

MINUTES OF THE LICENSING (HEARING) SUB COMMITTEE

HELD ON 16 JULY 2014

APPLICANT: OLIVE GRILL LTD
PREMISES: BADOLINA, 210 BISHOPSHATE, LONDON, EC2M 4NR

PRESENT

Sub Committee:

Revd. Dr Martin Dudley (Chairman)
Sophie Fernandes
Graham Packham

City of London Officers:

David Arnold – Town Clerk's Department
Natasha Dogra – Town Clerk's Department
Paul Chadha – Comptroller & City Solicitor's Department
Peter Davenport – Markets & Consumer Protection Department
Steve Blake – Markets & Consumer Protection Department

Applicant:

Represented by Niall McCann – Solicitor, Joelson Wilson LLP.
Witnesses:
Uri Dinay – Director of Olive Grill Ltd.

Those making representations:

Daniel Bell, Assistant Manager of the Woodin's Shades
Debra Cowland, Environmental Health Officer at the City of London Corporation

Licensing Act 2003 (Hearings) Regulations 2005

- 1) A public hearing was held at 10:00 am in the Committee Rooms, West Wing, Guildhall, London, EC2, to consider the representations submitted in respect of an application for the premises 'Badolina, 210 Bishopsgate, London, EC2M 4NR'.

The Sub Committee had before them a report of the Director of Markets and Consumer Protection, which appended copies of:-

Appendix 1: Copy of Application

Appendix 2: Conditions consistent with the Operating Schedule

Appendix 3: Representations from responsible authorities

Appendix 4: Representations from other persons (3)

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

In addition the following document, which was circulated to all parties prior to the Hearing, was also considered:

- Letter from the Applicant entitled 'Badolina New Premises Licence – Statement of Case'.
- 2) The Hearing commenced at 10:00 am.
 - 3) The Chairman opened the Hearing by introducing himself, the other Members of the Sub Committee, the officers present and the nature of the application.
 - 4) It was noted that no Members of the Sub Committee had any declarations.
 - 5) The Chairman outlined the procedure which would be followed.
 - 6) The Chairman invited Mr McCann to speak first regarding Olive Grill Ltd.'s application for a Supply of Alcohol licence. Mr McCann explained that the premises could seat up to 12 customers, with 6 seats inside the premises and 6 seats outside. Customers who chose to eat at the premises consumed their food quickly with a soft drink; the intention of this application was to give customers the option to replace the soft drink with an alcoholic drink. Mr McCann reported that 25-30 bottled drinks would be kept in a locked fridge behind the service desk and the sale of draught beers was unlikely.
 - 7) In response to a question from the Panel, the Director of Olive Grill Ltd. advised that 90% of their customers take away their food and drink between 11:00 am and 3:00 pm whereas 50% of customers choose to eat at the premises between 3:00 pm and 11:00 pm. The Panel informed Mr McCann that alcohol could not be consumed at the tables and chairs outside the entrance to the premises as this area was not defined part of the licenced premises.
 - 8) Mr McCann explained that the applicant had considered the Code of Good Practice for Licensed Premises and were happy to adopt all practices relevant to the premises, which included the following measures: G1, CD1-4, CD9, CD12, CD16, CD18, CD24-25, CD30, CD36-39, PS1-3, PS7-16, PS18-19, PS22, PN16-20, and CH3-7.

- 9) The Chairman invited those with representations any questions to Mr McCann about the proposed Supply of Alcohol licence. In response to a question from Daniel Bell regarding the difficulty in preventing customers from leaving the premises with alcohol in unsealed containers, Mr McCann advised that small size of the premises would allow staff to be vigilant with the removal of customers consuming alcohol on the tables and chairs outside. He added that staff would be trained in this area and that signage would be installed to advise customers that consumption of alcohol outside the premises was prohibited.
- 10) The Chairman invited Debra Cowland to outline her representation to the proposed Supply of Alcohol licence at Badolina. Ms Cowland explained that her representation was based on the increased risk of public nuisance, such as public urination, if the Supply of Alcohol licence was granted to a premises without toilet facilities. She also outlined her concern for members of staff who would have to travel to the toilet facilities at Liverpool Street if the licence was granted. The arrangement for staff use the facilities at the Woodin's Shades opposite the premises would not continue if the licence was granted due to the Woodin's Shades' own representations to the application.
- 11) Daniel Bell was invited to speak regarding the Woodin's Shades' representations to the application for a Supply of Alcohol licence. Mr Bell explained that their primary concern was with the effect the sale of alcohol at Badolina would have on the increase of antisocial behaviour from the homeless population on and around Bishopsgate. He advised that the Woodin's Shades employed door staff every day but still suffered from an average of one or two minor incidents involving homeless people per night. Mr Bell expected that these incidents would increase if the licence was granted because homeless individuals could take open alcohol containers from the tables outside Badolina and return to the Woodin's Shades to drink them. He also advised that the supply of alcohol at Badolina would increase public nuisance as inebriated customers who had been refused service at the Woodin's Shades could walk across the road to buy more alcohol before returning to the pub.
- 12) In response to a question from the Panel, Mr Bell confirmed that the current relationship that involved the Woodin's Shades allowing staff from Badolina to use their toilet facilities would likely cease if the Supply of Alcohol licence was granted.
- 13) The Chairman invited Mr McCann to make his submissions on behalf of the Applicant. In response to Debra Cowland's representations, Mr McCann explained that her concern for members of staff having access to toilet facilities were not a relevant licencing issue and that Olive Grill Ltd. would pay the 30p charge for staff to use the facilities at Liverpool Street Station. He added that there was limited space and time spent in the premises for customers to have more than one drink so public urination due and antisocial behaviour due to alcohol consumption was

unlikely. Moreover, he confirmed that a vast majority of alcohol sales would be for customers to take away.

- 14) Ms Cowland responded by suggesting that the proximity of the Liverpool Street Station toilet facilities was unreasonable for the busy serving staff at Badolina. The Chairman added that this was not a relevant licencing issue for this application.
- 15) In response to Daniel Bell's representations, Niall McCann explained that a Supply of Alcohol licence would not worsen the effect of antisocial behaviour from homeless people Bishopsgate was a busy area where one could obtain food and drink from any number of businesses already.
- 16) Daniel Bell responded by explaining that the opportunity for homeless people and those who had been refused service at the Woodin's Shades to finish opened alcohol containers would lead to an increase in antisocial behaviour. The Chairman added that no one would be able to control where customers went once they left either premises.
- 17) There were no questions from the Applicant or Sub Committee for those making representations.
- 18) In response to a question from the Chairman, the Applicant advised that signage would be installed and staff would be on site at all times to eliminate the consumption of alcohol at the tables and chairs outside the premises. Mr McCann added that the Director of Olive Grill Ltd. sold alcohol at another similar premises and did not have a problem with customers consuming alcohol in un-licensed areas outside the premises.
- 19) There were no further questions from those making representations for the Applicant or Sub-Committee.
- 20) The Chairman explained that a full decision would be circulated within five working days and that if the Sub Committee reached a decision this would be announced today.

All parties returned to the room

- 21) The Chairman thanked those who had remained to hear the decision of the Sub Committee. He explained that the full decision would be circulated to all parties however the application had been granted with the conditions consistent with the Operating Schedule. The three conditions to the grant of the licence were as follows: there shall be no sale of alcohol in unsealed containers for consumption off the premises; the supply of alcohol at the premises shall only be to a person seated taking a table meal and for the consumption by such a person as ancillary to their meal; and 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 to record a) all ejections of patrons, b)

any incidents of disorder (disturbance caused by one or more persons), and c) any refusal of the sale of alcohol.

- 22) The Chairman noted the concerns in Daniel Bell's representation regarding the risk of anti-social behaviour by homeless people in the Bishopsgate area. He advised that these concerns would be reported to the Licensing Committee to be passed onto the Community and Children's Services Committee.
- 23) The Chairman thanked all parties for attending.

The meeting closed at 11:00am

Chairman

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Copy of Decision letter circulated to all parties on 1 August 2014

Applicant: Olive Grill Ltd.
Application: New Premises Licence
Premises: Badolina, 210 Bishopsgate, London, EC2M 4NR
Date of Hearing: Wednesday 16 July 2014 at 10:00 am

I write to confirm the decision of the Licensing (Hearing) Sub Committee at the hearing on 16 July 2014 in relation to the above-mentioned application. The Sub Committee's decision is set out below.

1. This decision relates to an application made by The Olive Grill Ltd. for a new premises licence in respect of the premises 'Badolina, 210 Bishopsgate, London, EC2M 4NR'.

The application sought to provide the following activities:

<u>Activity</u>	<u>Current Licence</u>	<u>Proposed</u>
Supply of Alcohol	N/A	Monday to Sunday: 11:00 – 23:00 hours

2. The Sub Committee considered the application and carefully considered the representations submitted in writing and orally at the hearing by those making representations and the Applicant. There were a number of issues and concerns which were raised both in the written representations and orally however it was noted that these were matters not relating to licensing.
3. In reaching the 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 2013.
4. Furthermore, the Sub Committee took on board 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.
5. In determining the application, the Sub Committee 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 representations focused on the potential for public nuisance resulting from non-clientele accessing unconsumed

alcoholic drinks from the outside seating area and the lack of toilet facilities for staff and patrons at the premises.

6. The Sub-Committee took into account the representations regarding the potential for public nuisance from the premises but concluded that the premises could, with the imposition of suitable conditions, operate without causing nuisance to local businesses. Furthermore the Sub-Committee, mindful of the provisions of paragraph 10.9 in the statutory guidance, determined that the lack of toilet facilities available to customers or staff would be more appropriately address under alternative legislation.
7. It was the Sub Committee's decision to therefore grant the premises licence, subject to the conditions consistent with the Operating Schedule set out below:
 - There shall be no sale of alcohol in unsealed containers for consumption off the premises
 - The supply of alcohol at the premises shall only be to a person seated taking a table meal and for the consumption by such a person as ancillary to their meal
 - 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 will record a) the ejections of patrons, b) any incidents of disorder (disturbance caused by one or more persons) and c) any refusal of the sale of alcohol.
8. The Sub Committee noted the Applicant's intention to comply with the following measures from the Code of Good Practice for Licensed Premises (available via the link at the bottom of this letter): G1, CD1-4, CD9, CD12, CD16, CD18, CD24-25, CD30, CD36-39, PS1-3, PS7-16, PS18-19, PS22, PN16-20, and CH3-7.
9. If the Sub Committee was wrong and the conditions prove insufficient to prevent a public nuisance associated with these premises, all parties are reminded that any responsible authority, business, resident 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, in a variation of the conditions, the removal of a licensable activity or the complete revocation of the licence.
10. If any party is dissatisfied with this decision, he or she is reminded of the right to appeal, within 21 days of the date of this letter, 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.

Yours faithfully

David Arnold

Clerk to the Licensing (Hearing) Sub Committee

Useful Numbers/Websites:

An 'Out of Hours' noise response service is available 24 hours a day by telephone:

0207 6063030

Licensing Policy and Code of Good Practice for Licensed Premises:

<http://www.cityoflondon.gov.uk/business/licensing/alcohol-and-entertainment/Pages/Licensing-policy.aspx>