

MINUTES OF THE LICENSING (HEARING) SUB COMMITTEE

HELD ON 16 OCTOBER 2013

APPLICANT: ALAXIA LIMITED
PREMISES: GROUND FLOOR COMMERCIAL UNIT, 5 MOOR LANE,
EC2Y 9AP

PRESENT

Sub Committee:

Marianne Fredericks CC (Chairman)
Jamie Ingham Clark CC

City of London Officers:

Alistair MacLellan – Town Clerk's Department
Ru Rahman – Comptroller & City Solicitor's Department
Andre Hewitt – Markets & Consumer Protection Department
Aggie Minas - Markets & Consumer Protection Department

Applicant:

Saba Naqshbandi (Counsel representing Applicant)
Lisa Inzani (Solicitor representing Applicant)
Stefano Portorti (Designated Premises Supervisor)

Representations from Other Persons:

Robert B Barker (Barbican Association)
Brian Parkes (Speed House Group)
Simon Ebbins (Willoughby House Group)
Nazar Sayigh (Witness nominated by Simon Ebbins)

Licensing Act 2003 (Hearings) Regulations 2005

A public Hearing was held at 10.30am in the Committee Rooms, Guildhall, London, EC2, to consider and determine the application for a new premises licence for 'Ground Floor Commercial Unit, 5 Moor Lane, London, EC2Y 9AP'.

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

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

In addition the following documents were tabled at the Hearing:

Additional Papers (1) Plan of premises layout with accompanying email submitted by Lisa Inzani.

Additional Papers (2) Photographs depicting spatial relationship between premises and adjacent Barbican properties submitted by Robert B Barker.

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1. The Hearing commenced at 10:30am.
 2. At the suggestion of the Chairman, those assembled briefly introduced themselves and explained in what capacity they were attending the Hearing.
 3. The Chairman explained to those present that, given she was a member of the Board of Governors of the Guildhall School of Music and Drama (GSMD) and that the premises in question were situated within the new Milton Court building of the GSMD, it was appropriate that she ask those present if they had any issue with her chairing the Hearing. She emphasised that the premises was unrelated to the overall operation of the GSMD, and therefore she did not consider herself as having an interest in the application in question.
 4. Furthermore the Chairman noted that due to unforeseen circumstances a member had been forced to withdraw from the panel considering the application. Nevertheless, she noted that the panel remained quorate with two members present.
 5. Those assembled confirmed that they were happy for the Chairman to consider the application and for the hearing to proceed.
 6. The Chairman therefore referred to page 12 of the agenda pack, noting that the description of the proposed premises was overly brief and lacking detail. She therefore invited the Applicant to provide more background on the proposed character and operation of the venue.
 7. Saba Naqshbandi therefore began by introducing the Designated Premises Supervisor, Stefano Portorti, noting that he had 15 years of experience in the catering industry, 7 of which had been spent in the UK. Furthermore she noted that both the Director and General Manager of Alaxia Limited were restaurateurs of considerable experience in Italy.
 8. Ms Naqshbandi continued by outlining the concept behind the premises operating model, that of serving excellent Italian food in a canteen-style setting.

She referred those present to the proposed menu and artist-impression picture of the interior of the premises within the agenda pack to illustrate her points. She added that the proposed target market for the premises included school groups, local residents, and white collar workers. She noted that given the proposed operating model it was not expected that the premises would be one in which patrons stayed to linger over their food, emphasising the fact that it would function more as a canteen than a bar.

9. Turning to the layout of the premises, Ms Naqshbandi confirmed that the proposed main entrance for the premises was located on Silk Street. She referred those present to the plan of the premises set out in Additional Papers (2), which depicted the proposed double lobby layout of the Silk Street entrance. She described the intended visibility of refrigerated goods and the process whereby patrons would queue to be served hot and cold foods. She noted that the design of the premises saw the serving counter located opposite the Silk Street entrance, which meant staff would be on hand to ensure patrons left the premises responsibly. She argued that the Silk Street entrance was higher than the Moor Street entrance and communicated a clearer impression of the nature of the premises to those passing in the street outside. Whilst acknowledging the concerns of those making representations for the amount of footfall of patrons through the Silk Street entrance, Ms Naqshbandi reiterated that the character of the premises was not equivalent to that of a bar or public house.
10. Ms Naqshbandi continued by noting the premises would be responsibly and appropriately managed: it was envisaged that the premises would have 12 full time staff, supported by part time staff as and when was operationally appropriate. She drew the attention of those present to the proposed conditions set out on page 25 of the agenda pack which sought to guarantee the appropriate management of the premises. She added that, although the premises had a capacity for 100 persons, it was unlikely that the premises would be operating at full capacity at any one time.
11. Ms Naqshbandi noted that the application was for alcohol sales and for recorded music. She stated that the recorded music would be for background purposes, and that proposed opening hours were modest - it was envisaged that the premises would be open for breakfast at 07:00hours during the week and at 08:00 hours at weekends, and that early operation of the premises had formed part of the original planning permission that had been granted in January 2008.
12. In concluding her statement on behalf of the Applicant Ms Naqshbandi addressed some common concerns that had been highlighted by those making representations. She noted that the application did not include, nor was there any intention to apply for, the use of tables and chairs outside of the premises. She emphasised that the plan of the proposed Silk Street entrance had been modified from that detailed on page 32 of the agenda pack to include a double lobby design. She argued that any concerns over off-sales did not take into account the proposed character of the premises, nor was it anticipated that a canteen-style premises would see patrons congregating outside on the street

smoking and making noise. She pointed out that deliveries and rubbish collection would take place in the area at the far right of the plan, well away from both Silk Street and Moor Lane, and that furthermore there were planning conditions governing the process of collections and deliveries. Returning to the issue of the Silk Street entrance, she said that the Applicant was happy not to use this for entrance or exit after 21:00hours and that notices would be displayed in the premises to remind patrons to leave quietly. Lastly, she drew attention once more to the proposed conditions on page 25 of the agenda and noted that the applicant intended to implement these even if the City of London Corporation considered them unenforceable.

13. The Chairman thanked Ms Naqshbandi for her statement and noted, for future reference, that there existed a pre-application process to assist potential applicants. She noted that the Licensing (Hearing) Sub Committee could not control the opening and closing hours of the premises or music broadcast before 23:00hours, and that furthermore the amended entrance was a planning issue. The Sub Committee could only rule therefore on the sale of alcohol. The Chairman then invited Robert B Barker to make his statement to the Sub Committee.
14. Mr Barker noted that he was representing the Barbican Association, and that the Barbican Estate consisted of 2000 flats with 4,500 residents. 1,200 of these flats subscribed to the Barbican Association. He noted that the Association objected to the application on grounds of the potential for public nuisance, and that it had concerns that the proposed character of the premises would change, in practice, from that of a canteen to that of, for example, a wine bar during the course of its operation. He stated that concerns over the congregation of patrons remained despite the amended plan for the Silk Street entrance. Furthermore he noted that the map of existing premises on page 75 of the agenda pack depicted the footprint of the old – now demolished – GSMD building. The new Milton Court building, he noted, had been moved several metres further south onto Silk Street and its current frontage with the incorporated 5 Moor Lane premises, was closer therefore to the Barbican flats overlooking Silk Street.
15. Mr Barker referred those present to the Additional Documents (2) submitted by himself which consisted of three colour photographs. In the first image of Silk Street looking east he noted that the GSMD Milton Court building was glazed on its lower three floors and that such glazing was an excellent reflector of sound. In the second image of Silk Street looking west he highlighted the location of the Silk Street entrance, near the pedestrian on the right of the photograph. In the third image he reiterated the point regarding noise from street level being reflected from the glazed Milton Court building, onto the curved balconies of the Barbican flats, and thence into residents' bedrooms.
16. Mr Barker continued by noting that the 5 Moor Lane premises had originally been designed as a refectory for the GSMD Milton Court building, and that as part of this design the Moor Lane entrance was wider and arguably more appropriate for use as a main entrance/exit to the premises. Despite having met with the Applicant, Mr Barker stated that the Association was still of the opinion

that the Silk Street entrance/exit should be used for emergency purposes only. Despite the new double lobby design of the Silk Street entrance he argued that the Association remained concerned over the potential for a high amount of footfall from patrons on the Silk Street pavement, and the potential for high levels of evening trade, and the use of the pavement by smokers. He concluded by referring to the City of London Corporation's strategy to concentrate residential uses into certain areas of the City, such as the Barbican Estate, and that the Corporation should focus therefore on preserving the residential amenity of such areas.

17. In response to questions from the Chairman Mr Barker stated that it was his opinion that patrons leaving the premises via Moor Lane would do so in the direction of Liverpool Street rather than towards the Barbican Estate; that he was concerned that patrons would congregate in the street outside the Silk Street entrance to smoke; and that the walkway depicted on the right hand side of his first image was a public walkway.
18. At the invitation of the Chairman, Brian Parkes then addressed the Sub Committee. Mr Parkes explained that he was attending the hearing as a representative of the Speed House Group and that the Group was concerned with the prevention of public nuisance, particularly that of noise. He emphasised the point that the Silk Street façade of the GSMD Milton Court building was glazed and therefore an excellent reflector of noise, and in this respect contrasted negatively with the design of the previous building. He noted that residents of both Speed and Willoughby Houses, which faced Silk Street, had already noticed an increase in noise from the street since the GSMD Milton Court building had opened. He argued that the Sub Committee should therefore be concerned with preventing any further increase in noise. He argued that patrons of the premises would likely congregate in Silk Street to smoke and use their mobile phones. Referring to the proposed conditions put forward by the Applicant, particularly that stating staff would be trained to ask patrons to leave quietly, he argued that these were flawed in that patrons were free to ignore staff requests to be quiet, and furthermore that staff would arguably become less likely to adhere to such training the longer the premises was in operation. In concluding, he argued that overall the Moor Lane entrance was more suitable for use by smokers and patron entering and exiting the premises.
19. There were no questions for Mr Parker from either the Sub Committee or the Applicant, and so therefore the Chairman invited Simon Ebbins to address the Sub Committee.
20. Mr Ebbins introduced himself and noted he was representing the Willoughby House Group on the Barbican Estate. He reiterated the argument that the use of the Silk Street entrance as the main entrance/exit would lead to public nuisance. He highlighted the example of the Corney & Barrow premises at 1 Ropemaker Street, EC2Y, at which the main entrance was located away from Barbican residences, but that nevertheless patrons exited from the rear of the premises to smoke on Moor Lane, causing public nuisance. He noted that he had raised this issue with Corney & Barrow management on a number of occasions, and that they had responded by putting up notices to regulate the

use of the rear exit to the premises. Whilst this approach had largely worked, he noted that patrons still exited to smoke on Moor Lane on occasion. As a positive example he highlighted the redesign of the Jugged Hare premises on Chiswell Street, where the main entrance to the premises had been moved away from Barbican residences and smokers therefore redirected to Chiswell Street rather than Silk Street. He argued that the Applicant should follow this example and 'design away' the potential for public nuisance by locating the main entrance to the premises on Moor Lane. He concluded by saying that any conditions imposed on the application by the Sub Committee should therefore stipulate the use of Moor Lane as the main entrance/exit to the premises.

21. In response to a question from the Chairman, Mr Ebbins replied that the proposed double lobby was immaterial to the concerns of Willoughby House residents as the issue of public nuisance would arise outside of the premises, when people congregated to smoke. Similarly, in response to a suggestion from the Chairman that the Applicant was entitled to locate its main entrance on Silk Street for commercial reasons – Silk Street being a busier thoroughfare – Mr Ebbins replied that Moor Lane was equally commercially viable for a premises entrance/exit.
22. The Chairman invited Nazar Sayigh to address the Sub Committee. Mr Sayigh informed the Sub Committee that he had been a resident of the Barbican for 9 years and that at present his living room faced onto Silk Street and his bedroom onto Moor Lane. He told the Sub Committee that thus far the Barbican Estate had been a peaceful environment in which to live. He argued that, given he had children and that there were other children residing in the same block, it was crucial that residents be guaranteed a quiet period beginning from 22:30 hours at night to allow a decent night of sleep so that school work and studying for exams was not affected. He argued that the Corney & Barrow example was a good one in that it demonstrated the potential for public nuisance to arise from smokers congregating in the street. Regarding the Applicant's commercial argument for locating the main entrance on Silk Street, Mr Sayigh argued that the Wagamama on Moor Lane had no entrances/exits facing onto Moor Lane itself and did not suffer commercially as a result, and therefore it was not necessary for the Applicant to have an entrance/exit on a arguably busier thoroughfare.
23. At the invitation of the Chairman the Applicant agreed to sum up their case. Ms Naqshbandi refuted the claim that the Moor Lane and Silk Street entrances were of significantly different sizes, arguing that in fact they were similar. Furthermore, she reminded the Sub Committee that it had no power to stipulate which entrance/exit was used by the premises as its primary entrance. She concluded by saying that the Applicant was entirely different in character to a wine bar such as Corney & Barrow and that instead the premises aimed to be operated as very much part of the local community.
24. At the invitation of the Chairman, Mr Barker argued that the City of London Corporation had a Code of Good Practice and yet did not appear to make sure applicants adhered to it. He acknowledged that the Applicant had committed to not using the Silk Street entrance/exit after a certain time but he stated that he

wanted this made a condition of the licence. The Chairman acknowledged his concerns, noting however the Corporation only put conditions on licences that it could actually enforce, and that the Code of Good Practice served as precisely that, not a code of enforcement. She clarified that, if the Applicant committed to operating the premises in a certain way and in practice failed to do so, and public nuisance arose from that, then the licence could be reviewed. She noted that the Applicant had made the effort thus far to engage with those making representations and had also amended the proposed plan of the premises in response to concerns raised with them.

25. Mr Ebbins stated that the Applicant was free to use Moor Lane but was purposefully choosing not to. It remained his opinion that, to ensure the Code of Good Practice was met, that the Sub Committee should refuse the application.
26. The Chairman explained that the Sub Committee would withdraw to consider the application and would return in a short time to deliver its decision.
27. The Sub Committee, accompanied by the representatives of the Town Clerk and the Comptroller and City Solicitor, withdrew at 11:40hrs and returned at 11:55hrs.
28. The Sub Committee informed those present that it had decided to grant the application subject to conditions and an informative. The conditions would include:
 - that prominent signage be displayed at all exits from the premises requesting that patron leave quietly;
 - that there shall be no sale of alcohol in unsealed containers for consumption off the premises.
29. Furthermore the Sub Committee included the following informative:
 - that 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.
30. The Sub Committee also noted the Applicant's commitment to training staff to ask patrons to leave the premises quietly and for the exit on Moor Lane to be used after 21:00hours.
31. The Chairman concluded the meeting by noting that the decision would be circulated in writing.

The meeting closed at 12.00pm

Chairman

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