

## MINUTES OF THE LICENSING (HEARING) SUB COMMITTEE

HELD ON 13 AUGUST 2013

**APPLICANT:** ZONYI LIMITED  
**PREMISES:** KIRIN RESTAURANT 10 COLLEGE HILL EC4R 2RP

### PRESENT

#### **Sub Committee:**

Edward Lord OBE JP (Chairman)  
Marianne Fredericks CC  
Jamie Ingham Clark CC

#### **City of London Officers:**

Xanthe Couture – Town Clerk’s Department  
Ru Rahman – Comptroller & City Solicitor’s Department  
Peter Davenport – Markets & Consumer Protection Department

#### **Applicant:**

Represented by Liping He (Zonyi Limited)

#### **Representations of objection:**

Heather Corben  
Michael Wilshire

#### **In attendance:**

Rakesh Hira (Town Clerk’s Department)  
Mr Liang Wang (Kirin Restaurant)

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

A public Hearing was held at 10.00am in the Committee Rooms, Guildhall, London, EC2, to consider the representations submitted in respect of an application for the premises ‘Kirin Restaurant, 10 College Hill, London, EC4R 2RP’.

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 (2)

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

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1. The Hearing commenced at 10:00am.
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. The Chairman outlined the format of the Hearing, noting that he would ask the Applicant to introduce the application. 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.
4. The Chairman noted that there was an amendment to paragraph 3.1 and 3.2 of the report of the Director of Markets and Consumer Protection to state that the restaurant was located in a basement with a small reception area and did not intend to have an outside seating area.
5. The application, sought to provide for:
  6. **Supply of Alcohol**  
Mon to Sun 11:00 – 03:00
  7. **Late Night Refreshment**  
Mon to Sun 23:00 – 03:00
  8. **Plays, Films, Live Music, Recorded Music, Performances of Dance**  
Mon to Sun 11:00 – 23:00
9. The application stated that the hours which premises shall open to the public for licensable activities would be Monday to Sunday 11:00hrs to 03:00hrs and the supply of alcohol was for both 'on' and 'off' sales.
10. The Chairman invited Ms He to provide an outline of the application.
11. Ms He introduced the Application noting that the premises was operating on a twenty year lease from the landlord, which did permit for running a nightclub but the Applicant was operating the space as a high quality Chinese restaurant. Ms He understood the reservations of neighbours in regards to the proposed hours of licensable activities and stated the premises had done sound improvements and had experienced no complaints.
12. The Chairman sought to clarify if a sound check had taken place to which the Applicant replied that work had been undertaken to check if noise leakage would occur via the ceiling of the basement premises. Noise leakage would also be avoided since no live music or loud music occurred after 23:00hrs.

- 13.**The Applicant explained that the application sought to provide the premises with business opportunities and that another restaurant in the area had licensable activities permitted until 03:00hrs.
- 14.**The Chairman stated that the Sub Committee was concerned that licensable activities permitted until 03:00hrs would result in customers leaving the restaurant late at night and potentially causing a disturbance to residents.
- 15.**The Applicant responded explaining that the premises would advise customers to be quiet upon leaving the premises and that they would not be consuming alcohol off the premises.
- 16.**A Member of the Sub Committee queried if the Applicant intended to have Films and Live Music until 23:00hrs. The Applicant replied that this was not the case but could potentially happen in the future. Live Music was currently played on Thursday and Friday nights but was a costly expense.
- 17.**The Sub Committee asked the Applicant to clarify the meaning of adult entertainment as stated in section M of the application. The Applicant specified that 'adult entertainment' did not include anything that could fall into the category of sexual entertainment and it had been an error to include it in the application.
- 18.**Ms He clarified for the Sub Committee that the premises contained separate dining areas and private rooms.
- 19.**The Chairman then invited those making representations to address the Hearing.
- 20.**Ms Corben began by noting that Whittington House was comprised of 8 flats that were all occupied and was concerned that by the premises being open until 03:00hrs it would cause a public nuisance when customers exited and walked towards College Hill. Ms Corben felt that 23:00hrs would be a much more suitable closing time, and notices to leave quietly did not necessarily work. There was also no evidence that noise nuisance would not occur if Live Music played until 23:00hrs. Ms Corben requested a condition be added to the licence that stated no adult entertainment would be permitted.
- 21.**Mr Wilshire addressed the Hearing, adding that his flat backed onto the premises. In response to a query from a Member of the Sub Committee it was noted that if there was traffic on College Hill there was capacity for noise to funnel upwards causing a noise nuisance.
- 22.**A Member of the Sub Committee stated that due to the fact that Whittington House was a listed building it was possible that it had single glazed windows that could not be altered. The characteristics of the windows also did not resolve that noise leakage would occur if the bedroom windows were opened. Mr Wilshire added that it should not be required to re-design the house due to the risk of noise nuisance.

- 23.** The Chairman asked if there were any further questions for the representations and if there was anything else those making representations would like to add.
- 24.** Ms He stated that the premises would post a notice reminding customers to leave quietly; regardless of what time they left the premises. The Applicant added that this was the first premises the Applicant had operated in London and suggested the premises could have a condition to adjust the time of closing within the hours of the licensable activity. The Chairman remarked that this was at the discretion of the licence holder. It was noted a nearby premises whose licensable activities extended until 03:00hrs, normally undertook to close at 23:00hrs.
- 25.** In regards to the clientele of those attending in the late hours the Applicant stated that these customers included staff and people who would come from other areas of London who may otherwise go to Chinatown but desired a high quality experience.
- 26.** Mr Wilshire stated that he desired a degree of certainty on the hours of the licensable activity and that closing at 23:00hrs seemed appropriate.
- 27.** *The Panel retired to consider its decision at 10.30am and returned at 10:50am.*
- 28.** The Chairman committed to circulating the Sub Committee's full decision in due course. He informed those present that the Sub Committee was minded to achieve a balance between the needs of business and the rights of the residents to not have their sleep unduly disturbed at night. The Sub Committee did not feel licensable activities until 03:00 hours was reasonable given the nature of trade in the City and the location of the premises, although it was important to consider accommodating customers who worked late.
- 29.** Therefore the application was granted for the Supply of Alcohol and Late Night Refreshment until 00:00hrs. The Panel removed permissions related to Plays, Films, and Performance of Dance that the Licence holder was not undertaking. Live Music was permitted until 23:00hrs, and as such permission was not required.
- 30.** The Sub Committee noted that alcohol would only be permitted on site and no promoted events were permitted. The applicant would provide a telephone number for residents to contact the premises if required, and would also display a notice for customers to leave quietly via College Street rather than College Hill. The condition relating to CCTV found in Appendix 2 would be amended. The Chairman stated he felt the decision reached was a compromise and that the Applicant had the right to appeal the decision.
- 31.** The Applicant queried whether the decision reached meant that drinks could not be taken outside the premises. The Chairman confirmed that this was correct.

**The meeting closed at 10.55am**

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Chairman

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

XX August 2013

Application by  
**ZONYI LIMITED**  
In respect of:  
**KIRIN RESTAURANT**  
**10 COLLEGE HILL, LONDON, EC4R 2RP**

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**DECISION**

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1. This is an application made by the Zonyi Limited for a new Premises Licence for the premises known as Kirin Restaurant at 10 College Hill, London EC4R 2RP.

**APPLICATION**

2. The application was to provide the following licensable activities:

**Supply of Alcohol**

Mon to Sun 11:00 – 03:00

**Late Night Refreshment**

Mon to Sun 23:00 – 03:00

**Plays, Films, Live Music, Recorded Music, Performances of dance**

Mon to Sun 11:00 – 23:00

3. The application stated that the hours which premises shall open to the public for licensable activities would be Monday to Sunday 11:00 hours to 03:00 hours and the supply of alcohol was for both 'on' and 'off' sales.

**REPRESENTATIONS**

4. Representations have been received in respect of the application from two residents of Whittington House located on College Hill. 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**

5. We have carefully considered the application and the representations submitted in writing and orally at the hearing by Ms He on behalf of the applicant, and Ms Corben and Mr Wilshire – local residents. In reaching

our decision 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.

6. 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 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.
7. 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.
8. This was the first premises the Licence holder had operated in London beyond premises operated in China. We heard evidence of the effect of sound on College Hill, a narrow one lane street with high buildings that could funnel noise, and the nature of Whittington House as a listed building featuring single glazed windows whose bedrooms back onto the premises. In light of this evidence, we considered that the concerns expressed by the residents were well founded and that there was a risk of some limited public nuisance arising from the premises were they to be irresponsibly managed.
9. The Applicant stated that sound checks had taken place and that they expected to have Live Music no more than twice a week due to costs and would conclude by 23:00 hours. We clarified with the applicant that adult entertainment, as stated in the application, did not include sexual entertainment. We noted that the applicant did not wish to have 'off sales' for the consumption of alcohol off the premises. We were also reminded that the premises would operate as a high quality Chinese restaurant and customers would be reminded to leave quietly and that the premises were less likely to cause a disturbance than other licensed premises such as a nightclub or bar.
10. 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**

11. 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 minimal disturbance to neighbours. The Sub-Committee therefore decided to grant the application in the following terms:

### **Supply of Alcohol**

Mon to Sun 11:00 – 00:00

### **Late Night Refreshment**

Mon to Sun 23:00 – 00:00

### **Recorded Music**

Mon to Sun 11:00 – 23:00

12. The Sub-Committee believed that these hours of operation 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.
13. The supply of alcohol is for 'on' sales and accordingly there should be no sales of alcohol for consumption off the premises.
14. The Sub-Committee noted that the Licence holder was requested to ask patrons to exit the premises via College Street and Queen Street rather than via College Hill which passed through a residential area.
15. The permissions relating to the licensable activities that the Licence holder was not undertaking – i.e. Plays, Films, and Performances of Dance. Live Music was permitted until 23:00 hours, and as such permission was not required.

## **CONDITIONS**

16. 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 amendment to the CCTV Condition consistent with the operating schedule as stated in Appendix 2 as follows:  
*“The premises shall install and maintain a comprehensive CCTV system which shall cover all entry and exit points. 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 available to show the police or the Licensing Authority recent data or footage with the absolute minimum of delay when requested. “*

- ii. There shall be no promoted events on the premises. A promoted event is an event involving music and dancing where the musical entertainment is provided at any time between 23:00 hours and 07:00 hours 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.
- iii. 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.
- iv. Prominent signage shall be displayed at all exits from the premises requesting that customers leave quietly.

### **RIGHT OF REVIEW**

17. 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, business, resident or 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 further variation of the conditions or the removal of a licensable activity for this area.

### **RIGHT OF APPEAL**

18. 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)  
M B Fredericks, CC  
J Ingham Clark, CC