

MINUTES OF THE LICENSING (HEARING) SUB-COMMITTEE

HELD ON FRIDAY, 11th SEPTEMBER 2023 AT 10.00 AM

Sub Committee:

Deputy John Fletcher (in the Chair)
Deputy Marianne Fredericks
Deputy Shavran Joshi

Officers:

Raquel Pinto – Town Clerks
Gavin Steadman – Port Health & Public Protection Director
Rachel Pye – Assistant Director, Public Protection
Sangeeta Patel – Licensing Officer, Department of the Environment
Sadhari Perera - City Solicitor

Applicant:

- George Hammer – Director – Applicant Hammer Holdings
- James Anderson - Solicitor for Applicant - Poppleston Allen Solicitors
- Alex Tomlinson – Trainee Solicitors – Poppleston Allen

Making representations:

- Richard Vitola-Jones - Resident
- Nora Vitola-Jones - Resident

Licensing Act 2003 (Hearings) Regulations 2005

A Public Hearing was held at 10 am to consider representations submitted in respect of an Application for a Premises Licence by Hammer Holdings, Urban Retreat, 18-19 Long Lane, London, EC1A 9PL.

The Sub-Committee had before it the following documents:

- Hearing Procedure
- Report of the Executive Director Environment
- Appendix 1: Copy of Application
- Appendix 2: Representations from Other Persons
- Appendix 3: Conditions consistent with the operating schedule
- Appendix 4: Licensing/Planning History of Premises
- Appendix 5: Plan
- Appendix 6: Additional Evidence Bundle from the Applicant

The Hearing commenced at 10.00 am. The Chairman introduced himself before asking the Sub Committee, the City of London Corporation officers and other parties present to introduce themselves.

The Chair confirmed the nature of the application which was for the sale of alcohol for consumption. The Chair also explained the order of proceedings, as set out in the agenda pack circulated to all parties.

The applicant wanted to let those present that they would like to propose an amendment regarding their opening hours. The new proposed times would be as follows, 07:00-23:00 opening hours and 11:00-22:30 for the supply of alcohol for consumption on and off the premises. This was so it would be more mindful of the guidance.

During the presentation from those making representations, the following points were noted:

- Concerns over the accessibility of the portal meant this application came to a hearing.
- There were concerns over congestion around Hayne Street, as there were a lot of premises there which invited anti-social behaviour.
- They welcomed the nature of the premises which looked at health and wellbeing but were unsure as to how the operating hours were conceived as this did not follow the precedent set with their other businesses.
- Noise nuisance was an important issue and they wanted to know what was being done to mitigate alcohol intoxication.

During questions, the following points were noted:

- On the reduced hours, the gesture was appreciated however the question surrounding the operating hours was still pertinent.
- There were concerns about the cumulative effect because of the amount of establishments already opened in the area.
- It was explained that although this was a notable concern, each application has to be looked at in its own merit.
- It was noted that there were different dispersal times in relation to this establishment, which was now looking to close earlier.
- The primary issue for residents was surrounding noise from the terrace and whether the consumption of alcohol would dramatically increase levels of noise to point it was a nuisance.
- It was suggested that alcohol stopped being served past 8pm.

During the presentation from the Applicant's representative, the following points were noted:

- The applicant provided an overview of their background in this industry.
- It was noted that the leasing expired in October of this year this year. In order to break the lease or renew it, it was required to provide a 6-month notice which limited investment.

- They were upgrading their education facilities and they were looking to invite companies to use their premise as a beauty and wellness hub, to do events and conferences related to that industry.
- They were applying for an alcohol license, as they felt that their third floor and ground floor could be used as an ancillary for food and beverages (including alcohol).
- The Applicant assured the Sub-Committee that they were not a pub and were not interested in becoming one.
- The use of the terrace would be a good meet and greet spot to hold such events, especially as socialising aspects were running later in the day, and this was where the 7:00-22:30 timings were drawn from.
- With regards to other premises mentioned, there were similar concerns raised, however, they had proved to other authorities that they were responsible neighbours, and they were not primarily a drinking establishment.
- The Applicant want to promote wellness to the City of London, and promote this business here, given its location (being one stop away from Liverpool Street), as well as offer an 'out-of-hours' service potentially until 10:30pm.
- They were not a profit generating business they considered themselves more of a support business.
- The Applicant had tried to reach out to residents and neighbours, and appreciated the portal wasn't working.
- The Sub-Committee was assured the applicant was not seeking become a pub-late night establishment, and that they have been conscious of residents in other areas and would continue to be, however, they needed these events so they could generate income to pay staff and business rates.
- The premises would not be operating after 7pm every night.
- Given the concerns mentioned regarding noise emanating from the terrace, the applicant would be happy to install fencing in roof terrace to prevent nuisance.
- This was principally a health and wellbeing business, and only a quarter of the premise would have license use.
- There were other protections and specific clauses in their lease which restricted them. This was a health mixed-use building and the infrastructure inside was restricted by small rooms and it would be difficult to transform them into anything else. If any changes were required, they would have to seek authorisation by the committee.
- The Applicant had pre-consulted with the authority, and they had agreed conditions which provide protections to those making representations.
- The 8pm ask to stop alcohol service by those making representations was restrictive especially in summer, and it was below what most operators have in City.

During questions, the following points were noted:

- Concerns were raised over the nature and frequency of events held at the premise.
- It was clarified that the timings between 7:00-22:30 would be primarily for events mainly in the health and wellbeing industry though, they were also opened to any event. They were not looking to trade after 7pm every night, it would be on occasion.
- Concerns were raised over the lease and other's ability to exploit the lease.

- It was explained that the conditions placed would prevent anyone picking up license for anything other than what was intended and if they did they would be in breach of the license which was a criminal offence.
- In terms of overall of the premise, the use of the events space would be small, and if the license was to be granted with the conditions, the license use would only be for a quarter of the overall business.
- It was raised that when people were using the terrace, they could be heard by residents in their homes, and whilst there hasn't been much activity up to now, this could become a nuisance.
- There would be staff to monitor the levels of noise, and if the license was granted, residents would have an advantage which was they had means of enforcement which they currently did not possess.
- The applicant would provide a contact detail for residents to get in touch should any issues arise.

At this point in the hearing, the residents were happy to withdraw their representations. The City Solicitor advised the Sub-Committee it was their decision to continue or not. The Panel decided to proceed as they had a few points they wanted clarification on.

The Sub-Committee wanted to have certain conditions and points clarified for all present:

- There was to be no music on terrace.
- Confirmed that the new operating hours were lowered to 22:30 for the supply of alcohol, with a closing time of 23:00.
- It was confirmed that the condition to limit off sales was not designed for the terrace, and that this condition would only be applicable following a successful pavement license. The Panel wanted to look into this for clarification.
- There was no official capacity for the terrace, but this was limited by a fire risk assessment. The sitting capacity was around 60, and this was for mixed use so there would also be standing capacity.
- A new condition to be added in which the applicant would put off fencing in the terrace to provide acoustic prevention,
- On page 37, under condition two, on the use of the terrace, to remove 'members of the public' so that it includes staff too to avoid ambiguity.
- The youngest age of the students was between 16–18-year-olds, but generally the students there were more in their 20s and 30s. In order to protect those minors, there was a condition on page 37 relating to Challenge 21, and staff would be trained on this. Further, it was assured that the events held there were low risk events and not alcohol led.
- There would be a condition to supply contact details for the residents.
- To amendment condition three to remove the line in between points (c) and (d) relating to the incident log as all CCTV should be considered under the prevention of crime clause.

The Chair invited parties to sum up. All parties felt they had presented their sides fully, and therefore, no-one wished to sum up.

The Chair explained that the Sub Committee would retire to make a decision and all parties would be advised of the outcome within 5 clear working days. The Chair thanked all those present and closed the Hearing at 10:55pm.

Deliberations:

Before deliberations commenced, the Sub-Committee wanted officers to look into the issue raised by those making representations regarding the lack of accessibility to the portal and this being down.

The Sub-Committee retired to consider the application, carefully deliberating on the representations submitted in writing and orally at the hearing by those making representations and the applicant. It was evident that the most relevant licensing objectives requiring the Sub-Committee's consideration was the prevention of public nuisance and prevention of crime and disorder.

The Sub Committee noted the representations from the residents, and fully understood their concerns about dispersal, specifically noise nuisance and the cumulative impact of anti-social behaviour from patrons leaving late night drinking establishments (including this establishment). Although the Sub-Committee noted these points, it also agreed that this application needs to be considered on its' own merits.

The Sub-Committee noted that the applicant wanted to promote health and wellbeing in the City of London, and it was felt that although this site remained primarily for education facilities, it was felt that the ground floor and third floor needed an ancillary use for food and beverages (alcohol), so that they could hold events or conferences promoting primarily this industry, but also open to others. The applicant confirmed that only a quarter of the premise would have licensed use, and that they would not be operating after 7pm every night.

The Sub Committee also noted concerns over the operating hours of 07:00-22:30, considering the nature of the premise application for a health and wellbeing. It was felt that the operating hours do not match the ethos of the business presented to them and would further add to the overall noise nuisance and littering of the area. As the applicant had agreed to change its operating hours, the Sub-Committee felt that this earlier dispersal would not add to the cumulative effect of the surrounding premises, some of which close at 3 and 4 am.

The Sub-Committee heard from those making representations that their primary issue was around noise emanating from the terrace, and it is whether the consumption of alcohol would dramatically increase levels of noise to point it was nuisance. The Sub-Committee noted that the applicant was happy to add a condition which would ensure that fencing would be installed to mitigate the noise coming from the terrace.

The Sub-Committee considered amendments to existing conditions to further mitigate noise nuisance most which were agreed by the applicant at the hearing subject to approval. On page thirty-seven of the pack, under the conditions agreed with the City of London Licensing Team, the Sub-Committee agreed an amendment to condition

number two, where it should read that the terrace must not be used after 22:30 on any day by anyone including staff. Under the conditions agreed with the City of London Police, the Sub-Committee agreed an amendment to condition three to remove the line in between points (c) and (d) relating to the incident log as all CCTV should be considered under the prevention of crime clause. Another amendment to condition three so that it reads “there shall be no sale of alcohol in unsealed containers for consumption off the premises”. Following the Panel’s deliberation of the issue, the panel did not believe that the condition put forward by the Applicant was sufficient to fulfil the licensing objectives. The panel decided to impose the condition to prevent noise nuisance and to fulfil the licensing objectives. It was agreed that if the Applicant receives planning permission they can apply for a variation and it may be considered further at this point (it was noted that the planning permission application was a separate matter and not the deciding factor).

The Sub-Committee also wanted to add two new conditions, so that this would not undermine licensing objectives in respect of prevention of public nuisance and prevention of crime and disorder. Firstly, for the applicant to install fencing to mitigate noise nuisance from the terrace. Secondly, that contact details for the premise would be shared with residents so that they can report any issues.

The Sub-Committee noted that once the above conditions were discussed in the hearing the residents withdrew their representation and were happy with what was proposed. The Applicant too was happy with the conditions.

In reaching its decision, the Sub-Committee was mindful of the provisions of the Licensing Act 2003 (‘the Act’), 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.

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”’*.

DECISION

The Sub-Committee determined that the license should be granted as set out below:

<u>Activity</u>	<u>Proposed licence after amendment</u>
Supply of alcohol for consumption on and off the premises	Mon–Sun 11:00-22:30
Opening Hours	Mon–Sun 07:00-23:00

The Sub-Committee had regard to the conditions that parties had agreed upon in advance of the hearing. It was of the view that it was necessary to impose these conditions for the promotion of the licensing objectives and for the prevention of public nuisance. The Sub Committee noted that these are live documents and can be amended if necessary, giving residents reassurance that any future concerns in terms of anti-social behaviour on dispersal will be addressed.

The Sub-Committee therefore agreed that the following conditions should be attached to the premises licence:

**CONDITIONS CONSISTENT WITH THE OPERATING SCHEDULE AND
APROPRIATE TO THE PROMOTION OF THE LICENSING OBJECTIVES:**

1. A 'Challenge 21 Scheme shall operate to ensure that any person attempting to purchase alcohol who appears to be under the age of 21 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 (similar to MC20).
2. There is to be no live or recorded music played on the 3rd floor roof terrace.
3. The 3rd floor roof terrace is not to be used after 10:30pm on any day.
4. 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 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 (MC01)
5. An incident log shall be kept at the premises and made available on request to the Police or an authorised officer of the City of London Corporation. The log will record the following:
 - a. all crimes reported to the venue
 - b. all ejections of customers
 - c. any incidents of disorder (disturbance caused either by one person or a group of people)
 - d. seizures of drugs or offensive weapons
 - e. any faults in the CCTV system or searching equipment or scanning equipment
 - f. any refusal of the sale of alcohol during the hours the premises is licensed to sell it (MC03)

6. There shall be no sale of alcohol in unsealed containers for consumption off the premises.
7. For fencing to be installed in the rooftop bar to mitigate noise nuisance.
8. For the applicant to provide contact information so that residents can have a point of contact to raise any issues.