

**LICENSING (HEARING) SUB COMMITTEE**

**Wednesday, 9 May 2012**

**Premises: Jamies, 2 Alban High Walk, 125/136 London Wall, London, EC2Y 5AS**

**Sub Committee**

Alderman Simon Walsh MA (Chairman)

Ms Marianne Fredericks CC

Dr Peter Hardwick QHP

**City of London Officers**

Rakesh Hira - Town Clerk's Department

Ru Rahman - Comptroller & City Solicitor's Department

Peter Davenport - Markets & Consumer Protection Department

Steve Blake - Markets & Consumer Protection Department

**The Applicant**

Represented by Mr C. Baylis, (Solicitor), Berwin Leighton Paisner accompanied by Mr Nick Tamblyn, Managing Director and Chief Executive

**Parties with Representations**

The Revd Dr Martin Dudley, Member of the Court of Common Council

Ms Vivienne Littlechild JP, Member of the Court of Common Council

Deputy Ken Ayers, Chief Commoner, Member of the Court of Common Council

Robert Barker, Honorary Secretary of the Barbican Association

Mary Bonar, Chairman of the Wallside House Group

Nicola Baker, Local Resident

Petra Einwiller (on behalf of Amanda Falkson), Local Resident

**Also in attendance**

Alderman Nick Anstee, Member of the Court of Common Council

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

- 1) A public hearing was held in the Committee Rooms, Guildhall, London, EC2, to consider the representations submitted in respect of a new premises licence application made by Kornicis Group Ltd for the premises known as 'Jamies', 2 Alban High Walk, 125 London Wall, London, EC2Y 5AS.

The application sought to provide licensable activities for:

- i) Sale by retail of alcohol between the hours of 10:00 to 00:00 Monday to Saturday, 10:00 to 23:30 on Sundays
- ii) Provision of Late Night Refreshment between the hours of 23:00 to 00:30 Monday to Saturday, 23:00 to 00:00 on Sundays

The application sought to open the premises between the hours of: 10:00 to 00:30 Monday to Saturday, 12:00 to 00:00 on Sundays.

- 2) The Chairman introduced himself and the other Members of the Subcommittee.
- 3) It was noted that no members of the panel had any personal or prejudicial interest.
- 4) In response to a question by the Chairman, Mr Baylis explained that the blue notice, which was displayed outside the premises, did not match the application but that the intention was not to seek regulated entertainment which therefore had no terminal effect on the application. The yellow line shown on the map of the premises signified that any sale of alcohol taking place behind the bar counter was illegal but if the application was granted this would be revised even though the sale of alcohol would take place on the counter which was within the licensed area.
- 5) Mr Tamblyn explained that Jamies Wine Bar was well known around the City and had been trading for over the past 15 years. He pointed out that wet/dry sales were split 70/30 and that no loud music would be played but that there was an intention to have background music similar to how Pizza Express (the previous owners) used to play. It was noted that a waiter/waitress service would be in place and that the capacity of the premises was approximately 80 - 90 people. It was pointed out that if the premises were empty the manager would close the premises early.
- 6) In response to a question by the Chairman, Mr Tamblyn explained that the Jamies Bar at Minories advertised on their website the offer to have birthday parties and other functions as these took place in the basement area and a late licence was in place to accommodate this.
- 7) Mr Baker explained that it would have been helpful to have had meetings with the applicant prior to the application being submitted and that he was concerned about the route patrons would take once they left the premises after 22:00 hours as the yellow line on the pavement took patrons towards the residential estate. There was also concern about people standing outside the premises, the sound coming from the glass surrounding the premises and the issue of where patrons would go to smoke as the area directly outside the premises was a no smoking area.
- 8) It was noted that whilst El Vino Coy Ltd had a licence until 00:00 hours it did not operate until 00:00 hours and did not open at all on weekends. It was pointed out that as Moorgate Tube Station had more tube lines operating from it customers would be walking past the Postern and Andrewes House causing a noise nuisance to nearby residents when leaving the area.
- 9) Revd Dudley explained that as the escalators close to Pizza Express were shut off patrons would be drawn towards the high walk which was the next obvious route. Mr Baylis explained that the residents were speculating that a nuisance would be caused by the premises being full of noisy customers and that Environmental Health had not submitted any representation but if a noise nuisance was caused there was scope for local residents to apply for a review.

- 10) Ms Baker explained that if the premises did not intend on operating until late a late licence was therefore not needed and should be given the same licence as Wood St Wine Bar which ceases licensable activities at 23:00 hours. She pointed out that there was no mention in the applicant's application about how waste/rubbish would be removed and that the application should not be granted as sought.
- 11) Deputy Ayers explained that he lived approximately 50 yards away from the premises and was already suffering with crowds causing noise when coming from the Barbican Centre and that this licence would give rise to the noise nuisance being magnified. He pointed out that the licence should be amended to cease trading at 23:00 hours.
- 12) Ms Bonar explained that as the premises were above ground level patrons would be inclined to walk towards the residential area and would cause a noise nuisance. She pointed out that no drinks should be allowed outside the premises after 23:00 hours.
- 13) Mr Baylis in response to the concerns above explained that the local residents were speculating that noisy customers would leave the premises and that the applicant would not be serving draft beer, no customers would be allowed to drink outside the premises after 23:00 hours and that there would be no loud sound music system installed at the premises.
- 14) The 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.
- 15) The Chairman explained that a lengthy decision letter would be circulated in due course and that the Sub-committee were conscious of their statutory obligations and the concerns of the local residents. He explained that the Sub-committee would grant the licence as sought in the application and a condition would be imposed restricting the use of the area after 22:00 hours, where tables and chairs were permitted.
- 16) The Chairman thanked all those present at the hearing and informed them that a written decision would follow in due course.

**The meeting closed at 12.35pm**

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**CHAIRMAN**

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*Decision of the Licensing Sub Committee circulated to all parties on 17 May 2012*

THE COMMON COUNCIL OF THE CITY OF LONDON  
LICENSING SUB-COMMITTEE

Alderman Simon WALSH (Chairman)  
Marianne FREDERICKS CC  
Dr Peter HARDWICK QHP CC

Wednesday 9 May 2012 (9.30- 12.35)

IN RE:

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2 ALBAN HIGH WALK  
125 LONDON WALL, LONDON EC2  
Ward of Cripplegate

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*At today's hearing the sub-committee was addressed by Mr Craig Baylis of Berwin Leighton Paisner and Mr Nick Tamblyn on behalf of the Applicant. We were addressed by Mr Deputy Ken Ayers, Revd Dr Martin Dudley CC, Vivienne Littlechild CC, Robert Barker, Mary Bonar, Nicola Baker and Petra Einwiller (on behalf of Amanda Falkson), all of whom had made representations opposing the application. We also took into account those other written representations in the bundle of public papers.*

*No documents were submitted to us beyond those contained in the bundle of public papers.*

1. On 12 March 2012 Kornicis Group made an application under s17 of the Licensing Act, 2003 for a premises licence in respect of a commercial unit at 2 Alban Highwalk, 125 London Wall. Situated at City Walkway level directly over the road junction of London Wall and Wood St, these premises were well known to the sub-committee and had formerly been part of a 2-site Pizza Express restaurant. Pizza Express still operate a pizza restaurant from the other unit just across the Walkway. The premises have certain odd features in

that the walls are almost totally made of glass and that it is not possible to smoke immediately outside the premises as that area is substantially enclosed as part of the 125 London Wall development.

2. Before hearing the application we dealt with 2 minor procedural matters. The first was to point out that the 'blue notice' had not accurately described the application. However, as the 'blue notice' seemed to ask for more than had ever been asked for in the application we concluded that this could cause no prejudice to any party and could safely be ignored. We also noted that the plan of the premises was highly unusual in that the bar/servery was not included in the area it was sought to licence. The consequence of this seemed to be that the sale of alcohol through a till on or behind the bar could be deemed unlawful. Mr Baylis (quite properly pointing out that the plan had not been drawn up by his firm or on its instructions) agreed to have the plan amended to match the more usual approach and we expect a revised plan to be submitted to be incorporated in the licence before the premises open to the public.
3. What was sought, in a nutshell, was an alcohol licence until midnight (23.30 on Sunday) and a late-night refreshment licence until 00.30 (midnight on Sunday). Highly significantly there was no application for any form of regulated entertainment. This fact bore heavily on our deliberations and this should be remembered in any future application for variation.
4. The application was lacking any really helpful description of how the Applicant expected to operate the premises. It merely said that it would operate under the "Jamie's" banner like several other City premises owned and operated by it. Mr Tamblyn put a lot more flesh on these bones at the hearing indicating the nature of the wet/dry sales split (70/30) and expressing his doubts that the premises would in fact trade until midnight in the early part of the week and probably not always that late at weekends either. Concern was expressed by the sub-committee that the "Jamie's" website seemed to suggest that "Jamie's" bars tried to appeal to late-night party or 'birthday' crowds but Mr Tamblyn explained that such parties only worked at their sites open beyond

2am and where the licence also allowed entertainment: neither would apply at these premises. Both Mr Tamblyn and Mr Baylis made frequent reference to the fact that other local premises had licences until midnight and were often not open that late. They also pointed out that such premises did not seem to cause significant problems. There was no representation from the City's Environmental Health department.

5. The very forceful and articulate representations from the local residents had a general theme: the Barbican estate is a high-density residential area and noise there is often sadly amplified by the nature of its construction and any increased late-night patronage will cause nuisance even if the patrons are well-behaved because they will tend to step outside the premises to smoke, to use mobile phones and at the end of the evening to call and get into cabs and cars. This applies even if these patrons leave the area at street level (rather than Highwalk level), especially in Wood Street/Fore Street. They pointed out that although the Barbican is criss-crossed by public walkways their use is rather discouraged after 11pm, not least perhaps because the access escalators are turned off at this time. They expressed their concerns that the natural route for patrons of Barbican licensed premises heading for tube and railway stations (Barbican, Moorgate and Liverpool St.) might be through the estate. They also pointed out that some other local premises with midnight licences close well before that time in the week and do not open at all at weekends. They reminded the sub-committee of serious nuisance issues caused in the past by patrons from another Highwalk pub ('The Podium') to indicate that their fears were not groundless as they felt Mr Baylis might be suggesting.
6. Having listened carefully to both sides in this application and applying our combined detailed knowledge of the City in general and the Barbican in particular we cannot say that these premises, should they be licensed, would not cause some more footfall and unavoidable consequential noise. However we also noted that when they were trading as a pizza restaurant they would have caused footfall and noise – the fact that Pizza Express only rarely operated both sides of their 2-site restaurant simultaneously was purely

fortuitous for the residents. In our view a moderately increased footfall on a public walkway cannot, on the basis of pure speculation alone, be classed as a public nuisance and certainly not one sufficient to displace the applicant's statutory right to the grant of a premises licence. If the premises are misused or badly managed that will be quite another matter but we hope, relying on Mr Tamblyn's assurances, that this will not turn out to be the case.

7. We had a great deal of sympathy for Mr Ayers as the specific location of his bedrooms seems to make him much more vulnerable to noise nuisance from footfall than other residents. However we have to note that he is disturbed by even just lawful and proportionate use of a public walkway. Nuisance there possibly is, but it would be categorised in law as a private nuisance or a matter between Mr Ayers and his landlord rather than a 'public nuisance' that could engage our powers under the 2003 Act.
8. The question of the use of that part of the Highwalk outside these premises by patrons smoking or telephoning was, however, a matter than concerned us more. It is difficult to stop individuals leaving for such purposes but the use of tables and chairs by larger groups outside is likely greatly to exacerbate this problem. We felt there was a real risk of nuisance being caused if the tables and chairs were not taken in during the course of the evening or if the tables and chairs area was used, once cleared, for 'vertical drinking'.
9. In reaching our decision we were mindful of the provisions of the Licensing Act, 2003 (which presume that a licence will be granted on application unless it is necessary not to grant it or to limit the scope of its grant), of the statutory licensing objectives, of the guidance issued by the Secretary of State and of our own Licensing Policy.
10. In conclusion, therefore, we can find no reason not to grant this licence for the hours sought but we do find it necessary to add a condition to the licence that all exterior tables and chairs must be removed (or rendered unusable) by 22.00 every day when the premises are open and that the area where tables

and chairs are permitted is not used for the consumption of alcohol by customers after 22.00.

11. All parties are reminded that if the sub-committee was wrong any responsible authority, business, resident (in the vicinity) 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, imposing conditions, the removal of a licensable activity or the complete revocation of the licence. 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.