

Town Clerk's Office

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Town Clerk & Chief Executive



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Our ref GS/LIC

Date 13 July 2017

Dear Sir/Madam

Applicant:	Humble Grape Ltd
Premises:	1 St Brides Passage, London, EC4Y 8EJ
Date / time of Hearing:	Friday, 7 July 2017 – 11.00am
Venue:	Committee Room 1, 2nd Floor, West Wing, Guildhall, London EC2P 2EJ

I write to confirm the decision of the Licensing (Hearing) Sub-Committee at the hearing held on 7 July 2017 in relation to the above-mentioned application. The Sub Committee's decision is set out below.

The Sub-Committee comprised of Peter Dunphy (Chairman), Deputy Keith Bottomley and Mary Durcan.

Mr Robert Sutherland – a solicitor representing the applicant, Mr James Dawson, Director/Founder of Humble Grape and Kevin Coutsy, General Manager of the premises, made submissions in support of the application.

Mr Nicholas McPhail, Mr Mike Palmer and Mr Michael Hudson CC (representing Graham Packham CC) appeared to oppose the application. *At the outset, Mr Hudson declared that both he and Graham Packham, who he was representing today, were also members of the City of London Corporation's Licensing Committee.*

1. This decision relates to an application made by Humble Grape Limited, to vary a premises licence under the Licensing Act 2003 in respect of the premises situated at 1 St Brides Passage, London, EC4Y 8EJ.
2. The application sought to amend condition 3 on the licence which currently reads: 'There shall be no sales of alcohol in unsealed containers for consumption off the premises'. The application wishes to amend this condition in order that alcohol may be sold in open containers for consumption off the premises but only by persons

seated at tables and chairs placed on the highway by way of a permit issued by the City of London Corporation. All other permissions are to remain unaltered i.e.

<u>Activity</u>	<u>Current Licence</u>	<u>Proposed Licence</u>
Sale of Alcohol	Sun 11:00 – 23:00 Mon–Wed 11:00 – 00:00 Thu–Fri 11:00 – 01:00 Sat 11:00 – 00:00	No Change
Late Night Refreshment	Mon–Wed 23:00 – 00:30 Thu – Fri 23:00 – 01:30 Sat 23:00 – 00:00	No Change

The sale of alcohol is for both on and off sales.

3. Mr Hudson stated that, following conversations with the applicant shortly before the hearing, he believed that it was their intention to formally amend their application to restrict off sales to 10pm. The Chairman asked the applicant to clarify if this was the case. The Solicitor acting on behalf of the applicant confirmed that they would be seeking to amend condition 3 on their existing licence to allow alcohol to be sold in open containers for consumption off the premises (by persons seated at tables and chairs placed on the highway by way of a permit issued by the City of London Corporation only) until 10pm only.
4. Mr Hudson, speaking on behalf of Graham Packham to oppose the application, stated that Common Councilmen representing the Ward of Castle Baynard were opposing this application as a team. Their primary concern here was that the terminal hour for the service of alcohol for consumption outside the premises would be the same as the hours currently granted on the premises licence and that this could lead to public nuisance issues for nearby residents and businesses. He added that they would like to request that, if this application were granted, the terminal hour for the service of alcohol for consumption outside the premises be set at 9pm. He went on to state that there was concern that if the hour was set at 10pm this would allow service up until this time and that, in reality, this would lead to patrons drinking outside until approximately 11pm.
5. Mr Hudson went on to add that there was also concern around the supervision of drinkers outside of the premises. He stated that there was nothing within the amended condition 3 to prevent patrons from being served alcohol within the premises and then taking this outside for consumption. He stated that he was of the view that a door supervisor after 5pm every evening until closing time would go some way in addressing this concern. Mr Hudson stated that he had also requested a copy of the premises' proposed Operating Schedule ahead of this hearing but had been informed that this was not yet available. He referred to photographs he had recently taken of the public stairway and submitted to the Sub Committee Clerk and the applicant. He added that a second staircase lead from the premises' kitchen up

to the terrace and questioned whether the applicant was therefore intending that the public staircase would not be used for transporting anything from the premises to the terrace. He questioned whether or not this would be enforceable and stated that this was the type of detail he would like to see covered within a written Operating Schedule as opposed to within a formal condition attached to the licence. He added that, in any case, the public staircase he had photographed was extremely steep and could lead to patrons tripping/losing their balance whilst taking their own drinks up to the terrace resulting in broken glass.

6. Finally, Mr Hudson stated that he recognised that it was unusual to receive three representations in support of an application. He added, however, that two of the three were effectively from the same individual – one submitted in his own right and one on behalf of his employer. The third favourable representation was from a resident in Lime Street which Mr Hudson stated was too far away from the premises to be affected by any potential public nuisance. He concluded by stating that he and his Ward colleagues were not wanting to restrict this application any further than necessary but that they were wanting to protect their constituents.
7. Mr McPhail stated that his objection to the application was also on the grounds of public nuisance to nearby residents/offices likely to be caused by outside drinking. He drew the Sub-Committee's attention to the photographs submitted as part of his representation which depicted the extremely close proximity of the terraced area to his living room. He commented that noise reduction methods that could be used within a premises were not suitable for outdoor use.
8. Mr Palmer, designated premises manager at St Bride's Foundation clarified that their representation was not an objection to Humble Grape Ltd but was based on experience of previous owners of the premises with whom they had encountered a number of problems relating to outside drinking – not in the terrace area but at the narrow entrance to 1 St Bride's Passage. He stated that the concern here was that variation to the licence granted to Humble Grape Ltd would be transferable to future owners who might not be so considerate of their neighbours. He added that he had discussed these concerns with Mr Dawson previously who was sympathetic to these.
9. The Solicitor acting on behalf of the applicant drew the Sub-Committee's attention to the written statement provided by Mr Dawson which set out the application in greater detail. Copies of the statement had been provided to all present ahead of the hearing. He clarified that the variation to the licence would seek to have sales of alcohol in unsealed containers for consumption off the premises at tables and chairs until 9.30pm only. It was proposed that all tables and chairs on the terrace would be cleared by 10pm. The applicant was confident that this would allow sufficient time to 'wind down' service in the terrace area.
10. The Solicitor acting on behalf of the applicant then drew attention to the decision letter at appendix 2 of the Hearing papers setting out the Licensing (Hearing) Sub Committee's decision following Humble Grape Ltd's initial application for a premises

licence. He added that the minutes of this initial hearing which had taken place on 21st December 2015 had contained slightly different wording with regard to condition 3 and had therefore led to some confusion – this had, however, since been rectified and he had been made aware that the wording within the decision letter and duplicated on the premises licence was the official record of the decisions taken. The Solicitor acting on behalf of the applicant reported that, since this initial hearing, Mr Dawson had opened the premises and had delivered what he had set out to, it was to his credit that a number of representations today were in favour of the application to now vary the licence. Any proposals around outside drinking had been withdrawn by Mr Dawson at the original hearing on the understanding that he might return and seek permission for this once he had established himself as a responsible owner and good neighbour.

11. The Solicitor acting on behalf of the applicant reported that the applicant was also pursuing a tables and chairs licence separately with City of London Corporation Officers, something which was reviewable annually and should therefore go some way to allay any concerns around future ownership of the premises. He clarified that both the tables and chairs licence and the proposed variation to the premises licence would be required in order to proceed as the applicant wished as it was his intention that patrons would be able to consume alcohol from unsealed containers outside of the premises when seated at tables and chairs only.
12. Mr Dawson stated that he was sympathetic to the concerns aired by residents, local businesses and elected Members but added that he was currently losing a significant amount of trade in the summer months due to a lack of outside space. He clarified that the premises did not want to see patrons stood outside on the street drinking and that his preference would be to have them seated in a nice courtyard environment. He stated that he and his staff were committed to policing and maintaining this space should the application be granted and were equally committed to continuing to be good neighbours. Finally, Mr Dawson stated that he was of the view that it would be difficult for him to justify continuing to operate at this site without the addition of an outside space.
13. With regard to the Operating Schedule referred to by Mr Hudson, the Solicitor acting on behalf of the applicant stated that the applicant was currently working on the production of an 'Outside Management Policy' where he intended to address the management of the outside area – e.g. ensuring that all patrons were seated and asked to return downstairs should there not be sufficient space - , the clearance of the outside area and any furniture by 10pm every evening and other such matters. It was highlighted that this was covered briefly within Mr Dawson's written statement. Mr Dawson clarified that the one member of staff who would always be on duty in the outside area would also have constant radio communication with the staffing team located in the premises downstairs. At busy times, additional members of staff would be allocated to the outside area. Staff would also receive specific training to cover the management of the outside area, the monitoring of noise levels and to help ensure good customer behaviour in general. In addition,

signage would be placed in the area to remind patrons of the need to keep noise to a minimum and respect neighbouring businesses/residents.

14. With regard to the 'winding down' of the outside area, the Solicitor acting on behalf of the applicant stated that it was intended that this process would begin 45 minutes prior to the time the area needed to be clear by so as to ensure compliance with this and also to ensure that customers were not rushed to finish any food or drinks they were consuming. The area would also be closed to any new customers from this time. Thirty minutes before the area was due to be cleared, customers would, again, be reminded of the need to clear the area and encouraged to finish their meals and drinks. It was also hoped that this would also be the time at which the last alcoholic drinks for consumption in the outside area were served. Ten minutes before the area needed to be clear, customers would be moved to the premises downstairs. The Solicitor acting on behalf of the applicant also confirmed that any smokers wishing to access the outside area throughout the day would also be seated at tables and chairs and directed to the front of the premises from 9.15pm every evening. He clarified that, at present, there tended to be a maximum of six smokers outside the premises at any one time. They were not permitted to take drinks outside to the front of the venue and it was intended that this continue.
15. Finally, the Solicitor acting on behalf of the applicant stated that it was also the intention that an Outside Management Register would be created for staff to log any complaints received. The manager would consult the register on a daily basis and note any action required or taken in relation to each complaint logged. This register would also be available to City of London Corporation Officers to inspect at any given time.
16. The Chairman referred to the fact that the applicant had clearly stated that it was their intention to serve food/alcohol only to those seated at tables/chairs in the outside area. He therefore questioned whether they would consider making this area table service only. The applicant stated that this is something he would be willing to put in place.
17. The Chairman also referred to the points raised regarding access to the terrace area, stairways and fire escapes. He noted that there had been no objections received from any of the responsible authorities – the Fire Brigade, Police or Environmental Health. He also reported that the consideration of a table and chairs licence was a matter which was outside of this Sub-Committee's remit but that the placement of any furniture would need to be sufficiently clear of any fire escapes.
18. Those making representations were invited to sum up their points. Mr Hudson stated that his underlying concern was that, should condition 3 on the existing licence be removed or relaxed, this would enable customers to take drinks in unsealed containers outside on to the terraced area. They would likely use the public staircase (which Mr Hudson had provided photographs of) for this purpose which he considered to be dangerous. He reiterated that he hoped that this would be adequately covered in an Operating Schedule produced by the applicant. He

also reiterated that he would like to see the terminal hour for the sale of alcohol in unsealed containers for consumption off the premises set at 9pm as he felt that any later than this would jeopardise the chances of this area being completely cleared by 10pm which was the applicant's intention. Mr Hudson, Mr McPhail and Mr Palmer all stated that they would like to see condition 3 on the existing licence varied to define a terminal hour for the sale of alcohol in unsealed containers for consumption off the premises as opposed to removed in its entirety. Mr Palmer also questioned whether SIA training might be appropriate for those members of staff charged with control of the outside area.

19. The Solicitor acting on behalf of the applicant summarised by stating that he did not object to the suggestion that condition 3 on the existing licence should be amended along these lines. He added that the applicant also had no problem with incorporating their 'Outside Management Policy' document into the Licence. He also pointed out that the applicant would be unable to use the outside area until/if such time as a table and chairs licence was separately agreed to. He concluded by stating that he would commend the applicant to the Sub-Committee as he had shown great patience in establishing his business prior to seeking this variation, as advised by members of the panel at a previous Licensing Hearing.
20. The Sub Committee considered the application and carefully deliberated upon the representations submitted in writing and orally at the hearing by those making representations and the Applicant.
21. In reaching the decision the Sub-Committee 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 Statement of Licensing Policy dated January 2013.
22. Furthermore, the Sub-Committee had regard to 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 it was satisfied that it was necessary to refuse all, or part, of an application or necessary and appropriate to impose conditions on the granting of the application in order to promote one (or more) of the licensing objectives.
23. In determining the application, the Sub-Committee first and foremost put the promotion of the licensing objectives at the heart of their decision; in this instance the most relevant of those objectives being the prevention of public nuisance.
24. It was noted that the venue had operated successfully to date without any complaints from the objectors.
25. The Sub Committee were satisfied that, on balance, subject to the imposition of suitable conditions, the premises can operate within the licensing objectives.
26. It was the Sub-Committee's decision to grant the variation to the premises licence as follows:

Condition 3. on the existing premises licence be amended to read:

3. *There shall be no sale of alcohol in unsealed containers for consumption off the premises save that sales of alcohol in unsealed containers for consumption at tables and chairs, placed on the highway in accordance with an authorisation granted under S.115E Highways Act 1980, is permitted up until 21:30 Mon-Sun.*

All other permissions are to remain unaltered i.e.

<u>Activity</u>	<u>Current Licence</u>	<u>Proposed Licence</u>
Sale of Alcohol	Sun 11:00 – 23:00 Mon–Wed 11:00 – 00:00 Thu-Fri 11:00 – 01:00 Sat 11:00 – 00:00	No Change
Late Night Refreshment	Mon–Wed 23:00 – 00:30 Thu – Fri 23:00 – 01:30 Sat 23:00 – 00:00	No Change

The sale of alcohol is for both on and off sales.

27. The Sub-Committee stated that they also expected the applicant to produce and provide the licensing authority with a copy of their Outside Management Policy within 28 days of this hearing.

28. If any party is dissatisfied with this decision, he or she is reminded of the right to appeal, within 21 days of the date of this letter, 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.

Yours faithfully,

Gemma Stokley

Clerk to the Licensing (Hearing) Sub Committee

Useful Numbers/Websites:

An 'Out of Hours' noise response service is available 24 hours a day by telephone:
0207 6063030

The City's Environmental Health Team can be contacted at:

publicprotection@cityoflondon.gov.uk

The City's Licensing Department can be contacted on: licensing@cityoflondon.gov.uk

Licensing Policy and Code of Good Practice for Licensed Premises:

<http://www.cityoflondon.gov.uk/business/licensing/alcohol-and-entertainment/Pages/Licensing-policy.aspx>

Cc: Angela Message, Keystone Law, 48 Chancery Ln, London WC2A 1JF