

MINUTES OF THE LICENSING (HEARING) SUB-COMMITTEE

HELD ON TUESDAY 22 NOVEMBER 2022 AT 1.45PM

APPLICANT: YDS Restaurant Ltd
PREMISES: Sisi's, 7-9 Saint Bride Street, London, EC4A 4AS

Sub-Committee:

Deputy John Fletcher (Chair)
Brendan Barns
Deputy Marianne Fredericks

Officers:

Town Clerk – Chloe Ainsworth
Comptroller and City Solicitor – Sadhari Perera
Environment Department – Rachel Pye / Peter Davenport / Aggie Minas

In attendance

Representing the applicant:

Duncan Craig, Barrister (Citadel Chambers)
Samuel Adewale, Premises Supervisor

Making representation:

Susannah Bond, Resident
Claire Callan-Day, Responsible Authority (Environmental Health)
Christopher Edwards, Resident
Paul Holmes, Responsible Authority (City of London Police)
Darren Oswick, Resident
Deputy Graham Packham, Councillor (Castle Baynard)
Henrika Priest, Councillor (Castle Baynard)
Allen White, Resident

Written representations only:

Vanessa Atkinson, Resident
Ludovica Attanasio, Resident
Selim Baraz, Resident
Dhivya Chandrasekaran, Resident
Christopher Edwards, Resident
John Griffiths, Councillor (Castle Baynard)
Heidi Hartmann, Resident
Mark Hurren, Resident
Andy Liu, Resident
Ian Luder, Alderman (Castle Baynard)
Catherine McGuinness, Councillor (Castle Baynard)
Imon Palit, Resident
Kalpana Patil, Resident
Alpa Raja, Councillor (Castle Baynard)

Debra Starkey, Resident
Ian Starkey, Resident
Tom Street, Resident

[REDACTED]
Tony Newman, Responsible Authority (Planning)

[REDACTED]
Michaela White, Resident
Glen Witney, Resident

Licensing Act 2003 (Hearings) Regulations 2005

A public hearing was held on Wednesday 22 November 2022 at 1.45pm to consider the representations submitted in respect of an application for a premises licence for Sisi's, 7-9 Saint Bride Street, London, EC4A 4AS, the applicant being YDS Restaurant Ltd.

The Sub-Committee had the following documents before it:

- Hearing Procedure
- Report of the Executive Director Environment
- Appendix 1: Copy of Application
- Appendix 1i: Amendment to the Application
- Appendix 2: Conditions Consistent with the Operating Schedule
- Appendix 3: Representations from Other Persons (i-xxv)
- Appendix 4: Representations from Responsible Authorities (i-iv)
- Appendix 5: Map of Subject Premises Together with Other Licensed Premises in the Area and Their Latest Terminal Time for Alcohol Sales
- Appendix 6: Plan of Premises
- Appendix 7: Email from the Applicant's Legal Representative
- Appendix 8: Second Email from the Applicant's Legal Representative

1. The Hearing commenced at 1.45pm.
2. At the commencement of the hearing, the Chair introduced himself, before asking the panel members, the City of London Corporation officers and the other parties present to introduce themselves.
3. The Chair sought clarity in relation to the premises licence application. The applicant's representative confirmed that they were seeking a licence as set out in the below:

<u>Activity</u>	<u>Proposed Licence After Amendments</u>
Supply of alcohol for consumption on the premises	Mon–Sun 10:00-24:00
Provision of Recorded Music	Mon–Sun 10:00-24:00
Provision of Live Music	Mon–Sun 10:00-24:00
Provision of Performances of Dance	Mon–Sun 10:00-24:00
Late Night Refreshment	Mon-Sun 23:00-24:00

4. The Chair invited the applicant's legal representative to first address the Panel.
5. On behalf of the applicant, Mr Craig informed the Panel of an error on the application form. He stated that Omnino Steakhouse had previously held a premises licence for the same location, details of which were provided to the Panel in a supplementary agenda at Appendix 8. Mr Craig stated that he had explored continuing this licence but had discovered that the licence had lapsed. Mr Craig stated that under Omnino Steakhouse, the premises had been licensed until 5am, including for late night refreshments, with no conditions without ever being subject to a review, which he took to mean that no complaints had occurred.
6. Mr Craig referred the Panel to a representation made by a resident at Appendix 3iv stating that the applicant would be willing to accept conditions 6 and 7, which set out requirements for effective soundproofing and stipulations in relation to the location of speakers. Mr Craig indicated that the applicant was content to make the sale and service of alcohol before midday ancillary to food as set out at Appendix 4iv. Mr Craig explained that the premises would operate as a restaurant with the applicant predicting food sales to form 50% of revenue.
7. Mr Craig addressed the Panel on the representations set out at Appendix 3xx. He stated that it was not accepted and that the Sub Committee must consider proportionality when considering legitimate business interest and residents.
8. In Mr Craig's view the representations fell into two broad categories: those that requested the application be denied and those that requested various conditions be imposed. Mr Craig informed the Panel that the applicant was willing to accept the imposition of conditions on the premises licence. However, he stated that residents of cities should expect to have a degree of intrusion into their lives, albeit in an unoppressive way. Mr Craig stated that the

applicant's proposal to terminate all licensable activities at 24:00 ensured that the balance between the requirements of the premises and residents was met.

9. Mr Craig noted concerns around refuse and stated that the applicant was willing to limit refuse removal and collections and deliveries between hours that the Panel deem appropriate. Further, Mr Craig informed the Sub Committee that the applicant was happy to agree the condition in relation to CCTV with the City of London Police.
10. Mr Craig informed the Panel that the applicant disagreed with the prohibition of promoted events. He stated that these would not form a significant part of the business, but that the applicant would like the flexibility to occasionally engage in these types of events. Mr Craig referred the Panel to the Live Music Act (2015) which allows for regulated entertainment up to 23:00 in a workplace or licenced premises. He stated that this meant that the applicant was requesting an extra hour.
11. Mr Craig explained that the applicant would undertake significant sound proofing to the ceiling in recognition of concerns about noise and that they have agreed to a noise limiting device. He explained that to progress further with soundproofing, the technicians would require access to the residences. He stated that the applicant did not want to invest in the building to then alienate residents. Furthermore, he noted that the applicant's licenced business in Shoreditch had not received any complaints about its conduct.
12. The Chair then allowed objectors to put questions to the applicant's legal representative and the premises supervisor.
13. In response to questions from a councillor, Mr Craig stated that a restaurant serving alcohol until 24:00 would be less likely to impact negatively on residents and the surrounding area than a nightclub. Mr Adewale confirmed that the business in Shoreditch was immediately below approximately 10 residential units and Mr Craig added that the business was adjacent to Shoreditch's cumulative impact area. Mr Adewale confirmed that the business in the City of London would be operating on a different model than the business in Shoreditch.
14. In response to a question, Mr Craig stated that the business would not be reliant on promoted events, however, he stated that it would be desirable for the applicant to have the flexibility to hold such events. Mr Adewale explained that the intention would be to occasionally host nights that had been successful at other restaurants and to share their client base.
15. In response to a question from a resident about sound proofing, Mr Adewale explained that they had contacted multiple companies and were exploring options that would be as effective as possible, but that the plans were at an early stage. In response to a question from a councillor, Mr Craig informed the Panel that the provision of performances of dance had been selected as part of his usual process of requesting all licensable activities he thought might be required. Mr Adewale confirmed that, in any event, customers were not

expected to dance and that there would not be a dance floor. However, he could not control people who might dance around the table. He explained that he would employ hosts to manage this. Mr Adewale reiterated the business was a café and restaurant, not nightclub.

16. In response to a further question from a councillor, Mr Adewale confirmed that hosts and security would be employed to keep the peace and that it was expected that there would be 20 members of staff present for a typical shift.
17. Mr Paul Holmes, representing the City of London Police, noted that in the hearing Mr Craig had confirmed the applicant was content to accept the condition requiring CCTV. He requested that the Panel place a condition on the premises licence restricting promoted events as they carry an increased risk of crime and disorder. Mr Craig stated that the applicant would be content to provide seven days' notice for the promoted events. However, Mr Holmes was not satisfied that this would sufficiently mitigate the risks presented by such events.
18. Ms Claire Callan-Day, representing Environmental Health, objected to the application on public nuisance grounds. She stated that the sale of alcohol and provision of regulated entertainment beyond 23:00 would be likely to cause a disturbance to the neighbourhood due to airborne noise. In response to a question from the applicant's representative, Ms Callan-Day stated that Environmental Health would be available to discuss a noise management plan and dispersal policy.
19. At this point of the hearing, a Member of the Panel took the opportunity to raise several questions with the applicant. In response to these questions, it was confirmed that the supply of alcohol for consumption on the premises was requested until 24:00; late night refreshment was requested until 24:00; and the provision of live and recorded music was requested until 24:00. It was confirmed that there would be no clearly designated dance floor and it was also confirmed that the applicant did not expect any performances of dance to take place. As such, Mr Craig informed the Panel that the request for the provision of performances of dance could be withdrawn. Furthermore, Mr Craig confirmed that promoted events would not be required.
20. Mr Craig stated that it was his usual practice to request most of the licensable activities on the premises licence application form when in fact they would not all be necessary.
21. In response to a question from the Panel, Mr Adewale confirmed that the smoking area would be directly in front of the premises and Mr Craig referred the Panel to an image Appendix 7, which depicted this area. When questioned about a dispersal policy and management plan, Mr Craig responded that the applicant would be content to develop these in consultation with Environmental Health.
22. In response to another question from the Panel, Mr Adewale outlined his business experience and his vision for the premises. He explained the concept

of their business was an elegant and up market restaurant and that he and the applicant did not want the City of London premises and the Shoreditch premises to be connected as these were two independent business ventures. Mr Adewale informed the Sub Committee that the capacity of the premises was around 300 people, although he clarified that the intention of the business was for approximately 60 customers to be present per shift.

23. Ms Callan-Day confirmed that Environmental Health would be happy to assist the applicant in developing a noise management plan and a dispersal policy.
24. The residents then addressed the Panel. Ms Susannah Bond was concerned that the premises' proposed smoking area would be situated close to her children's bedroom. She stated that the building leaseholders were required to be quiet between 23:00 and 08:00, and that it was important that her family had the opportunity to rest between the hours of 23:00 and 07:00. Ms Bond noted that the applicant was exploring soundproofing options, but was concerned with the lack of information about how it would be effective.
25. Mr Darren Oswick explained that he had experienced significant noise disruption from Omnino Steakhouse when they were based in the premises. In Mr Oswick's view the building was not suitable for a business playing music and opening late into the night.
26. In response to concerns raised about noise emitting from the premises, Mr Craig informed the Panel that the applicant intended to install a lobby inside the premises to reduce noise emission.
27. Mr Allen White stated that the business was unlike the businesses that had previously held the premises given that live and recorded music would be playing. He was also concerned that the business would be more like a nightclub than a restaurant.
28. The councillors of Castle Baynard made verbal representations to the Panel. They were of the view that the premises was the wrong location for the business and that it would be impossible to adequately mitigate the sound issues within the building. They echoed the concerns outlined by the residents and asked that the Panel reject the application.
29. A Panel Member gave Mr Adewale the opportunity to provide some clarity on his business model. Mr Adewale explained that the business was an opportunity for him and his partner to become recognised in the restaurant industry. He stated that they did not intend to be a nuisance for the neighbours and were prepared to take all necessary steps of mitigation. The Panel also asked who the target clientele of the business would be. Mr Adewale also explained that his client base would be extensive and he would not be focusing on walk-ins.
30. In response to a query about the premises dispersal policy, Mr Adewale informed the Panel that they are able to efficiently disperse of their customers at the Shoreditch premises and that the security assist with this. He stated that

last orders is set at an early time and stop any music playing before closure.

31. Mr Craig accepted that the premises licence application form had not been adequately completed. He informed the Panel that the applicant had originally intended to continue with the licence of the previous business which did not have any conditions on it. However, the applicant's representative stated that the applicant was willing to have conditions on their premises licence.
32. The Sub Committee retired at 15:30.
33. The Panel noted Mr Craig's submission that it was his usual practice to request most of the licensable activities on the premises licence application form when in fact they would not all be necessary and noted that at the conclusion of the hearing he had requested:

<u>Activity</u>	<u>Proposed Licence at the Conclusion of the Hearing</u>
Supply of alcohol for consumption on the premises	(Mon–Sun) 10:00-24:00
Provision of Recorded Music	(Mon–Sun) 10:00-24:00
Provision of Live Music	(Mon–Sun) 10:00-24:00
Late Night Refreshment	(Mon-Sun) 23:00-24:00

34. 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. In reaching its decision, the Sub Committee was 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 2022.
35. It was evident that the most relevant licensing objective before the Sub Committee today was the promotion of the prevention of public nuisance in the form of noise. In determining what constituted a public nuisance, the Sub Committee relied upon the common law definition of "public nuisance" as: *'one which inflicts damage, injury or inconvenience on all the King's subjects or on all members of a class who come within the sphere or neighbourhood of its operation'. The character of the neighbourhood is relevant to determination of the question of whether a particular activity constitutes a "public nuisance"*.
36. The Sub Committee noted the residents' comments; they stated that the premises had operated without issue as a restaurant playing background music. It considered that this use aligns with the written representation from the

planning department the Panel received in the hearing papers. The problems appeared to arise with the previous occupier, Omnino Steakhouse, and the de-regulation of regulated entertainment which allowed live and amplified recorded music until 23:00. In the Sub Committee's view, this highlighted that the construction and location of the premises are best suited as a restaurant, not a late night bar.

37. The Sub Committee noted the issues surrounding the lack of soundproofing within the building and was pleased to note the applicant's willingness to soundproof the premises before occupation. Further, it noted that the applicant's desire was to run a restaurant from the premises, that no dance floor was required, and that the applicant had originally intended to simply transfer over the previous licence with the hours Monday to Saturday 23:00 and Sunday until 22:30.
38. The Sub Committee noted that the predominant concern from residents and Environmental Health was the protection of rest between the hours of 23:00 and 07:00am.
39. The Sub Committee concluded that, with the imposition of suitable conditions, it would be possible for the Applicant to operate the premises in accordance with the licensing objectives, and it was the Sub Committee's decision to grant the premises licence.
40. The Sub Committee concluded that it was necessary and appropriate to impose conditions upon the licence to address the concerns relating to public nuisance. The Sub Committee noted the conditions suggested voluntarily by the applicant and agreed to incorporate those it deemed necessary, plus the hours as requested by the applicant.
41. The hours shall be granted as amended by the applicant and set out below:

<u>Activity</u>	<u>Licence</u>
Supply of alcohol for consumption on the premises	(Mon–Sun) 10:00-23:00
Provision of Recorded Music	(Mon–Sun) 10:00-23:00
Provision of Live Music	(Mon–Sun) 10:00-23:00

The Sub Committee was of the view that a management plan in place should include, but not be limited to:

- Patron smoking and dispersal at the end of the evening.

Conditions

1. The premises shall install and maintain a comprehensive digital colour CCTV system. All public areas of the licensed premises, including all public entry and exit points and the street environment, will be covered enabling facial identification of every person entering in any light condition. The CCTV cameras shall continually record whilst the premises are open to the public and recordings shall be kept available for a minimum of 31 days with date and time stamping. A staff member who is conversant with the operation of the CCTV system shall be present on the premises at all times when they are open to the public. This staff member shall be able to show the police or the Licensing Authority recordings of the preceding two days immediately when requested.
2. A written dispersal policy shall be in place and implemented at the premises to move customers from the premises and the immediate vicinity in such a way as to cause minimum disturbance or nuisance to neighbours. Therefore, the premises shall implement a dispersal plan produced in collaboration with Environmental Health and this must address the promotion of the prevention of public nuisance caused by customers smoking outside of the restaurant.
3. Promoted events will not be held at the premises. A promoted event is an event involving music and dancing where the musical entertainment is provided at any time by a disc jockey or disc jockeys one or some of whom are not employees of the licensee (premises licence holder) and the event is (independent of the licensee) promoted to the general public.
4. There will be no dance floor within the premises.
5. A lobby must be installed to restrict public nuisance arising from noise.
6. Alcohol shall only be sold to a person sitting down eating a meal and for consumption with that meal.
7. A sound limiter to be installed on the internal sound system to the agreement and satisfaction of Environmental Health – no external sound systems to be used, to ensure no noise nuisance arises from the premises.

The meeting closed at 15:30.

Chairman

TUESDAY, 22 NOVEMBER 2022

Contact Officer: chloe.ainsworth@cityoflondon.gov.uk