

MINUTES OF THE LICENSING REVIEW (HEARING) SUB COMMITTEE

HELD ON TUESDAY 6 AUGUST 2019

APPLICANT: W W MOOR PLACE LIMITED
PREMISES: WEWORK, 1 FORE STREET, LONDON EC2Y 5EJ

PRESENT

Sub Committee:

Marianne Fredericks CC (Chairman)
Peter Dunphy CC
Michael Hudson CC

Applicant:

Craig Baylis, Solicitor Bryan Cave Leighton Paisner - representing the Premises
Georgina Taylor, Manager for WeWork Limited

Other Persons:

Alderman David Graves, Ward of Cripplegate
Liz Hurst, Willoughby House resident
Ricky Broome, Willoughby House resident
Fionnuala Hogan, Willoughby House resident
Helen Kaye, Chair of the Barbican Association (BA) Licensing and Planning
Committee and Willoughby House resident

In Attendance:

Frank Marchione, Comptroller and City Solicitor's Department
Peter Davenport, Department of Markets and Consumer Protection
Julie Mayer, Town Clerk's Department

Licensing Act 2003 (Hearings) Regulations 2005

A public Hearing was held at 1pm in Committee Room 1, Guildhall, London, EC2, to consider the representations submitted in respect of an application for the premises '1 Fore Street, London EC2Y 5EJ.'

The Sub Committee had before them the following documents:-

Appendix 1 – Report of the Director of Markets and Consumer Protection:
Copy of Application

Appendix 2 – Conditions Consistent with the Operating Schedule

Appendix 3 - Current Licence

Appendix 4 - Hearing Decision Letter

Appendix 5 - Representations from Other Persons – 36 Barbican residents objecting and 1 Barbican resident in support

Appendix 6 - Map of subject premises together with other licensed premises in the area and their latest terminal time for alcohol sales

Appendix 7 - Plan of Premises

Appendix 8 - Statutory Blue Public Notices

The Hearing commenced at 13.00 hours.

1. The Chairman introduced the Sub-Committee Members and confirmed that all papers had been considered by the Sub-Committee in advance of the Hearing. The Chairman asked those present to introduce themselves and state in what capacity they were attending the Sub-Committee.
2. 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 and that these could only be promoted during licensed hours.
3. At the start of the Hearing the applicant introduced an amendment to the application for a variation as follows; *'Consumption of alcohol may be permitted on the 7th floor terrace, in the area on the licence plan hatched green, which would be open between 3pm and 6pm (not 8pm) Monday to Friday. No consumption of alcohol shall be permitted in any other terrace area'*. Those present were reminded that this application was in respect of licensable activity on the 7th floor terrace only. The applicant made it clear that there would be no music and offered a further condition in that the bar and outside area would be managed during the licensed hours by a member of the Community Team (duty staff)
4. The Chairman informed the Hearing that a late submission of a photograph, showing the close proximity of a Willoughby House bedroom to the terrace, had been received before the start of the Hearing and a copy shared with the Applicant. Mr Bayliss advised that this showed an adjoining terrace, used by sub tenants, which was closed every day at 3pm. Residents challenged this, as they felt that the window shown in the photograph did overlook the 7th floor terrace.
5. The Chairman then invited Mr Bayliss to describe the nature of WeWork's operation at 1 Fore Street. The Sub Committee noted that the building consisted of a number of serviced offices with a mixture of users, both long and short term, with a capacity (at 1 Fore Street) for 3,000 desks. All seven floors had areas where users could help themselves to tea, coffee, soft drinks and beer/cider, via zip taps, that were controlled by Wework and switched on/off as necessary. The

Fore Street Office was first licensed in January 2016 and there were currently 16 Wework premises across the City of London.

6. Mr Bayliss further explained that, although this application was for licensable activity to the 7th Floor Terrace only, clients could purchase their own alcohol and drink it on the terraces. However, Wework had sought to be neighbourly and the terraces were locked daily at 3pm. The applicant offered to ensure the terrace doors were alarmed so that the space could not be accessed by the office tenants/occupiers after the agreed time, regardless of the Sub Committee's decision.
7. The Sub Committee noted that two Temporary Event Notices (TENs) had been granted in July this year, for food tasting events, using the balcony until 8pm. There had been no complaints on either occasion and the applicant hoped that this demonstrated the new responsible management at 1 Fore Street. The new General Manager, Ms Georgina Taylor, advised that the TENs had not been particularly busy, with a maximum of approximately 40 clients on the balcony. The Sub Committee noted that this number had subsequently been used for the application but had not been based on any detailed analysis of the space. The Sub Committee also noted that there would be no tables and chairs on the terrace, as scraping movements could cause disturbance. Furthermore, CCTV would be in operation and there would be a member of the Community Team (duty staff) in attendance, serving the wine (in 125 and 175 ml servings) and supervising. There would not be any 'Happy Hour' events on the 7th Floor.
8. The Sub Committee were advised that, during the recent TENs events, a member of the Community Team had been able to see the whole of the terrace from the dispensation points. The General Manager confirmed that all Members of the Community Team were required to undertake Licensing Training and complete an e-learning course.
9. The Chairman then invited those making representations to address the Sub Committee.

Alderman Graves spoke as the Alderman for Cripplegate, on behalf of his constituents. Although a Barbican resident, Alderman Graves explained that he lived too far away to be affected by this application. Whilst welcoming the applicant's reduction in the licensable hours, the Alderman remained concerned about the noise levels, as low numbers could still cause a disturbance and were likely to be amplified if individuals were consuming alcohol. The Alderman also suggested that there was clearly some anticipation of the original application (to 20.00 hrs) being opposed and would have welcomed an earlier offer to reduce the hours. Despite the reduction in numbers, the terrace would still be open for 3 hours a day and it was not clear, from the application, as to how management would ensure that no-one remained on the terrace after 18.00. In respect of the recent TENs, the Alderman also challenged whether they were a good example, given they had not been particularly busy events.

Liz Hurst, a Willoughby House Resident since before 2016 had concerns as to the risk of public nuisance, given the Terrace's close proximity to approximately 100 bedrooms in Willoughby House, and some of Andrewes House, and Wework's history of lax management. Ms Hurst also drew the Sub Committee's attention to the unique acoustics on the Barbican Estate; i.e. sound vibrates off of the concrete structure and the Estate's Listed Building Status restricted the installation of double glazing. Ms Hurst had submitted some photographs in support of her representations, which had been taken in June 2018, before 6pm in the evening, showing a number of people drinking on the terrace. She advised that it had been necessary to contact the Managing Agents to deal with the noise and bring the people in off the terrace area. She added that residents dealt directly with the Managing Agent when issues arose, rather than contacting the City Corporation, as they felt the Managing Agents should take responsibility for dealing directly with issues. Ms Hurst felt that Wework should have consulted with the residents ahead of making this application and should keep an open dialogue. Given that there were many families in Willoughby and Andrewes Houses, there was a further potential risk of disturbing children trying to sleep or doing homework.

Helen Kay, Chairman of the Barbican Association's Planning and Licensing Committee, also a Willoughby House resident endorsed the previous comments and added that it had taken nearly two years for Wework to create a Management Plan. Ms Kay therefore felt that the trust had broken down. Ms Kay also suggested that Wework's clients were able to consume alcohol in other branches in the City, which did not overlook a residential area.

Ricky Broom, a resident of Willoughby House for 20 years endorsed previous comments and was particularly concerned about sleep disruption.

10. Craig Bayliss responded on behalf of the applicant and advised the Sub Committee that he had asked the Licensing Manager for the email addresses of those residents making objections, in order to arrange a meeting, but accepted this was after the application had been submitted. Mr Bayliss and Ms Taylor accepted that the emergency lock on the 7th floor terrace could be overridden, as it was a fire escape. The applicant therefore offered a condition whereby the door would be alarmed and the CCTV could identify whoever had attempted to override, it after the agreed time, regardless of the Sub Committee's decision on the variation. In response to a question about fire safety, Mr Bayliss confirmed that the Fire Authority had seen the plan and made no representations on the application. The Sub Committee noted that the Fire Brigade tended to carry out follow up inspections, once a Licence has been granted, and they could impose their own limits on capacity.
11. Ms Taylor also took the opportunity to apologise for the history of discontent between residents and Wework and welcomed the opportunity to open a dialogue, and to ensure that the Management Plan was shared and refreshed regularly. Ms Taylor advised that she had been holding regular meetings with the building managers and offered her number, in addition to a 24 hour contact number for Wework, and accepted that these details had not been updated when previous managers had left. The Sub Committee inquired as to the number of

staff on duty and were informed by Ms Taylor that there were 9 members of the Community Team (duty staff) were employed, with a minimum of 7 on duty at any one time.

12. Finally, the applicant advised that there would be no commercial benefit to the Wework operation from this application, simply the offer of an additional facility to some of Wework's occupier tenants. The Sub Committee were reminded that, of 3,000 desks in the building, only 40 would be allowed onto the terrace at any time and the Applicant had offered a further condition, that a member of the Community Team (duty staff) would manage the bar and terrace area during the Licensed hours.
13. The Chairman invited the Applicant and Representatives to sum up, respond to any outstanding queries and to clarify all the amendments to the application they wish the Sub Committee to consider.
14. In summarising, Mr Bayliss felt that the applicant had offered an amended and measured approach and the recent TENS had proved that the new management at 1 Fore Street was responsible and considerate. Furthermore, in the event of any breach, a Review Hearing could be called. Mr Bayliss also suggested a temporary Licence for 6 months, rather than repeated TENS applications. The objectors voiced concerns with this approach, particularly if complaints leading to a Review Hearing was their only recourse. The Sub Committee agreed that the application needed to deliver a clear decision on the application.
15. Those making representations agreed unanimously that their objections stood, despite the offer to reduce the licensable hour from 8pm to 6pm, regarding the use of the terrace. They did not have specific concerns at the addition of wine, in addition to beer and cider. They were also concerned as to the likelihood of the applicant making a further applications to raise the terminal hour.
16. The Chairman thanked all parties and explained that the Sub-Committee would now retire to deliberate on the application. The Chairman explained that it was expected that the Sub-Committee would come to a decision that day and therefore invited all present to remain in the meeting room.
17. The Sub-Committee retired at 3pm.
18. In determining the application, the Sub-Committee had 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. 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 2017.

19. 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.
20. In reaching its decision, the Sub Committee took into account the representations made both orally and in writing by those opposing the application. The Sub-Committee were conscious of the proximity of the terrace to the residents of Willoughby House and the potential for public nuisance to residents. The Sub Committee also considered the nature of the Barbican Estate's concrete construction in that noise from very low numbers could amplify, particularly as people tended to become louder after consuming alcohol.
21. The Sub Committee then considered the fact that there would be no commercial gain to Wework from opening the terrace for some 40 clients, given the building's capacity of 3,000. Therefore, a very low number would gain from this additional facility, when balanced against the risk of public nuisance.
22. The Sub Committee carefully considered Wework's changed management at 1 Fore Street, noted Ms Taylor's apology to residents for previous incidents and welcomed the Applicant's offer of reducing the terminal hour from 8pm to 6pm regarding use of the terrace, together with Ms Taylor's of an open dialogue and to share and refresh the Management Plan.
23. In taking all these factors into consideration, the Sub-Committee returned from their deliberations at 3.25pm and explained that they had reached a decision. The Chairman thanked those who had remained to hear the decision. It was the Sub-Committee's decision that, given the arguments presented above, and when balanced against the risk of public nuisance, that the external terraces would remain excluded from the licensed area. Therefore that condition would not be amended.
24. The Sub Committee did agreed to amend the following Conditions set out below, to permit the supply of wine in addition to beer and cider:
 - To permit the serving of wine in addition to the self-service of beer and cider.
 - At the terminal hour of licensable activities all zip taps/ kegerators to be locked in the off position and all wine to be stored securely and locked away and may only be unlocked at the commencement of the permitted licensable activities the next day.

25. The Sub Committee added an informative to the Applicant in respect of the pre-application process and advised them to consult with residents before any future application, and to work with officers in the City of London Corporation's Licensing and Environmental Health Teams; further details of which would be available at the bottom of the decision letter. The Sub-Committee also expected the Management Plan to be refreshed regularly; that an ongoing dialogue with residents should be part of the plan and that Wework should comply with all the conditions of their Licence.

The meeting closed at 3.30 pm

Chairman

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