

MINUTES OF THE LICENSING (HEARING) SUB COMMITTEE
THURSDAY, 4 MAY 2017

APPLICANT: DISAPPEARING DINING CLUB LIMITED
PREMISES: 24-26 NEWBURY STREET, LONDON, EC1A 7HU

Sub Committee

Michael Hudson (Chairman)
Marianne Fredericks
Judith Pleasance

City of London Officers

Paul Chadha - Comptroller & City Solicitor's Department
Peter Davenport - Department of Markets and Consumer Protection
Gemma Stokley - Town Clerk's Department

The Applicant

Andrew Woods, Solicitor acting on behalf of the applicant
Stuart Langley, Owner and Operator of 24-26 Newbury Street –
Disappearing Dining Club Limited)

Parties with Representations

Laura Daly, Resident, also representing Jas Thind and Kieran Thind
Wendy Darke, Resident, also representing James Darke

Licensing Act 2003 (Hearings) Regulations 2005

A public Hearing was held at 11:00am in Committee Room 1, Guildhall, London, EC2, to consider the representations submitted in respect of an application for a new premises licence at 'Disappearing Dining Club', Ground Floor, 26 Newbury Street, London EC1A 7HU.'

The Sub Committee had before them the following documents:-

Hearing Procedure

Report of the Director of Markets and Consumer Protection

Appendix 1 – Copy of Application

i) Amendment to Application

Appendix 2 – Conditions Consistent with the Operating Schedule (including the condition contained in the amendment)

Appendix 3 – Sub-Committee hearing result on 2 June 2016

Appendix 4 – Representations from Other Persons

Appendix 5 – Map of subject premises together with other licenced premises in the area and their latest terminal time for alcohol sales

Appendix 6 – Plan of Premises

Appendix 7 – Additional documentation submitted by the applicant in support of the application.

- 1) The Hearing commenced at 11:00am.
- 2) The Chairman introduced the Sub-Committee members, explained the purpose of the hearing and confirmed that all papers had been considered by the Sub-Committee in advance. The Chairman asked all of those present to introduce themselves and state in what capacity they were attending the Sub-Committee.
- 3) The Chairman asked the Applicant to clarify exactly how the venue proposed to operate and to set out, briefly their business model.
- 4) The Solicitor acting on behalf of the applicant confirmed that the venue would be operating solely as a restaurant which would be situated on the ground floor only (the new application no longer covered the licensing of the basement area following its previous rejection) and that the restaurant would have a maximum of 18 covers. He drew attendees attention to the photograph contained within Appendix 7 which he stated depicted the full extent of the premises.
- 5) He went on to clarify that all alcohol served would be ancillary to a substantial meal. He drew the attention of those present to an example of the current menu on offer included within the agenda pack.
- 6) In response to questions from the Sub Committee, the Applicant reported that whilst the restaurant would welcome bookings and operate in the usual way he also held a database of clients who would be informed about the offerings. The Solicitor acting on behalf of the Applicant reported that Mr Langley also visited clients in their own homes to cook for private parties. He added that the Disappearing Dining Club headquarters had previously been situated in Brick Lane but that the lease on the premises here had now expired. The kitchen at the Newbury Street location was now therefore currently being used to cater for events elsewhere as well as for the restaurant on site.
- 7) In response to a separate question from the Sub Committee, the Applicant stated that he was not planning to open outside of the hours applied for (Weds-Sat 11:00-22:45) by offering corkage but stated that this might be a future consideration should this amended application be rejected.

8) With the permission of the Sub Committee and the objectors, the Applicant tabled a written Dispersal Policy.

9) Ms Daly addressed the Committee and began by stating that she had been a resident in Newbury Street for 7 years having previously lived at the Barbican. She had therefore been a City resident for over a decade. Ms Daly stated that, whilst she appreciated the efforts made by the Applicant to date, she remained unsatisfied that the amended application promoted the City of London Corporation's licensing objectives. She added that the architecture and unique characteristics of the Newbury Street area, where noise reverberated and amplified upwards, made it inherently impossible for a business of this type to operate here without disturbing local residents.

10) Ms Daly also expressed concern that the granting of this application would set an unwelcome precedent for the growth of a night time economy in Newbury Street which would be difficult to reverse. She was concerned that numerous measures proposed by the Applicant were reliant on customer compliance and were therefore unenforceable. She shared particular concerns around taxi pick up and drop off at the venue in a very narrow, two way street.

11) Ms Daly suggested that the Applicants offer of providing all local residents with a direct telephone number for the manager of the premises was not reassuring in terms of preventing noise disturbance – it was simply a means to report this once it was already in train. Similarly, she remained unconvinced that the use of CCTV and a 'no promoted events' condition would guarantee good behaviour.

12) Ms Daly went on to speak on behalf of Jas Thind and Kieran Thind and to summarise their concerns for the Sub Committee. They both also remained unconvinced of the Applicants ability to control certain issues without these leading to incidents of public nuisance and crime and disorder, particularly where alcohol consumption was involved – something which they believed the Applicant would be seeking to maximise in order to make sufficient profit.

13) Mrs Darke stated that she was addressing the Sub Committee on behalf of her and her husband, James Darke, with whom she had made a joint written objection. She stated that, of particular concern to them and other residents in Kinghorn Street was noise outside of the premises after its closure at 23:00. She added that, at present, the area was relatively quiet on Saturday evenings. She pointed to the fact that the nearby Hand & Shears public house was closed at weekends.

14) Mrs Darke stated that five owner occupiers had submitted written objections to the application, some of which were very detailed, and that this underlined the strength of feeling on the matter. She added that, had the

nearby Bart's Square Complex been fully occupied, she was sure this too would have led to even further objections from nearby residents. She pointed to the fact that the City of London Corporation had appeared to encourage more residents in this area in recent years and that they should now therefore have a duty to protect the quality of life of these residents.

15) The Solicitor acting on behalf of the Applicant sought to reassure those making representations with regard to noise after 23:00 by stating that the terminal hour for all alcohol sales would be 22:45 Weds-Sat with the premises closing at 23:00 on each of these evenings. He added that the application for the sale of alcohol was for on the premises only. He went on to report that Mr Langley had met with a number of local residents personally on a weekly basis since he commenced trading at Newbury Street. As a result, two of the four who had previously objected to his application for a licence previously had chosen not to do so on this occasion. He went on to draw attention to the email from a previous objector now supporting the venture which featured at Appendix 7 of the document pack circulated to all.

16) The Solicitor acting on behalf of the applicant highlighted that his client had accepted a number of points made at the last Hearing at which his application was rejected. Since this time, Mr Langley had operated a number of Temporary Event Notices at the premises over the past four months, all of which had been without complaint of any kind. It was felt that any comparison with the nearby Hand & Shears public house was unfair given that this venue allowed outside drinking on weekday evenings – something that was not under discussion here.

17) With regard to taxi drop off at the venue, the Solicitor acting on behalf of the Applicant reported that when Mr Langley accepted telephone bookings he clearly explained to patrons that it was not possible to be dropped off directly outside the venue. In the past four months just one patron – an expectant mother – had been dropped off at the venue by taxi.

18) With the permission of the Sub Committee and the objectors, the Applicant tabled a written Dispersal Policy. The Solicitor acting on behalf of the Applicant explained that Mr Langley had met with the City's Licensing and Environmental Health Officers ahead of submitting this amended application and that the Dispersal Policy had been developed with their input. The Sub Committee highlighted that this document could be amended at all times. He reported that the amended application had received no objections from the Responsible Authorities.

20) In response to further questions, the Applicant clarified that all delivery drivers were made aware of the premises' operating times and that no deliveries were therefore left on the narrow street outside. He confirmed that waste collections would take place between 08:00 and 18:00 with collections for Saturday evenings scheduled for Sunday or Monday day and all waste stored inside the premises until collection.

21) The Sub Committee questioned why those making representations or

other local residents had not submitted any complaints during any of the Temporary Event Notices operated at the venue over the past four months. Those making representations felt that this was because the road had been closed to traffic with acoustic barriers placed around the road works site. However, with no through traffic traveling along the road, it was suggested that, had there been any noise emanating from the premises or from patrons arriving or leaving, it would be more likely to have been noticed at this time. It was also noted that representations had been received confirming that there had been no issues - one of these from a resident who lived directly opposite the venue. The Sub Committee also highlighted that some of the TENs had operated at weekends when the Hand & Shears public house was closed and that there had been no complaints following those evening events. There was a discussion as to whether the sound barrier fencing, put in place during roadworks and which the objectors said would have reduced any noise, was in place at the time of the functions covered by the last two TENs - both of which covered a Saturday.

22) At the Sub Committee's request, the Solicitor acting on behalf of the Applicant summarised the application by stating that it was very limited in terms of both capacity and attached conditions - the terminal hour for all alcohol sales would be 22:45 Weds-Sat only with the premises closing at 23:00 on each of these evenings. He added that the application for the sale of alcohol was for on the premises only and that there would be no corkage/use of the restaurant outside of these times. He highlighted the various conditions offered by the Applicant to promote the four licensing objectives as detailed within the application. He added that his client was very conscious of the sensitivity of the location as highlighted by residents and was therefore very aware of the likely consequences of any disturbances. He reiterated the fact that no objections had been received from Responsible Authorities on this occasion and that the City of London Police, at Appendix 7, had submitted an email confirming the fact that they had found the venue to be very quiet and had no concerns.

23) The Sub-Committee retired at 11.45am.

24) At 12.18pm the Sub-Committee returned from their deliberations and explained that they had reached a decision. The Chairman thanked those who had remained to hear the decision of the Sub-Committee.

25) 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.

26) It was noted that the venue had operated successfully with Temporary Event Notice's without any complaints from the objectors. In addition, the representations made in writing as well as at the hearing, appeared to indicate that objectors had been unaware that the venue had been open and operating at weekends under these Temporary Event Notices.

27) In reaching its decision the Sub-Committee took into account the nature

of the business that the Applicant proposes to operate and its location/surrounding area.

<u>Activity</u>	<u>Current Licence</u>	<u>Proposed</u>
Supply of Alcohol	N/A	Wed– Sat 11:00 – 22:45

28) The Sub Committee were satisfied that, on balance, subject to the imposition of suitable conditions, the premises can operate within the licensing objectives.

29) The Chairman reported that it was the Sub-Committee's decision to grant the premises licence as follows:

The premises would be open to the public between 11:00 and 23:00 Wed – Sat. The premises can still be open on Sunday to Tuesday for non-licensable activities only.

The supply of alcohol was for on the premises only.

30) The Sub Committee, in reaching its decision, noted the following:

- That the Applicant had operated a number of Temporary Event Notices at the premises without any recorded complaints – this had led them to conclude that the Applicant was able to operate the premises responsibly and that there was no reason to believe that this would not continue;
- No representations from any of the Responsible Authorities had been received in response to this significantly different, amended application.

31) The Sub-Committee considered the following conditions to be appropriate and necessary to promote the licensing objectives:

- a) *All doors and windows shall remain closed at all times during the provision of licensable activities save for entry or exit, or in the event of an emergency (MC12);*
- b) *The premises licence holder shall prepare and implement a written dispersal policy 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 (MC14);*
- c) *A prominent sign shall be displayed at all exits from the premises requesting that patrons leave quietly (MC15);*
- d) *Patrons permitted to temporarily leave and then re-enter the premises e.g. to smoke, shall be limited to two persons at any one time (MC16);*
- e) *The Licence holder shall make available a direct current telephone number for the manager of the premises to nearby residents and the Local Licensing Authority to be used in the event of complaints arising (MC18);*

- f) *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 (MC27);*

32) The Chairman thanked all parties for their attendance and explained that written confirmation of the decision would be circulated to all within five working days.

Chairman

Contact Officer: Gemma Stokley
Tel. no. 020 7332 1407
E-mail: gemma.stokley@cityoflondon.gov.uk