

MINUTES OF THE LICENSING (HEARING) SUB-COMMITTEE

HELD ON MONDAY, 10 JUNE 2019 AT 1.45 PM

APPLICANT: Barts Square Active One Ltd
PREMISES: Unit 7, Bartholomew Close, London, EC1

Sub-Committee:

Marianne Fredericks (Chairman)
Mary Durcan
Caroline Addy

Officers:

Town Clerk – Leanne Murphy
Comptroller and City Solicitor – Paul Chadha
Markets & Consumer Protection – Rachel Pye, Steven Aznar

Given Notice of Attendance:

Applicant:

Craig Baylis (BCLP) Applicant's Solicitor

Making representation:

Ann Holmes CC (Resident)
Brendan Barns (Resident)

Licensing Act 2003 (Hearings) Regulations 2005

A public Hearing was held at 1.45 PM in Committee Room 1, Guildhall, London, EC2, to consider the representations submitted in respect of an application for a licence allowing the sale of alcohol for consumption off the premises and other licensable activities (and opening hours) in respect of Unit 7, Bartholomew Close, London, EC1, the Applicant being Barts Square Active One Ltd.

The Sub Committee had before them the following documents:-

Hearing Procedure

Report of the Director of Markets & Consumer Protection

Appendix 1: Copy of Application

Appendix 2: Conditions consistent with the operating schedule

Appendix 3: Representations from Other Persons

i) Resident 1

ii) Resident 2

iii) Resident 3

iv) Resident 4

v) Resident 5

vi) Resident 6

vii) Resident 7

viii) Resident 8

Appendix 4: Map of subject premises together with other licensed premises in the area and their latest terminal time for alcohol sales

Appendix 5: Plan of Premises

1. The Hearing commenced at 1.45 PM.
2. At the commencement of the Hearing, the Sub Committee began by asking the Applicant to provide a more comprehensive outline of the proposed offering at the premises as it was felt that this was lacking in the broad written application submitted.
3. Mr Baylis advised the Hearing that it was difficult to confirm the proposed offering as the tenants were not confirmed yet.
4. Mr Baylis provided apologies on behalf of Nikki Dibley from Helical PLC who stated in writing that three of the five units available at the development already had tenants and the Applicant (who was the Landlord) had submitted an indicative plan for the final two units to ensure control over the licences. For this unit, the Applicant was looking to attract a high-quality restaurant which would have no stand-up drinking in a similar style to the Lino restaurant at the development.
5. The Sub Committee were advised that the Applicant felt that reasonable hours had been requested to appease the local community and withdrew its request for late night refreshment at the premises. The Chairman stated that the application would be considered with this amendment.
6. The Chairman invited those making representations to set out their objections to the application. The Hearing heard representations from Mr Barns and Mrs Holmes, local residents of Barts Square. Mr Barns stated that local residents were primarily concerned by late-night noise and nuisance, particularly in the narrow passages being used by patrons after hours. It was noted that Unit 7 was next to the Middlesex Passage and the acoustics of the passage would cause significant noise disturbance to residents when patrons left the premises at night.
7. Mr Barns voiced a broader concern that the development as a whole would become a destination venue which he felt would affect the tranquillity of the Barts Square area as it would shift from a traditionally residential to a commercial area. He noted that he had resided and worked in the area for 20 years and the plans undermined the feel of the local area.
8. Mr Barns requested that a condition be added to the licence ensuring that all windows and doors remained closed at all times to limit noise from the premises. However, it was noted that one of the current tenants persistently breached this condition on their licence. Mr Baylis requested the details of the offending premises in order to inform Helical.

9. Mrs Holmes stated that she did not oppose the premises being granted a licence but was objecting to a closing time of 23:30 as it would create significant noise nuisance for residents when customers departed the premises and felt that 22:00 would be a more suitable terminal hour. The Sub Committee noted that the proposed hours were consistent with the traditional hours of operation with last orders at 23:00 and patrons leaving at 23:30. It was also noted that just because those were the licensable hours, this did not mean they would be used.
10. Mrs Holmes requested conditions regarding windows and doors being kept closed at all times and a prohibition on the use of a loud air-conditioning unit. The Sub Committee confirmed that a condition could not be placed on the licence concerning air-conditioning units as this was a planning consideration and fell outside the scope of the licensing objectives.
11. In response to the concerns stated by the residents, the Sub Committee suggested signage at the premises encouraging customers to leave the premises quietly and directing patrons which way to go. Double lobbies were also suggested as per the Code of Best Practice which act as vacuums to prevent noise for when customers leave the premises. Mr Baylis agreed to take these recommendations back to Helical.
12. Mr Baylis advised the Hearing that the Applicant would accept conditions for all windows and doors to remain closed at all times and for prominent signage to patrons. He pointed out that the application did not seek off sales or outside drinking at the premises and any tenant would need obtain a significant application variation to change this or be in breach of their lease. This provided residents with more protection over the type of business that could operate at the unit.
13. Mrs Holmes was concerned that local residents would not be made aware should the tenant submit an amendment to the licence or seek a tables and chairs licence. The Sub Committee confirmed that the City of London Corporation listed all licensing and planning applications (including amendments) on their website and that anyone could request to be added to a list that informed of all new requests. It was also agreed that all objectors would be informed if any variation to the licence was submitted by the tenant.
14. In response to a query regarding capacity, Mr Baylis stated that the plans submitted with the application were only indicative and this could not be confirmed until new plans were drawn up by the tenant. Mr Baylis confirmed that this unit would be a restaurant and not a bar. The Sub Committee suggested adding a condition that alcohol shall only be sold to customers by waiter/waitress service to ensure that the unit will be a restaurant.
15. Mrs Holmes queried whether there would be any noise outside the premises after closure, e.g. wheelie bins being moved when cleaning up. Mr Baylis confirmed there would be no noise or deliveries after hours (between 23:00-07:00).
16. The Chairman thanked all attendees for their comments and the Sub Committee retired at 2:25 PM.

17. The Sub Committee considered the application and carefully deliberated upon the representations submitted in writing at the Hearing. It was evident that the most relevant licensing objective that required the Sub Committee's consideration was the prevention of public nuisance. In reaching its 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 2017.
18. In determining what constituted a public nuisance, the Sub Committee relied upon the definition of "public nuisance" contained in Halsbury's Laws of England which defines public nuisance as "one which inflicts damage, injury or inconvenience on all the Queen'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".
19. The Sub Committee regarded noise to be the principal concern to residents. The Sub Committee noted that this was a new business and, whilst conscious of the fact that the premises was located in a residential pocket of the City, also noted that other licensed premises operated in the area. The Sub Committee accepted the residents' concerns as to the potential for noise disturbance late at night but were reassured by the measures proposed by the Applicant in an attempt to address these concerns would sufficiently reduce the risk of public nuisance. The Applicant had also offered to remove the request for late night refreshment and was agreeable to the imposition of conditions preventing windows and doors from being opened and for prominent signage to patrons requesting that they leave the premises quietly.
20. 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. The Sub Committee sought to strike a balance for residents and the business.
21. It was the Sub Committee's decision to grant the premises licence as follows:

Activity	Current Licence	Proposed	
Sale of alcohol for consumption on the premises	N/A	Mon-Sat	10:00-23:00
		Sun	12:00-22:30
Opening Hours	N/A	Mon-Fri	08:00-23:30
		Sat	09:00-23:30
		Sun	09:00-23:00

22. The Sub Committee then considered the issue of conditions and concluded that it was necessary and appropriate to impose conditions upon the licence so as to address the concerns relating to public nuisance:

- a. The premises will install and maintain a comprehensive digital colour CCTV system. All public areas of the licensed premises will be covered enabling facial identification of every person entering in any light condition. The CCTV cameras shall continually record whilst the premises is open for licensable activities and during all times customers remain on the premises. All recordings shall be stored for a minimum period 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 recent data or footage with the absolute minimum of delay when requested. (MC01)
 - b. Prominent signage to patrons asking them not to use Middlesex Passage when departing the area shall be displayed at all exits from the premises requesting that customers leave quietly (MC16).
 - c. The Licence holder shall make available a contact telephone number to nearby residents and the City of London Licensing Team to be used in the event of complaints arising (MC19).
 - d. A 'Challenge 25' Scheme shall operate to ensure that any person attempting to purchase alcohol who appears to be under the age of 25 shall provide documented proof that he/she is over 18 years of age. Proof of age shall only comprise a passport, a photo card driving licence, an EU/EEA national ID card or similar document, or an industry approved proof of age identity card. (MC21)
23. In addition to the conditions above, the Sub Committee also imposed the following conditions:
- a. All door and windows shall remain closed at all times save for entry or exit, or in the event of an emergency (MC13).
 - b. Alcohol shall be sold to customers by waiter/waitress service only (MC27).
24. Whilst the Sub Committee noted the Applicant's proposed condition prohibiting promoted events on the premises (MC02), it did not consider it necessary to impose such a condition on the premises licence as the condition only applied where premises were permitted to undertake licensable activities after 23:00.
25. The Chairman thanked all parties for their pragmatic and conciliatory approach throughout the Hearing and explained that written confirmation of the decision would follow.

The meeting closed at 2.25 PM

Chairman

MONDAY 10 JUNE 2019

Contact Officer: Leanne Murphy
Tel. no. 020 7332 3008
E-mail: leanne.murphy@cityoflondon.gov.uk