

LICENSING (HEARING) SUB COMMITTEE
FRIDAY, 29 JUNE 2012
Premises: The Heron, 5 Moor Lane, London EC2

Sub Committee

Alderman Simon Walsh
Marianne Fredericks CC
Revd Dr Martin Dudley CC

City of London Officers

Caroline Webb - Town Clerk's Department
Ru Rahman - Comptroller & City Solicitor's Department
Peter Davenport - Markets & Consumer Protection Department
Steve Blake - Markets & Consumer Protection Department

The Applicant

Mr Craig Baylis (solicitor), Berwin Leighton Paisner accompanied by Mr Andrew Burnie, Asset Management Director, Heron Tower.

Parties with Representations

Mr Robert Barker (representing Mr Brian Parkes), local resident
Ms Joanne Bradman, local resident
Mr Trevor Kavanagh, local resident
Ms Louise Trodden, local resident
Mr Geoff Tuff, local resident
Ms Beatrice Phipp, local resident

Also in Attendance

Ms Amy Maxwell, Berwin Leighton Paisner Solicitors
Mr David Pealing, Town Clerk's Department

Licensing Act 2003 (Hearings) Regulations 2005

- 1) A public hearing was held in the Basinghall Suite, Guildhall, London EC2, to consider the representations submitted in respect of a new premises licence application made by The Heron Residences LLP for the premises known as 'The Heron, 5 Moor Lane, London EC2'.

The application sought to provide licensable activities for the supply of alcohol between the hours of 07:00 to 00:00 Monday to Sunday.

The application also sought to provide late night refreshments between the hours of 23:00 to 00:00 Monday to Sunday and the indoor exhibition of films between the hours of 07:00 to 00:00 Monday to Sunday.

- 2) The hearing commenced at 2:12pm
- 3) The Chairman opened the hearing by introducing himself, the other Members of the Sub Committee and the Officers present.

- 4) It was noted that no members of the panel had any personal or prejudicial interest.
- 5) The Chairman made reference to the procedure that would be followed, which was set out in the Sub Committee papers.
- 6) All parties introduced themselves.
- 7) Mr Barker introduced himself and started by thanking Mr Baylis for advanced warning of the application that had been submitted by the Heron Residences LLP.
- 8) In answer to a question, Mr Baylis confirmed that the application only sought a licence for the supply of alcohol, late night refreshments and the indoor exhibition of films.
- 9) Mr Barker highlighted the differences between the two plans and sought clarification from Mr Baylis, who confirmed that the plan printed on page 37 was correct. The cross-hatched area on the plan highlighted soft landscaped (grass) areas and the red line indicated the licensable area.
- 10) In answer to a question, Mr Baylis informed the Sub Committee that patrons would not be allowed to remain on or go out on to the terraced area after 22:00 hours on any given night. The doors to the terrace would be closed and locked. Patrons would be permitted to take alcoholic and non-alcoholic drinks on to the terrace before 22:00 hours. Shrubs would be planted around the perimeter of the terrace.
- 11) Mr Barker highlighted that noise disturbance to local residents in the Barbican, particularly in Speed House and Willoughby House, was his main concern. Mr Baylis addressed his concerns by informing him that residents of the Heron would be permitted to drink outside on the terrace whether or not they had a licence but applying for the licence allowed for more control of the terrace area. If patrons wished to smoke they would be encouraged to return to their apartments to do so.
- 12) Mr Baylis confirmed that there were no windows in the bar area and that air conditioning units were installed. It was noted that private parties were out of the control of the licensing regime and could still take place, possibly with the provision of facilities for making music.
- 13) Ms Bradman informed the Sub Committee that she was mainly concerned about the possibility of an increase in public nuisance after midnight, once the bar had shut and of large groups of patrons leaving at the same time.
- 14) The Chairman of the Sub Committee informed those present that an application could not be refused on the potential for noise disturbance or the possibility of increased public nuisance. If the residents were correct

and the opening hours of the premises did result in noise disturbance or an increase in public nuisance, for instance, then they could call for a review of the premises.

- 15) Mr Kavanagh informed the Sub Committee that attempts had been made to limit the noise on Silk Street but it had proved difficult to police. He stated that if the bar in The Heron closed at 23:00 hours rather than midnight, there may be less noise disturbance to local residents. Mr Kavanagh was also concerned that patrons may congregate to smoke outside the premises entrance which could increase the amount of noise experienced.
- 16) The Sub Committee stated that they were very disappointed to see a representation in the papers that, in their view, crossed the line between appropriate speculation and strongly disassociated themselves from such comments.
- 17) Mr Baylis informed those present that the bar area would function wholly as a private club. The premises would not accept cash for any purchases, with a swipe card system to be in place, exclusively to serve residents of the Heron Tower and their guests. The bar would not be run to make a profit but to offer a service to the residents of the Heron.
- 18) Mr Bayliss confirmed the position on the sub-letting of apartments within the Heron Tower.
- 19) All parties were given an opportunity to sum up their cases before the Members of the Sub Committee withdrew to deliberate and make their decision, accompanied by the representatives of the Town Clerk and the Comptroller and City Solicitor.
- 20) The Chairman thanked all parties for attending the hearing and informed them that the decision of the Sub Committee would be circulated to all parties within the next five working days.

The meeting ended at 2.57pm

Chairman

Contact Officer: Caroline Webb

Tel. no. 020 7332 1416

E-mail: caroline.webb@cityoflondon.gov.uk

THE COMMON COUNCIL OF THE CITY OF LONDON
LICENSING SUB-COMMITTEE

Alderman Simon WALSH (Chairman)
Marianne FREDERICKS CC
Rev'd Dr Martin DUDLEY CC

Friday 29 June 2012 (1.45- 3.30)

IN RE:

THE HERON
5 MOOR LANE, LONDON EC2
Ward of Coleman Street

At today's hearing the sub-committee was addressed by Mr Craig Baylis of Berwin Leighton Paisner and Mr Andrew Burnie on behalf of the Applicant. We were addressed by Mr Robert Baker (representing Brain Parkes of Speed House Group), Mr Trevor Kavanagh, Ms Joanne Bradman and Mr Geoff Tuffs, all of whom had made representations opposing the application. We also took into account those many other written representations in the bundle of public papers.

No representations were received from any responsible authority.

No documents were submitted to us beyond those contained in the bundle of public papers.

On 3 May 2012 The Heron Residences LLP applied under the Licensing Act, 2003 for a premises licence for an area within the new Heron Tower building in Moor Street next to the Barbican. Permission is sought to sell alcohol and show films from 07.00 until midnight, every day of the week. Permission is also sought to provide late night refreshment from 23.00 until midnight, every day of the week. Insofar as the application seemed to ask for anything else, this was an error.

The premises are unusual in many respects, all of which are relevant to this application. The area covered by the premises licence will function as a wholly private 'club' serving only residents of the Heron Tower. Although residents' guests will also be admitted they will not be able to make any purchases at all. This 'club' is, we were told, unlikely to be a profit centre for the Heron development and is really being run as a facility to make the whole development more attractive to potential residents. It is situated on the 6th floor of the Heron building and consists of an indoor bar and an exterior terrace. The terrace is substantially surrounded by the upper storeys of the Heron development with the result that whilst the open side of the terrace faces Speed House in the Barbican residential estate, the licensed premises' closest neighbours are going to be in the Heron Tower itself.

There has clearly been a long and difficult history to the planning application for the Heron Tower but, as all parties quite properly acknowledged to us, we are not here to review or reopen the arguments for and against the development in the form it has been permitted. One condition imposed on the planning permission is however highly relevant to this application. Under the planning permission the outside terrace part of what is sought to become the licensed premises cannot be used after 10pm at night. Mr Baylis helpfully explained to the hearing that this means the doors leading to the terrace (which are not fire exit doors) will be closed and locked at 10pm each night and that no-one will be allowed out on the terrace to smoke or for any other purpose.

The representations from those who attended the hearing and those who only wrote in had a common theme: the Barbican residents are worried about late night noise. The fact that the terrace will not be used after 10pm at night should, in our view, deal as well with this fear as can be reasonably expected. We can see no reason at all to limit either the alcohol or film provisions in the proposed licence to deal with the possibility of excessive noise (amounting to public nuisance) before 10pm. The residents were also concerned about the possibility that those in the indoor bar might go down to the ground floor and congregate on the street to smoke. We do not think this is likely to pose a real

risk as smokers are, in our view, every bit as likely to return to Heron flats should they wish to smoke.

We are quite satisfied that these premises will be well run, that the immediate proximity of the Heron's own residents will act as a strong disincentive to excessive noise from the licensed area and that the chances of public nuisance being caused by the granting of the licence are minimal. We are confident that granting the licence as sought will properly promote the licensing objectives. For the avoidance of doubt the permission we grant for the sale of alcohol is for sales both on and off the premises and no conditions (other than those imposed by statute) are attached to the licence.

All parties are reminded that if the sub-committee was wrong any responsible authority, business, resident (in the vicinity) or a Member of the Court of Common Council is entitled to apply for a review of the licence which may result, amongst other things, imposing conditions, the removal of a licensable activity or the complete revocation of the licence.

If any party is dissatisfied with the decision, they are reminded of the right to appeal, within 21 days, 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.

Chairman's Rider 1

We were concerned to see several submissions that treated the vague possibility that patrons in the street (either smoking, coming to or leaving the premises) might conduct conversations on "adult themes" and that these conversations might then be overheard by young children in Barbican flats as something that engaged the child protection objective. We think that this is a wholly misconceived approach and leads to representations being made that cannot possibly be sustained. We will ask the Grand Committee to look at this matter and consider amending the Statement of Licensing Policy in due course to make this clear.

Chairman's Rider 2

We were very disappointed to see a representation in the papers that, in our view, crossed the line between appropriate speculation and comments that can at best be described as grossly stereotypical or at worst as simply racist. We will also ask the Grand Committee to look at this matter with a view to allowing officers to treat representations that are founded in whole or in part on a presumption of behaviour based itself on nothing more than the race (as here), religion, sex or sexuality of any group of people as vexatious (as that term is used in s18(7)(c) of the Licensing Act, 2003).

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