the format of the Hearing, noting that he would ask the Applicant to introduce the Application and to address the relationship between the GSMD and the Barbican Centre in particular. He would then invite those making representations to address the Hearing. The Applicant would then have the opportunity to address any matters arising during the course of the Hearing. The Chairman concluded by noting he intended to take a short break one hour into the Hearing.
11. Mr Baylis, for the Applicant, introduced the Application, noting the level of consultation had taken place, beginning during the summer of 2012. This level of consultation reflected the desire of the GSMD to build a consensus with Barbican residents that could be manifested in the proposed Visitor Management Plan. Regarding the application for extended opening on 12 occasions per year, he noted that the GSMD had worked hard to raise funds for the Milton Court site through sponsorship and that the 12 occasions were primarily for corporate sponsorship events.
12. Mr Harrington, as per the Chairman's request, outlined the relationship between the GSMD and the Barbican Centre. He noted that both venues had a strong practical relationship and shared skills and experience between their staffs, particularly on an operational level. Upon being prompted by Mr Baylis, he confirmed that should late night events occur at both venues, then dedicated dispersal teams would be on duty to ensure smooth egress of attendees.
13. Mr Baylis then addressed the Hearing on Appendix 2 – Conditions consistent with the operating schedule, noting that MC23 'Children under the age of 18...' was irrelevant and could, if the Panel chose, be omitted.
14. The Chairman replied that the Panel had reviewed Appendix 2 and was of the opinion that it could be amended significantly and that this would be detailed in the Sub Committee's decision letter.
15. In response to concerns from a Member of the Sub Committee over the impact of any potential restrictions on the GSMDs ability to host corporate events, the Chairman asked the Applicant if they would be content to apply for Temporary Event Notices (TENs) in instances when it was necessary to stage such events. The Applicant replied that such events would be infrequent and therefore they were content to deal with these under TENs.

16. The Chairman then invited those making representations to address the Hearing.
17. Mr Barker began by noting that he felt the main issue under consideration was the prevention of public nuisance. He noted that during the planning stage of the Milton Court site residents were assured that the new premises would close at 2300hrs and therefore the residents chose not to object to the Planning Application on that basis.
18. The Chairman highlighted that light emitting from the premises after closing hours was not a licensing matter.
19. Mr Barker then referred to the photographs in the agenda pack dated 2 August, noting that the glazed building past the zebra crossing in the first photograph showed the premises, and its footprint was now c.15 feet further forward than the previous building on that site. Furthermore in the second photograph the amount of glazing in the new building was very apparent. This glazing served to amplify noise from street level and also overlooked bedroom balconies on the north side of Speed House and Willoughby House. He noted that the shape of the balconies further served to amplify noise. Mr Barker stated that the Planning & Transportation Committee that considered the GSMD application had agreed that the building should not be open to the public after 2300hrs, and this reflected the fact that the old GSMD licence had only run until that time of the evening. He argued that any events that the GSMD wished to stage that continued after 2300hrs could be held at the Barbican Centre. He was furthermore concerned to hear that the proposed Visitor Management Plan was unenforceable and that if this was the case it made it imperative to seek to limit the licensed hours at the new GSMD premises to 2300hrs. He concluded by expressing concern at the fact that as both the Applicant and the Licensing Authority, the City of London could not prosecute itself in the event of complaints regarding the licensing regulations.
20. At the request of the Chairman, Mr Chadha confirmed that the City of London would not be able to prosecute itself for any breach of licensing or environmental protection legislation but that the GSMD license could be reviewed at the request of a responsible authority or interested party.
21. Mr Barker said that he understood the desire of the GSMD to stage conferences and similar events and that he had no issue with the building opening from 0800hrs, except on public holidays. Nevertheless the commercial imperative imposed by corporate sponsorship alluded to by Mr Baylis before the Panel was the first time it had been alluded to throughout the year-long consultation process. He finished by urging the Panel to protect residential amenity by having the venue close from 2300hrs.
22. In response to a question from the Panel Mr Barker replied that for the venue to be effectively closed and not posing public nuisance from 2300hrs, he felt that in practice this would mean performances and events finishing around 2245hrs.

23. Mr Kavanagh then addressed the Hearing, beginning by concurring with the points made by Mr Barker. He said he was addressing the Hearing on behalf of the c.100 Speed House flats facing the new GSMD. He too called on the City of London to prevent potential public nuisance, stating that the new Heron Building had demonstrated the potential for amplification of noise. He felt that events closing late in the evening would impact negatively on residents, with a recent 'soft-opening' at the GSMD providing a practical example. He noted that pubs in the vicinity of Speed House routinely closed before 2300hrs and the terrace at the Heron Club was closed by 2200hrs, meaning that Silk Street was often quiet by 2300hrs, and that anything to the contrary would impact of children of Speed House enjoying a proper night of sleep. He referred to the planning application for the new GSMD, noting that residents had not opposed it on being told the venue would not be open after 2300hrs, but the current licensing application evidently contradicted this commitment. He also noted that residents had been told the venue would primarily be for students, but that arguably the commercial imperative outlined by Mr Baylis ran contrary to this assertion.
24. At the invitation of the Chairman, Ms Vivienne Littlechild CC addressed the Hearing, noting that she had been told that although the GSMD had applied for extended opening on 12 occasions a year, it would apply for extended opening on a greater number of occasions at a later stage. In response to a comment from Mr Baylis that this observation was irrelevant and that the Panel was concerned only with the licensing application before it that day, Ms Littlechild responded that such a remark was indicative of the Applicant's attitude towards local residents.
25. In response to a question from the Panel, Mr Kavanagh and Ms Littlechild stated they were seeking to have the venue closed to the public by 2300hrs.
26. Mr Macer then addressed the Hearing, noting that he wished to comment on the design, management and proximity of the venue to Barbican residences. He said that during the design stage of the premises it was not anticipated that the venue would be used for large numbers of people exiting late at night, given that it was envisaged the venue would be used for education, not entertainment. He referred to photographs distributed on 2 August, querying if the position of the entrance on Silk Street was appropriate for the egress of 600 persons. Furthermore whilst he welcomed the level of consultation, the venue should ideally have had more dispersal points, an issue the proposed Visitor Management Plan seeks to address. He noted that a nearby venue – Amber – staged closure of the various spaces within the venue to achieve measured, quiet egress of patrons. He concluded by noting that the photographs before the Hearing demonstrated how close the new GSMD was to Barbican residences, and that there were no intervening buildings to block the sound arising from street level.
27. Mr Sayigh then addressed the hearing, noting that he concurred with the three sets of verbal representation made previously. He told the Panel that he wished to give a personal perspective to those representations made already, given he had lived with his family in Willoughby House for nine years. He noted that he

objected to opening past 2300hrs on any day, and opening at all on Sundays and Public Holidays. He informed the Panel that his residence looked directly into the GSMD atrium. He noted that Barbican residents had already patiently endured four years of construction of the new GSMD building. He informed the Sub Committee that his youngest child was ordinarily in bed at 1900hrs, and his eldest had commenced studying for her GCSEs. Furthermore he noted that several residents of Willoughby House were either elderly or vulnerable and in need of respite from public nuisance and noise.

28. In response to a question from the Panel both Mr Sayigh and Mr Kavanagh confirmed they were opposed to extended hours including weekends and public holidays.

29. *An adjournment took place between 11.35am – 11.50am.*

30. The Chairman noted that the map on page 53 of the original agenda pack omitted the Barbican Centre, and therefore invited those making representations to make any comments they wished on the impact egress from that premises currently had on Barbican residents.

31. Mr Macer answered that generally those persons exiting the Barbican Centre used various exits and routes so that, whilst there was some impact on Barbican residents, it was not a particular problem.

32. Mr Barker replied that as per his representation, the Barbican Centre had exits for patrons on four levels which meant any sound arising was less discernible to residents.

33. The Chairman invited Mr Baylis to make some closing remarks in light of the comments from those making representations. Mr Baylis replied that it appeared to him that the main issue in question was the application for extended hours beyond 2300hrs on 12 occasions per year. He reiterated that the GSMD had been engaging residents from a year in advance of the application, and had offered major compromise by amending the application from 30 occasions per year compared to 12 now sought. He accepted that the Sub Committee had a balancing act to follow by attempting to reconcile the wishes of the applicant with the concerns of local residents. He queried whether concerns over loss of sleep were legitimate given extended opening was sought for only 12 occasions a year. He argued that dispersal from the venue was likely to be staged, and called upon the Panel to consider the proposed Visitor Management Plan, namely the commitments that no early mornings would follow late nights; use of alternative exits; encouraging patrons to move on once outside the premises. He concluded that there was every indication that the GSMD intended to work with Barbican residents, and that the nature of the venue as an arts centre gave it a character that was arguably different compared to other Night Time Economy establishments.

34. In response to a query from the Chairman, Mr Baylis committed to amend Section 2, point 10 of the VMP so that signage would be displayed at all times, not just after 2200hrs.

35. In response to a call for any final questions from the Chairman, Mr Barker queried the different character of the GSMD compared to other venues. He argued that the proposed number of events including those on the 12 occasions per year included events such as Jazz. He questioned precisely what Mr Baylis meant by characterising the GSMD as a different venue to an equivalent premises open after 2300hrs. Mr Baylis responded that his characterisation could be interpreted at the wish of those listening.
36. Mr Macer responded to a common query during the Hearing from the Panel by stating the concerns of residents were centred mainly on the premises being open after 2300hrs, rather than in the mornings.
37. Mr Barker stated that the Barbican Association was reasonably content with the proposed amendments to the application.
38. The Chairman advised those present that the Panel would retire and would return to inform those present of its decision. He further informed those present that the Panel's full decision would be circulated by post within the normal timescales.
39. *The Panel retired to consider its decision at 12.15pm and returned at 12.25pm.*
40. The Chairman committed to circulating the Panel's full decision in due course. He informed those present that the Sub Committee was minded to grant the bulk of the application, i.e. Sunday-Monday until 2230hrs. Given the controversy over extended opening on 12 occasions per year the Sub Committee was motivated to do its best to ensure that residents were disturbed as little as possible whilst at the same time affording the new premises the opportunity to demonstrate it could manage late night opening responsibly. Therefore the application was granted for extended opening until 2300hrs on 12 occasions per year, with it being envisaged the premises would be clear of the public by 2330hrs. The Panel was also minded to amend the Conditions consistent with the operating schedule and that these amendments would be set out in full in the decision letter.

The meeting closed at 12.30pm

Chairman

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Decision letter circulated to all parties on 7 August 2013

COMMON COUNCIL OF THE CITY OF LONDON
LICENSING (HEARINGS) SUB-COMMITTEE

6 August 2013

Application by
THE CITY OF LONDON CORPORATION
In respect of:
GUILDHALL SCHOOL OF MUSIC & DRAMA
1 MILTON STREET, LONDON EC2Y 9BH

DECISION

1. This is an application made by the City of London Corporation for a new Premises Licence for premises known as the Guildhall School of Music & Drama at 1 Milton Street, London EC2Y 9BH.
2. It is worthwhile noting for the record that, whilst this is an application made by the City of London Corporation, each of the Members of this Sub-Committee are wholly independent from the Guildhall School of Music & Drama in that none of us are Governors of the School or have in any way been involved in the development of this new building.

APPLICATION

3. The application, as now amended, is to provide for:

Supply of Alcohol

Mon to Sun 10:30 – 22:30

Plays, Films, Live Music, Recorded Music, Performances of Dance

Mon to Fri 08:00 – 22:30

Sat & Sun 10:00 – 22:30

Supply of Alcohol, Plays, Films, Live Music, Recorded Music, Performances of Dance, Late Night Refreshment

On no more than 12 occasions per calendar year the terminal hour shall be 23:30.

4. The application stated that the hours which premises shall open to the public for licensable activities will be 08:00 to 23:00 Mondays to Fridays, 10:00 to 23:00 on Saturdays and Sundays apart from 6 occasions per calendar year when the start time on a Saturday may be 08:00 and on no more than 12 occasions per calendar year when the terminal hour shall be midnight, when there has been licensable activity taking place.

REPRESENTATIONS

5. Representations have been received in respect of the application from the Barbican Association, the Speed House Group, Willoughby House Group, and Nazar Sayigh. All of the representations objected to the application on the basis that if it was granted the premises would create a public nuisance in the form of excessive noise caused by the arrival/departure of patrons.

CONSIDERATION

6. We have carefully considered the application and the representations submitted in writing and orally at the hearing by Mr Bayliss and Mr Harrington on behalf of the applicant, and Mr Barker, Mr Kavanagh, Mr Macer, and Mr Sayigh. In reaching our decision the we 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 Licensing Policy.
7. Furthermore, we 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 we are satisfied that it was necessary and appropriate to refuse all, or part, of an application or necessary and appropriate to impose conditions on the granting of the application in order to promote one (or more) of the licensing objectives.
8. In determining the application before us today, we must, first and foremost, put the promotion of the licensing objectives at the heart of our decision. In this instance, the most relevant of those objectives is clearly the prevention of public nuisance.
9. As these are new premises, there is no track record of activity on which to base a judgment of the likely impact of the premises on local residents and businesses. We did however hear evidence of the effect of sound in Silk Street and of the reflective nature of the glass and steel structure of the new building and of aspects of the Barbican Estate itself. We also heard that a soft-opening or test event held at the premises in recent weeks did lead to some noise nuisance to local residents, albeit this was earlier in the day than the proposed closure times. In light of this evidence, we considered that the concerns expressed by the residents were well founded and that there is a risk of some limited public nuisance arising from the premises were they to be irresponsibly managed.
10. The Sub-Committee welcomed the steps taken by the applicant to assuage the fears of residents, including the significant level of consultation undertaken and the development of the Visitor Management Plan, which we considered to be an exemplar of good practice. We also

noted that the applicant had scaled back the application from thirty occasions of later opening to only twelve in response to the concerns of those making representations. We were also reminded that the nature of the operation – that of a music and drama conservatoire and related performance space – was less likely to cause a disturbance than other licensed premises such as a nightclub or bar.

11. In reaching our decision, the Sub-Committee was especially mindful of paragraph 59 of the City's Statement of Licensing Policy, namely that we should strike a fair balance between the benefits to a community of a licensed venue, and the risk of disturbance to local residents and workers.

CONCLUSIONS AND DECISION

12. We concluded that, in all the circumstances, we wanted to afford the applicant the opportunity to demonstrate that it could manage the premises responsibly, but also felt that it was reasonable to cut back the later hours in order to ensure that there would be no disturbance to neighbours after midnight. The Sub-Committee therefore decided to grant the application in the following terms:

Supply of Alcohol

Mon to Sun 10:30 – 22:30

Plays, Films, Live Music, Recorded Music, Performances of Dance

Mon to Fri 08:00 – 22:30

Sat, Sun & 10:00 – 22:30

Public holidays

with the premises to be closed to the public by 23:00.

Supply of Alcohol, Plays, Films, Live Music, Recorded Music, Performances of Dance, Late Night Refreshment

On no more than 12 occasions per calendar year the terminal hour shall be 23:00, with the premises to be closed to the public by 23:30.

13. The Sub-Committee believed that these hours of operation, together with any use of Temporary Event Notices at the premises, would allow the operator and residents to be able to judge whether it was possible to utilise the premises late at night without causing undue disturbance.

CONDITIONS

14. Mindful of the nature of the premises and of the concerns expressed, we consider that the following conditions to be appropriate to ensuring the good management of the proposed activities, namely:
 - i. 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 patrons;
- (c) any incidents of disorder (disturbance caused by a group of people; and
- (d) seizures of drugs or offensive weapons.

There is no requirement to record the above incidents where they do not relate to a licensable activity.

- ii. The premises licence holder shall prepare and implement a written dispersal policy 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.
- iii. Patrons shall not be permitted to take drinks or glass containers with them when leaving the premises.
- iv. Prominent signage shall be displayed at all exits from the premises requesting that patrons leave quietly.

RIGHT OF REVIEW

- 15. If we are wrong and these conditions prove insufficient to prevent public nuisance associated with these premises, all parties are reminded that any responsible authority or business or resident in the vicinity is entitled to apply for a review of the licence which may result, amongst other things, in a further variation of the conditions or the removal of a licensable activity for this area.

RIGHT OF APPEAL

- 16. If any party is dissatisfied with the decision they are 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.

C E Lord, OBE JP CC (Chairman)
P G Dunphy, CC
J R Tumbridge, CC