

MINUTES OF THE LICENSING (HEARING) SUB COMMITTEE
MONDAY, 16 JANUARY 2017

APPLICANT: WIDEGATE STREET BAR LIMITED
PREMISES: SIMMONS BAR, 20-21 WIDEGATE STREET, E1 7HP

Sub Committee

Deputy Jamie Ingham Clark (Chairman)
Deputy John Barker
Sophie Fernandes

City of London Officers

Paul Chadha	- Comptroller & City Solicitor's Department
Steve Blake	- Department of Markets and Consumer Protection
Peter Davenport	- Department of Markets and Consumer Protection
Rachel Sambells	- Environmental Health Officer
Hazel Austin	- Environmental Health Officer
Gemma Stokley	- Town Clerk's Department
Julie Mayer	- Town Clerk's Department

The Applicant

Nicholas Campbell, of Widegate Street Bar Limited (trading as Simmons)
Frank Perkins, of Widegate Street Bar Limited (trading as Simmons)
Gary Grant, Counsel representing the Applicant
James Daglish, partner of instructing solicitors
Ellie Bowker, assisting on behalf of instructing solicitors
Mr David Gair, witness for the applicant
Mr James Miller, witness for the applicant

Parties with Representations

Miranda Meek, resident

Also in Attendance

Keith Bottomley, member of the Licensing Committee

Licensing Act 2003 (Hearings) Regulations 2005

A Hearing was held at 10:30am in Committee Room 1, Guildhall, London, EC2, to consider and determine an application for a variation to a premises licence for Simmons Bar, 20-21 Widegate Street, E1 7HP '

The Sub Committee had before them the following documents:-

Hearing Procedure

Report of the Director of Markets and Consumer Protection:

Appendix 1 – Copy of Application

Appendix 2 – Conditions Consistent with the Operating Schedule

Appendix 3 – Current Licence

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

Appendix 6 - Plan of Premises

Additional document from Applicant – ‘Licensing compliance visit & impact assessment’ (separately circulated)

Further additional documentation from Applicant – ‘Exhibit NC1’, ‘Witness Statement of Nicholas Campbell’ and ‘Witness Statement of James Miller’ (separately circulated)

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- 1) The Hearing commenced at 10:30am.
 - 2) The Chairman introduced the Sub-Committee members and those officers present. He confirmed that all papers had been considered by the Sub-Committee in advance of the hearing. The Chairman asked all of those present to introduce themselves and state in what capacity they were attending the Hearing.
 - 3) The Chairman opened the hearing by underlining that the Sub-Committee’s decision must be made with a view to promoting one or more of the four licensing objectives.
 - 4) The Chairman invited those making representations to address the Sub-Committee. He asked that they avoid any repetition in their address and highlight/summarise the most salient points of their submission.
 - 5) The Sub-Committee heard from Miranda Meek, a local resident. Ms Meek expressed concern at the late submission of the applicant’s additional documentation, she also expressed her disappointment at the fact that the applicant had taken the opportunity, within this additional submission, to publically scrutinise an extremely difficult and upsetting time in her and her children’s lives. She stated that she found it shameful that her private life had been exposed in this way and that comments were also passed on her state of mind.
 - 6) Ms Meek went on to clarify that it was her decision, as previous owner of the premises, to close the bar in 2014 – two years prior to the existing business being established. She therefore strongly refuted the claim that her objection was, in any way, vengeful or bitter.

- 7) Ms Meek informed the hearing that her family were severely affected by noise emanating from the bar. She also questioned the class use and capacity of the premises.
- 8) The Chairman reiterated that the Panel could only consider licensing matters and not planning issues. He acknowledged that this matter may need to be referred to the City's Planning Officers in due course.
- 9) Returning to the issue of noise disturbance, Ms Meek stated that the level of noise emanating from the bar with large gatherings/party bookings and live DJs taking place from Wednesday - Saturday each week was unimaginable. Ms Meek highlighted that she had taken recordings of the noise levels from each room of her residence. She added that noise was of particular concern around the main entrance to her residence which she often had to fight through crowds of people to gain access to. She drew the Panel's attention to the photographs included within her original submission to illustrate this point. Ms Meek also referred to the small, enclosed courtyard space situated towards the back of the premises and acknowledged that, whilst this was closed to customers after 9:30pm each evening, it continued to be used as a walkway by staff who often made noise and slammed doors into the early hours of the morning each day.
- 10) In response to a question from the Chairman, Ms Meek stated that she had reported these matters to the relevant responsible authorities on many occasions. This had resulted in discussions with management at the premises who had agreed to lower the noise levels.
- 11) The Chairman assured Ms Meek that all of the responsible authorities were notified of licensing hearings and reported that, on this occasion, none had chosen to submit representations.
- 12) Ms Meek concluded by stating that no part of her home was unaffected by the noise emanating from the bar. She stated that the granting of any extension to the terminal hour for the premises would have very real and serious consequences for her and her family and would, in her opinion, constitute a public nuisance. Ms Meek also stated that she believed that the premises were guilty of promoting irresponsible drinking through their advertising of 'unlimited drinks for £50', a promotional which she suggested appeared both on the window of the premises and on its public website. This, she argued, gave rise to concerns around crime and disorder, public nuisance and the protection of children from harm.
- 13) The Comptroller and City Solicitor confirmed that there was already a mandatory condition on all premises licences in the City regarding the promotion of irresponsible drinking.
- 14) The Chairman highlighted that a second written representation had been received from Mr Ghosh, also a local resident. Mr Ghosh was not in attendance today and had subsequently sought to conditionally withdraw his original representation. His conditions had not been accepted and the representation

would therefore continue to be taken into account by the Panel in their deliberations.

- 15) The Chairman offered the Applicant the opportunity to cross examine those making representations. The Applicant declined.
- 16) The Chairman invited the Applicant to make their presentation and to also respond to any outstanding queries. Mr Grant, on behalf of the applicant, and in response to the objections raised by local residents, proposed the concession that no outside drinking would be permitted after 10:00pm as opposed to 11:00pm as originally suggested. He added that, after 10.00pm, a total of up to 15 smokers only would be allowed outside of the bar at any one time.
- 17) Mr Grant went on to refer to the Liverpool Street area of the City in which the premises was situated, flagging this as being the centre of the City's vibrant, night time economy. Mr Grant highlighted the terminal hours of other establishments nearby, stating that an extension to the terminal hour of this premises would not put it out of kilter with what already existed in the surrounding area. He added that, at present, many customers left the premises at the terminal hour of 11:00pm and migrated to other nearby premises to continue drinking which often contributed to the noise experienced by local residents.
- 18) Mr Grant highlighted that his client was offering many conditions not currently on the existing licence and mostly drawn from the City of London's pool of model conditions, to ensure that the licence was fit for purpose and that they were responding positively to the concerns raised. The applicant's proposals included the following:
 - On Thursday-Saturday, 23.00 – 01.00, two SIA registered door supervisors would be employed with one specifically dedicated to managing the outside, courtyard area in order to minimise any public nuisance;
 - The introduction of a dispersal policy in consultation with the necessary, responsible authorities;
 - Residents would be offered a dedicated, manned contact telephone number to which to report any issues as they arose; and
 - There would be no readmission after midnight.
- 19) Mr Grant, acting on behalf of the applicant, concluded that the above offerings would put the management of the premises on a better footing going forward and would be an improvement on what was already in place. Mr Grant added that pre-application meetings had taken place between the applicant and the responsible authorities who were supportive of this approach, not least because it would help to better control the area immediately outside of the premises.
- 20) Mr Grant went on to refer to the written representation from Mr Ghosh stating that he was surprised to receive this given that Mr Ghosh had only been a local resident as of December 2016. He was concerned by the almost identical wording used in both written representations and the fact that Mr Ghosh

seemed to refer to matters that had taken place months before he had become a resident. He suggested that Mr Ghosh may have been pressured into making this submission by Ms Meek and therefore asked that the Panel give little or no weight to this. Mr Grant added that he also found it surprising that, for reasons of clarity, Ms Meek had failed to mention that it was she who obtained the original licence for the premises as its previous owner.

- 21) Mr Grant reported that none of the responsible authorities had accepted Ms Meek's complaints about the premises at face value and suggested that these were therefore unsubstantiated and often exaggerated.
- 22) With regard to the licensing objectives and, in particular, the issue of public nuisance, Mr Grant quoted from and drew on the conclusions of the Court of Appeal decision in *Attorney-General v P. Y. A. Quarries Ltd.* to ask the Panel to give careful consideration as to whether the 2-3 residents seemingly affected by noise from the premises was more likely to constitute a private as opposed to a public nuisance.
- 23) The Comptroller and City Solicitor clarified that the City of London had, for some time now, adopted the 'Halsbury's Laws of England' definition of public nuisance which, in most respects, reflected the conclusions drawn by Mr Grant in his submission regarding the definition of public nuisance.
- 24) In response to questions from the Panel concerning the control of smokers outside of the premises, the applicant proposed a further concession in that no more than 10 as opposed to the previously suggested 15 smokers would be permitted outside of the venue at any one time after 10:00pm
- 25) In response to further questions from the Panel, solicitors acting on behalf of the applicant clarified that the outside, courtyard, area would continue to be closed to all customers after 9:30pm each evening. Smokers would therefore be at the front of the premises, on Widegate Street only, after this time.
- 26) At the invitation of the Chairman, Ms Meeks summed up her objections to the application by stating that the current level of noise emitting from the premises was unacceptable. She added that the crowds often gathered in front of the premises also made access to her home very difficult and intimidating, the narrowness of the street also made the gathering of large crowds drinking outside of the premises (as shown in the pictures within Ms Meeks original submission) an issue that might affect passing traffic and lead to serious safety issues. The Chairman noted that the photographs submitted were neither dated nor timed.
- 27) Mr Grant responded by highlighting that this was not the only bar premises in the area that allowed outside drinking and added that just a handful of individuals in the pictures supplied by Ms Meek were holding drinks at the front of the premises.

- 28) The Chairman concluded by clarifying that the Hearing could only consider the impact of the extended opening hours requested by the applicant and not the current, licensed, opening hours.
- 29) The Chairman thanked all parties for their attendance and explained that the Sub-Committee would now retire to deliberate on the application.
- 30) The Chairman explained that written confirmation of the decision would be circulated to all interested parties within five working days.
- 31) The Sub-Committee retired at 11.20am.

Chairman

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