

AH LICENSING (HEARING) SUB COMMITTEE
THURSDAY, 29 JANUARY 2015

Premises

Sub Committee

Marianne Fredericks (Chairman)
Sophie Fernandes
Christopher Hayward

City of London Officers

Christopher Braithwaite – Town Clerk’s Department
Paul Chadha – Comptroller & City Solicitor’s Department
Peter Davenport – Markets & Consumer Protection Department
Simon Douglas – City of London Police
John Hall – City of London Police

The Applicant

Represented by Neill McCann, Joelson Wilson LLP
Witness:
Mike Fitzgerald, Contemporary Pub Company

Parties with Representations

Graham Packham CC – Resident
James Honeyman – Resident
Natalie Stopps – Resident
Penny O’Regan – Resident
Garry Seal – Environmental Health Officer
Counsel: Ned Westaway

Licensing Act 2003 (Hearings) Regulations 2005

- 1) A public Hearing was held at 10:30AM in the Committee Rooms, Guildhall, London, EC2, to consider the representations submitted in respect of an application for the premises ‘6 Carmelite Street, London, EC4Y 0BX’.

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

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

- 2) The Hearing commenced at 10:00am.
- 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) Before proceeding, the Chairman noted that all three Members of the Sub-Committee had sat as Members of the Planning and Transportation Committee during the determination of the planning application for the property. The Chairman highlighted that the Sub-Committee was meeting to consider different issues than those considered at the Planning and Transportation Committee and therefore there was no issue of predetermination of the application.
- 5) The Chairman also highlighted two issues prior to consideration of the application itself.
- 6) The first was to note that in the papers circulated to the Sub-Committee, Officers, the applicant and those making representations, the premises had been incorrectly located on the map of the local area. The Chairman clarified that the premises in question was located on the north side of Tallis Street, rather than the south side as marked on the map.
- 7) The Chairman also explained that the applicant had circulated a written statement of case two days prior to the hearing and this had been circulated to the Sub-Committee, Officers and those making representations. In this statement of case, the applicant had agreed to modify the application such that the application was now for Monday to Saturday from 11:00 to 23:00 and on Sunday from 11:00 to 22:00. This change in hours for the application also meant that no application was made for late night refreshment, as this was outside the timeframe during which a licence was required for refreshment. The applicant confirmed this change in the application.
- 8) The Chairman outlined the procedure which would be followed.
- 9) The Chairman invited those making representations to speak first regarding the concerns of local residents should a licence be granted to 6 Carmelite Street. Mr Westaway spoke first to summarise the main concerns of the local residents. He explained that residents were concerned about a venue of such a large size (a capacity of up to 130 seated or 330 standing) opening in what was a largely residential area, which residents believed would cause a significant public nuisance. He explained that this was not currently an area with a significant number of

pubs and bars. Following Mr Westaway's summary, local residents (Graham Packham, James Honeyman and Natalie Stopps) and the Environmental Health Officer also spoke to detail their concerns. The following specific concerns were raised by Mr Westaway, residents and the environmental health officer:

- There was not sufficient clarity within the application as to what type of establishment and operation the applicant proposed for the premises, with no details of the scope of operations or management of the premises. The premises maps showed space for 60 covers on the ground floor and 64 covers on the basement floor, with significant standing room which therefore indicated an establishment of significant size.
 - There was no indication as to what was planned in relation to other licensable activities.
 - There were significant concerns about the potential for public nuisance with customers standing outside the premises to smoke, and this would be exacerbated by customers taking drinks outside of the premises at these times, particularly as the layout of the premises and the local area made it likely that patrons would move along Tallis Street towards Temple House. The Cycle Superhighway was due to open in 2016 and as part of this Carmelite Street would become the main thoroughfare to Embankment. This would serve to further ensure that patrons moved down Tallis Street when outside the premises. It was indicated that residents would object to any application for tables and chairs, and there was currently no indication regarding the management of any patrons outside of the premises and the dispersal policy that would be used when patrons left the premises.
 - The licensed premises in the local area were of a relatively quiet nature with limited outside custom, but they still caused some public nuisance issues to residents, in part due to the design of the street which acted as an 'echo chamber'. In addition, due to Temple House and Victoria House being listed buildings, it was not possible for double glazing to be installed at the buildings to mitigate this impact.
 - There was little passing trade in the area and the area had low levels of ambient noise, particularly at night.
 - The other licensed premises in the area were currently closed at the weekend and therefore residents currently benefitted from a very quiet neighbourhood at weekends.
 - The accessible entrance was located extremely close to the entrance to Temple House and use of this entrance was likely to cause disturbance to residents, particularly around closing time.
- 10) Notwithstanding their objection to the application, the residents provided proposed conditions which they would seek to be attached to any licence which was granted. The Chairman explained that the City's Licensing Policy required that conditions must be clear, enforceable, appropriate and necessary. With this in mind, Mr Westaway explained that the main

conditions which the residents would seek to see attached to any licence were:

- A restriction on the hours for serving alcohol from 11:00 to 22:30 from Monday to Saturday, to allow 30 minutes from patrons to finish their drinks and prior to leaving the premises.
- A prohibition on patrons taking alcohol out of the premises.
- No 'off' sales in unsealed containers.
- Food and alcohol to be served by a waiter or waitress to customers seated at tables, save for a small bar area for 20 customers on the ground floor.
- Maximum capacity of the venue to be restricted to 144 customers.
- Deliveries to be restricted to 8:00 to 18:00 from Monday to Friday.
- There should be a contact telephone number for nearby residents to use in the event of complaints arising.

- 11) The Chairman invited the applicant's representative to outline his submission on behalf of the applicant and to respond to the issues raised by local residents and the Environmental Health Officer. Mr McCann explained that the proposed premises would seek to provide a 21st century offer of good food, good wine, good beer and good coffee with flexibility for patrons to take advantage of any combination of these options. However, he explained that the operator was not currently at the stage to provide full details of all operating practices. Mr McCann explained that he had reviewed the residents' submissions in relation to the application and was content to agree to conditions on many of these issues, but was not prepared to agree to a condition to prevent patrons from taking drinks outside of the premises, as this was thought to be extremely beneficial to the premises, both in terms of attractiveness to customers and for gaining passing trade. He indicated that he would be prepared to agree to a condition which would restrict the hours where this was permissible. Mr McCann also indicated that management would ensure that staff monitored the outside area of the premises every fifteen minutes to ensure that any patrons outside of the premises were in good order.
- 12) Mr McCann also explained that if a licence was granted, a table and chairs licence application would also be made, which would allow the premises to better manage patrons outside of the premises.
- 13) Mr McCann explained that the main access to the premises would be on the corner of Tallis Street and Carmelite Street, at the further point from the residential properties at Temple House and Victoria House. As the accessible entrance was close to Temple House, Mr McCann explained that this would only be used for access and egress for disabled patrons, not as an alternative entrance. He explained that it was anticipated that the majority of patrons would leave the premises to along Carmelite Street towards Blackfriars Tube Station.
- 14) Mr McCann explained that there were currently no plans in relation to other licenseable activities for the premises, and he was happy to

remove this aspect of the application such that it was only for the sale of alcohol. He also explained that no capacity had been set for the premises, and this would be determined by the Fire Authority prior to the premises opening.

- 15) In relation to delivery times, Mr McCann explained that he would agree to a condition limiting deliveries to before 21:00 on all days of the week. This proposal was discussed and it was agreed between the applicant and residents that limiting applications to 20:00 on all days would be appropriate.
- 16) While the application was for all days of the week, Mr McCann indicated that it was not currently known whether there would be sufficient trade for the premises to operate at weekends.
- 17) Mr McCann explained that a dispersal policy would be developed should a licence be granted. However, he indicated that the likely custom of the premises was such that it would be unlikely that the premises had significant custom by closing time, and therefore dispersal was likely to take place in small quantities over a relatively long period of time when compared to other establishments.
- 18) It was confirmed that the lobby area would not be licensed as that area had been excluded from the licenceable area in the planning consent.
- 19) While the premises' website mentioned the potential for corporate events to take place at the premises, it was not yet known what scope there would be for this aspect of the business, nor the form that any such events may take.
- 20) Mr McCann explained that a condition requiring patrons to be served exclusively at table by waiters and waitresses would not be conducive to the business model of the premises.
- 21) The Chairman invited both parties to sum up their representations made to the Committee. Both parties did so and emphasised the main points raised during their initial presentations.
- 22) 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 while the Sub-Committee considered its decision.
- 23) The Sub-Committee retired at 12.05pm.
- 24) At 1.00pm the Sub-Committee returned from their deliberations and explained that they had reached a decision.

- 25) The Chairman thanked those who had remained to hear the decision of the Sub-Committee. She explained that the Sub-Committee had agreed to grant the application for the sale of alcohol only from 11:00 to 23:00 from Monday to Saturday and from 11:00 to 22:00 on Sunday, as per the revised terms of the application that had been confirmed by the applicant at the meeting. The conditions to the grant of the licence were as follows:
- All doors and windows shall remain closed at all times save for access or egress or in the event of an emergency. (MC13)
 - A written dispersal policy shall be in place and implemented at the premises to move customers from the premises and the immediate vicinity in such a way as to cause minimum disturbance or nuisance to neighbours. (MC15)
 - A prominent sign shall be displayed at all exits from the premises requesting that patrons leave quietly. (MC16)
 - There shall be no sales for alcohol for consumption off the premises in unsealed containers after 20:00. (MC18)
 - 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)
- 26) In addition the Chairman advised that the following informatives would be added to the licence:
- The premises licence holder is expected to ensure that all deliveries to the property take place between 8:00 and 20:00 on all days.
 - Staff at the Premises will patrol the immediate outside of the Premises every 15 minutes when patrons are suspected to be outside the premises, to ensure that patrons are not blocking the pavement or disturbing local residents. Staff will be reminded of their responsibility to monitor the outside area at weekly staff briefings.
 - 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.
- 27) The Chairman thanked all parties for their attendance and explained that written confirmation of the decision would be circulated to all parties within five working days.

The meeting closed at 1:02pm

Chairman

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Applicant: Contemporary Pub Company Limited
Premises: 6 Carmelite Street, London, EC4Y 0BX
Date / time of Hearing: Thursday, 29th January 2015 – 10.30am
Venue: Committee Room 1, 2nd Floor, West Wing, Guildhall, London EC2P 2EJ

I write to confirm the decision of the Licensing (Hearing) Sub-Committee at the hearing held on 29 January 2015 in relation to the above-mentioned application. The Sub Committee's decision is set out below.

The Sub-Committee comprised of Marianne Fredericks (Chairman), Sophie Fernandes and Christopher Hayward. The Sub-Committee was supported by Paul Chadha (Comptroller and City Solicitor's Department) and Chris Braithwaite (Town Clerk's Department).

1. This decision relates to an application made by Contemporary Pub Company Limited, Gough House, 57 Eden Street, Kingston Upon Thames KT1 1DA for a new premises licence in respect of the premises to be known as "The Carmelite", 6 Carmelite Street, London EC4Y 0BX.

The application sought to provide the following activities:

<u>Activity</u>	<u>Current Licence</u>	<u>Proposed</u>
Films, Recorded music, anything of a similar description to recorded music	N/A	Mon – Sat: 11:00 – 00:00 Sun: 11:00 – 22:30
Supply of Alcohol	N/A	Mon – Sat: 11:00 – 00:00 Sun: 11:00 – 22:30
Late Night Refreshment	N/A	Mon – Sat: 11:00 – 00:00 Sun: 11:00 – 22:30

The supply of alcohol would be for both 'on' and 'off' the premises with the premises open to the public between 11:00 and 00:00 Monday to Saturday and 11:00 to 22:30 on Sunday.

Prior to the date of the hearing, the applicant, in response to a number of objections from local residents and the Department of Environmental Health, submitted a statement of case which sought to amend the application and put forward a number of conditions. The revised application sought the following activities:

<u>Activity</u>	<u>Current Licence</u>	<u>Proposed</u>
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Films, Recorded music, anything of a similar description to recorded music	N/A	Mon – Sat: 11:00 – 23:00 Sun: 11:00 – 22:00
Supply of Alcohol	N/A	Mon – Sat: 11:00 – 23:00 Sun: 11:00 – 22:00

At the Hearing, the Chairman sought confirmation from the applicant of the revised hours of operation, and the applicant confirmed this revised application.

It was also confirmed that the application for Late Night Refreshment was no longer necessary in light of the reduction in the proposed hours.

During discussion of the application, the applicant agreed to remove the application for Films, recorded music and anything of a similar description to recorded music as it was permitted within the revised hours. Therefore the application was determined on the basis of being for the supply of alcohol on and off the premises only.

The Chairman asked the applicant to confirm the location of the premises as being on the north side of Tallis Street and the west side of Carmelite Street, adjacent to the residential block Temple House, as the location map within the reports appeared to be incorrect. The applicant confirmed this. The Comptroller and City Solicitor asked the applicant to confirm the licensable area within the premises as the red line was not clear on the plans. The applicant confirmed that the lobby areas were outside of the licensable area, as per the planning condition.

2. The Chairman informed those present that all three Members of the Sub-Committee had sat on the meeting of the Planning and Transportation Committee which had considered the planning application for the premises and explained that this did not prejudice the Members' views of the application for a premises licence.
3. Mr Ned Westaway, Francis Taylor Buildings, represented the residents from Temple House and Victoria House (a development of 60 residential apartments adjacent to the premises). The Committee also heard from Graham Packham (a local resident, Common Councilman for Castle Baynard and Chairman of the Residents Association for Temple and Victoria Houses), James Honeyman (a resident of Temple House), Natalie Stopps (a resident of Victoria House) and Garry Seal (Department of Environmental Services).
4. The Sub-Committee was informed that residents were concerned about the large capacity of the venue and the potential for public nuisance arising from it, particularly from outside drinking or patrons standing outside and smoking late at night. They had further concerns with the late night dispersal from the venue, potential noise leakage, and disturbance from early morning or late night deliveries. The local

residents also put forward proposals for a number of conditions, if the Sub-Committee was minded to grant the licence.

5. The Sub-Committee then heard from Mr Neill McCann, the Solicitor representing the applicant, who was accompanied by Mr Fitzgerald, Operations Director. Mr McCann drew the Sub-Committee's attention to the premises' Statement of Case. Within this document, the applicant had tried to address the concerns of the objectors or reducing the hours. There would be no application for late night refreshments, no need for a condition in relation to Promoted Events, as by definition they started after 23:00 and therefore outside the hours of operation. The application for Film, Music or anything of a similar nature was also no longer requested. Mr McCann explained that his clients had applied for off sales as they wished to apply for a Tables and Chairs Licence, and showed the Sub-Committee (with the agreement of the objectors) photographs showing the pavement outside of the venue.
6. Mr McCann explained that his client wanted the flexibility of opening at weekends and the applicant had requested off sales in unsealed containers until 22:00. To address the residents' concerns, Mr McCann explained that the applicant would undertake to monitor the outside of the premises every 15 minutes when patrons were outside. They would also provide residents with a contact telephone number, and explained that deliveries would take place between the hours of 8:00 and 20:00. Mr McCann explained that given the concerns raised by the residents the applicant also agreed to limit the use by the general public of the accessible entrance on Tallis Street (the doors nearest to the residents' apartments).
7. The Sub Committee considered the application and carefully deliberated upon the representations submitted in writing and orally at the hearing by those making representations and the Applicant.
8. 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.
9. Furthermore, 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.
10. 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.

11. In reaching its decision the Sub Committee took into account the character of the area and the proposed business operations of the applicant. The Sub Committee concluded that, in discharging its duty to promote the licensing objectives, it was not necessary to reject the application.
12. The Sub Committee then considered whether it was necessary and appropriate to impose any conditions upon the licence, to promote the relevant licensing objectives and concluded that it was necessary and appropriate to impose conditions upon the licence so as to address the concerns relating to public nuisance.
13. It was the Sub-Committee's decision to grant the premises licence, subject to amending the application, as offered by the applicant as follows:

<u>Activity</u>	<u>Current Licence</u>	<u>Proposed</u>
Supply of Alcohol	N/A	Mon – Sat: 11:00 – 23:00 Sun: 11:00 – 22:00

14. Mindful of the nature of the premises and the concerns expressed, the Sub-Committee consider the following conditions to be appropriate and necessary to ensuring the good management of the proposed activity:
 1. *All doors and windows shall remain closed at all times save for the entry or exit, or in the event of an emergency. (MC13)*
 2. *A written dispersal policy shall be in place and implemented at the premises to move customers from the premises and the immediate vicinity in such a way as to cause minimum disturbance or nuisance to neighbours. (MC15)*
 3. *Prominent signage shall be displayed at all exits from the premises requesting that customers leave quietly. (MC16)*
 4. *There shall be no sales of alcohol in unsealed containers for consumption off the premises after 20:00. (MC18)*
 5. *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)*
 6. *There shall be no use of the disabled access door located on Tallis Street by the general public after 20:00, save for disabled access and exit.*
15. The Sub-Committee noted the applicant's offer to ensure that deliveries to the premises would take place between the hours of 08:00 and 20:00 and that staff will monitor the outside of the premises every 15 minutes when patrons are outside using the area, to ensure that patrons are not disturbing local residents or blocking the pavement.
16. 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.

17. 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,

Christopher Braithwaite

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/beer-and-entertainment/Pages/Licensing-policy.aspx>

CC: 6 Carmelite Street, London, EC4Y 0BX

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