

MINUTES OF THE LICENSING (HEARING) SUB COMMITTEE

HELD ON 24 APRIL 2017

APPLICANT: MEL SERPS

PREMISES: LOUIE'S BAR, 46 MOORGATE, LONDON, EC2R 6EL

PRESENT

Sub Committee:

Peter Dunphy (Chairman)

Michael Hudson

Deputy Jamie Ingham Clark

City of London Officers:

Gemma Stokley – Town Clerk's Department

Paul Chadha – Comptroller & City Solicitor's Department

Steve Blake – Markets & Consumer Protection Department

Peter Davenport – Markets & Consumer Protection Department

Andre Hewitt – Markets & Consumer Protection Department

Premises User:

Mel Serps – Applicant

Jeremy Phillips representing the Applicant

Representations by Responsible Authorities:

John Hall, City of London Police

Simon Douglas, City of London Police

Stephen Walsh QC representing the City of London Police

In Attendance:

Julie Cornelius – Town Clerk's Department

George Fraser – Town Clerk's Department

Licensing Act 2003 (Hearings) Regulations 2005

A public Hearing was held at 11.00am in Committee Room 1, Guildhall, London, EC2, to consider the representations submitted in respect of an application for a Temporary Event Notices (TEN) for the premises 'Louie's Bar, 46 Moorgate, London, EC2R 6EL'

The Sub Committee had before them a report of the Director of Markets and Consumer Protection, which appended copies of:-

Appendix 1: Temporary Event Notice

Appendix 2: Objection Notices

- i) City of London Police

Appendix 3: 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 11:00am.
 2. The Chairman opened the Hearing by introducing himself, the other Members of the Sub Committee and the officers present.
 3. The application sought a temporary event which was as follows:
Date of event:
27 April 2017 – 3 May 2017.
Time for event:
11:00 to 03:00 each day
Licensable activities sought:
i) Sale of alcohol (on and off the premises)
ii) Provision of regulated entertainment
iii) Provision of late night refreshment
Maximum number of people:
499
 4. At the Chairman's invitation, Stephen Walsh QC stated that the City of London Police's objection to the TEN was on the grounds that the granting of it would, in their opinion, undermine the licensing objectives of the prevention of crime and disorder and the prevention of public nuisance. They were not confident, given the history of the premises as well as recent occurrences, that the Applicant was capable of operating the TEN within licensing laws. Mr Walsh QC went on to inform the hearing of the history of the premises which had formerly traded as a café/restaurant but, in 2015, had applied to vary the licence to include regulated entertainment. At this stage, the City of London Police stated that they did not want to see any promoted events on the premises. The Applicant had agreed to this condition and the variation to the licence had therefore been granted in March 2015. Additional conditions added to the licence at this stage also included the need for all doors/windows to remain closed at the premises and the need for the premises to install and maintain a comprehensive CCTV system with a staff member who is conversant with the operation of the system to be present on the premises at all times when they are open to the public.
 5. Mr Walsh QC reported that, during the course of 2015, the premises, when inspected/visited by various responsible authorities, were found to be in breach of all 3 conditions attached to the licence. He added that there were also

concerns from the City of London Police that the premises were not taking the need to have a Designated Premises Supervisor (DPS) seriously.

6. Mr Walsh QC reported that, on 7 February, the Corporate Premises Licence Holder had gone into liquidation and that, as a result, the premises licence had automatically lapsed on this date. To date, there was still no licence in place for this premises. Despite this, the premises had continued to trade until the end of March 2017 and a City Police Officer had seen an advertisement for an externally promoted event at the venue set to take place on 31 March 2017. Evidence of this in the form of a screen shot from an external website was provided by the City of London Police to all present at the hearing. The Sub Committee was informed that City Police had visited the venue on 31 March but had found the premises closed – it was suspected that this was only because the licensing authority had, by this point, served a notice to the premises stating that their licence had lapsed.
7. Mr Walsh QC referred to an application to vary the premises licence/DPS made on 29 March 2017 – after the previous licence had lapsed. They stated that they had also obtained a statement from the individual named as the DPS on the form stating that he had already left employment at the premises when the application was made. Copies of the statement were provided to all parties shortly before the hearing had commenced. The named DPS had denied completing, consenting to or signing the application form naming him as DPS.
8. The Chairman invited the Applicant to present their case. Mr Phillips, on behalf of the Applicant stated that he had been disappointed to receive the additional information submitted by the City of London Police at such short notice given that both he and his client were unaware, on receipt of the hearing papers, that any these matters would be raised at the hearing. He suggested that the incidents referred to by the Police in 2015 were very much 'water under the bridge', particularly given that there were no further concerns/incidents to report from the whole of 2016.
9. Mr Phillips informed the Sub Committee that the premises in question had been licensed since 2012 with the licence varied in 2015 where no representations were made. In October 2016 there was a change of ownership at the Corporate Premises licence holder level and, shortly after, in January 2017, this company ran into difficulties. In February 2017, 'LG Bars Ltd' took over and Ms Serps was asked to make an application to reflect this change on the premises licence. Mr Phillips explained Ms Serps' interest in the premises and familiarity with the owners and stated that she was assisting the premises licence holder on a consultancy basis.
10. The Sub Committee were informed that Ms Serps had made the application to transfer the licence in January 2017 and had taken a photograph of the application on her mobile telephone. Unfortunately, the device had since experienced technical problems and Ms Serps was therefore unable to access the photograph as evidence. Mr Phillips, with the permission of the Sub Committee and the consent of those making representations, tabled emails between Ms Serps and Samsung regarding the failure of the device and Ms

Serps' attempts at recovering the photograph. When questioned further on this, Ms Serps accepted that she should have kept multiple copies of the document before sending and should also have provided LG Bars Ltd with a copy of this documentation for their records. Ms Serps also confirmed that she had signed the application document on behalf of LG Bars Ltd and that she had been authorised to do so.

11. Mr Phillips concluded by stating that, despite the concerns expressed by the Police, the premises had traded trouble-free to date and had not featured on their radar in terms of crime and disorder. He reported that he had been informed that any reference to promoted events taking place on the premises in the past were untrue. For this reason he urged the Sub Committee to grant the TEN application for the period 27 April – 3 May. If this application were to be successful, a full licence application would follow in due course which would allow for any further objections and a further hearing where more adequate notice of any issues could be provided to all parties. Mr Phillips reported that it was estimated that the company had already lost in the region of £50-60,000 due to its closure and lack of alcohol licence over the past few weeks. He added that the company employed up to 12 part time staff whose employment was also dependent on it trading successfully in the future.
12. With the permission of the Sub Committee and the consent of those making representations, the Applicant tabled some photographs of the premises and a current food and drink menu. Ms Serps went on to comment on the additional information submitted by the City of London Police shortly before the hearing, particularly the statement made regarding the recent DPS application. Ms Serps reported that the statement provided by the individual named as the DPS was untrue and that she had evidence to show that he was still in employment with the company in March 2017 after a short break to attend studies. She added that she had very little personal knowledge of the individual and had not been present at his initial interview.
13. With regard to promoted events at the premises, Ms Serps reported that she was not aware that any had taken place. She clarified that the venue employed a DJ to provide recorded music every Friday/Saturday evening and that this individual was not external to the company.
14. Mr Walsh QC questioned whether LG Bars Ltd were leaseholders and, if so, who the freeholder of the premises was. Ms Serps reported that the freeholder was Ms Cotina who was the Director of LG Bars and known to her personally. When questioned as to her role at the premises, Ms Serps reported that she had a superficial role and assured the Sub Committee that a new premises manager, who would also act as the DPS going forward had recently been appointed. She confirmed that she had no direct financial interest in LG Bars Ltd.
15. The Sub Committee questioned why Ms Serps had not followed up on the application to transfer the licence after the stipulated notification period of 28 days. They also questioned if Ms Serps had checked to see if payment for the application had been received and debited from the specified account. Ms

Serps reported that she had submitted payment by cheque and, on contacting the bank on 31 March 2017, had been informed that payment for this had not been taken. The Sub Committee commented that it was unfortunate that Ms Serps did not have her chequebook present to demonstrate when the relevant cheque was made.

16. In response to further questions, Ms Serps reported that she only became aware that there was no premises licence in place when contacted by the Licensing Authority on the matter on 30th March 2017. The Sub Committee commented that they were surprised by the delay in any subsequent application for a licence/TEN given that it was now late April. Ms Serps reported that she had been seeking advice on how best to progress a new application and that various forms had been sent back to her due to various errors or omissions in recent weeks.
17. The Sub Committee went on to question the additional information submitted by the City of London Police which referred to a promoted event at the venue that was set to take place on 31 March 2017. Ms Serps stated that this was clearly a birthday party as opposed to a promoted event and that she had not personally instructed 'the ticketsellers' to act on the premises' behalf. She disputed the date of the evidence provided in the screenshot and also stated that she had no knowledge of 'ONO London'. The Sub Committee expressed concerns that this event was clearly being promoted externally and stated that the intended date of the event was clear from the evidence provided. On further questioning, Ms Serps clarified that the person known to be in charge of 'ONO London' and named in Mr Holmes' as Zakki Muwawu was known to her and employed by the premises to co-ordinate events on Thursday, Friday and Saturday evenings.
18. In presenting his closing statement, Mr Walsh QC stated that the Police had not been made aware previously that LG Bars Ltd were to operate the new premises. He added that the Police also found it extraordinary that the Applicant had retained no copies of the application for the transfer of the premises licence. With regard to the TEN, he stated that very little detail had been provided as to what this would entail which further added to their concerns and lack of confidence. With regard to the involvement of ONO London, the Police were of the view that these were very clearly externally promoted events irrespective of if the owner was directly employed by the premises. He expressed concern at the apparent lack of understanding demonstrated by the Applicant on this matter.
19. Mr Phillips began his closing statement by suggesting that, despite the horrible confusion confined to the relevant paperwork and applications, there was no evidence from those making representations as to any incidents of crime and disorder or public nuisance at the premises. He reiterated the huge financial losses incurred by the company during the period that alcohol sales had been prohibited. He expressed surprise that the Police had not previously been aware of the role of LG Bars Ltd at the premises and questioned their assumption that ONO London was external to the premises when its owner was employed by Louie's Bar. Mr Phillips clarified that the only purpose of the TEN

application was to maintain continuity and trade at the premises and nothing further. He added that, should the premises need to apply for any subsequent TEN's pending the submission of a full application, this would allow for further dialogue with the Police. Finally, he informed the Sub Committee that the possibility of re-instating the previous corporate premises owner – Mexican Express Ltd was currently being investigated.

- 20.** Members of the Sub Committee withdrew from the room to deliberate, accompanied by the representatives of the Town Clerk and the Comptroller & City Solicitor at 12.20pm.

All parties returned to the room at 12.50pm

- 21.** The Chairman explained that whilst the Sub Committee's default position was to support and encourage the licensing trade and licensed premises within the City, they had a number of serious concerns regarding this application - primarily around the applicant's knowledge of licensing laws. They felt that the applicant's understanding of what constituted an externally promoted event and the role of/statutory requirement to have a Designated Premises Supervisor in place was of particular concern. The Sub Committee commented that they were also unclear as to who would be ultimately responsible for the running of the premises during the event. In conclusion, the Sub Committee were not confident in the applicant's ability to promote the licensing objectives.
- 22.** The Sub Committee therefore decided that it was appropriate and necessary to issue a Counter Notice for the proposed event.
- 23.** The Chairman suggested that the Applicant seek professional advice before looking to submit any further licence or Temporary Event Notice applications to the City of London.
- 24.** 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 12.50pm

Chairman

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Decision Letter circulated to all parties on 25 April 2017:

Premises: Louie's Bar, 46 Moorgate, London, EC2R 6EL

Reason for Hearing: To consider whether to issue a Counter Notice

Date of Hearing: Monday 24 April 2017, at 11.00am

I refer to the above matter and write to confirm the decision of the Licensing (Hearing) Sub Committee which was held on 24 April 2017.

A Temporary Event Notice was received by the Local Authority on 10 April 2017 for events to be held in respect of the premises 'Louie's Bar, 46 Moorgate, London, EC2R 6EL.

Details of the proposed temporary event were as follows:

Date of event:

27 April 2017 – 3 May 2017.

Time for event:

11:00 to 03:00 each day

Licensable activities sought:

i) Sale of alcohol (on and off the premises)

ii) Provision of regulated entertainment

iii) Provision of late night refreshment

Maximum number of people:

499

In response to the application, representations were served by the City of London Police on 11 April 2017, on the basis that that the proposed event would undermine the 'prevention of crime and disorder' and the 'prevention of public nuisance' licensing objectives.

At the hearing to consider the representations, the Sub Committee had to determine whether it would be appropriate or necessary to issue a counter notice for the promotion of the licensing objectives.

Having heard from Mr Walsh, Mr Phillips, Ms Serps and the City of London Police, the Sub Committee considered the application.

In reaching its decision the Sub Committee took into consideration the promotion of the licensing objectives.

The Sub Committee stated that, whilst their default position was to support and encourage the licensing trade and licensed premises within the City, they had a number of serious concerns regarding this application - primarily around the applicant's knowledge of licensing laws. They felt that the applicant's understanding of what constituted an externally promoted event and the role of/statutory requirement to have a Designated Premises Supervisor in place was of particular concern. The Sub Committee commented that they were also

unclear as to who would be ultimately responsible for the running of the premises during the event. In conclusion, the Sub Committee were not confident in the applicant's ability to promote the licensing objectives.

The Sub Committee therefore decided that it was appropriate and necessary to issue a Counter Notice for the proposed event.

Yours faithfully

Gemma Stokley

Clerk to the Licensing (Hearing) Sub Committee