

LICENSING SUB COMMITTEE

Wednesday, 4 January 2012

Premises: Dining Venture, 16A, B & C New Street, EC2M 4TR

Sub Committee

Edward Lord OBE JP (Chairman)
Marianne Fredericks
Alderman Walsh

City of London Officers

Caroline Webb - Town Clerk's Department
Paul Chadha - Comptroller & City Solicitor's Department
Peter Davenport - Markets and Consumer Protection Department

The Applicant

Dining Ventures Ltd, represented by Ms Elizabeth Southorn, Harris Hagan Solicitors and accompanied by Chris Yates (Dining Ventures) and Carsten Lund and David Pantrini (Devonshire Square Estates).

The Objectors

Mr Gary Seal, Environmental Health Officer
Mr David Salvi, of Hurford Salvi Carr, managing agents for residential premises at 5, 6 and 7 New Street
Mr Marco and Mrs Isabelle Houscheid-Lentz, local residents

Also in Attendance

Francesca Burnett-Hall, Harris Hagan Solicitors
Tony Bride, Senior Environmental Health Officer

Licensing Act 2003 (Hearings) Regulations 2005

1. A public hearing was held in the Committee Rooms, Guildhall, London, EC2, to consider the objections submitted in respect of an application made by Dining Ventures Ltd for the premises known as Dining Venture, 16a, b & c New Street, EC2M 4TR.
2. The application sought for a new premises licence, for the following licensable activities:
 - i) Supply of alcohol
 - ii) Films
 - iii) Live Music
 - iv) Recorded Music
 - v) Anything similar to iii) and iv)
 - vi) Making music
 - vii) Dancing
 - viii) Anything similar to vi) and vii)

between the hours of 07:00 to 02:00 Monday to Sunday and for the provision of late night refreshment between the hours of 23:00 to 02:00 Monday to Sunday.

The application also sought to open the premises 24 hours a day i.e. 00:00 to 00:00 Monday to Sunday.

3. The hearing commenced at 10:03am.
4. The Chairman opened the hearing by introducing himself, the other Members of the Sub Committee and officers present. He explained the purpose of the hearing was to determine a new application made by Dining Ventures Ltd for the premises known as Dining Venture, 16a, b & c New Street, EC2M 4TR.
5. It was noted that no members of the panel had any personal or prejudicial interests.
6. The Chairman outlined the procedure that would be followed.
7. The applicant, her representatives and the objectors introduced themselves.
8. It was noted that representatives from the security firm Devonshire Square Estates were present in order to address some of the concerns raised by residents and explain the additional security measures that would be put in place.
9. The Chairman highlighted that relevant information was missing from the application form submitted, in particular the inclusion of a covering statement which was requested as part of the City Corporation's own licensing policy. The statement should set out explaining, in some detail, the nature of the proposed operation. It was noted that the purpose of the statement was to help alleviate assumptions of how the premises would be operated. In cases where applications did not receive objections, the statement would be useful for the licensing team in order for them to know what to expect.
10. Ms Southorn highlighted that a general description of the operation of the premises had been provided at the appropriate part of the application form. Once objections had been received, the applicant sought to address the concerns raised by the creation of a detailed additional written report on the operation of the premises. Hard copies of the report were circulated. As the Sub Committee had not been in receipt of the additional report, the hearing adjourned for them to consider the content.
11. The hearing adjourned at 10.15am.
12. The hearing reconvened at 10.26am.
13. The Chairman informed those present that the additional report was an exemplary example of the information sought regarding the operation of the premises.

14. In answer to a question from a Member of the panel, an original copy of the plan was circulated to show the red line around the premises, indicating that the whole premises would be licensed if granted. The coloured areas on the map were to highlight where licensable activities would be taking place.
15. Mr Seal informed the Sub Committee that he had been in contact with the applicant since submitting his objection and that most of his concerns had been addressed. He had requested for a copy of the acoustic report that had been compiled and this would be presented to the Planning and Transportation Committee for them to consider.
16. It was noted that the applicant would be prepared to accept a condition to limit amplified sounds should the Sub Committee decide to impose one.
17. Ms Southorn highlighted that the terraced area of Devonshire Terrace closed at 10.00pm and the Cinnamon Kitchen terrace closed at 10.30pm. It was noted that there were some residents living on the side of Devonshire Square.
18. Mr Houscheid-Lentz explained to the Sub Committee that he and his wife moved to their apartment in New Street for convenience as they both work in the City and that the building was listed and not soundproofed. Their main concerns were focused on potential noise outside their flat, particularly at night when they would be trying to sleep. Mr Houscheid-Lentz also stated that he was shocked and surprised when he saw the application, as he was under the impression there may have been only one fine dining restaurant which he assumed would close around 10.00pm and not two restaurants and a wine shop.
19. The Sub Committee, two of which were residents within the City, highlighted that most restaurants in the City were open past 10.00pm, one of the advantages of living there, and that background noise should be expected. There were other premises' in the City with residents living above. The Chairman stated the need to strike a fair balance between businesses and residents and the importance of distinguishing between public and private nuisance.
20. Although the additional written report contained information on the operation of the premises, Mr Houschied-Lentz did not feel reassured and thought that the applicant should have contacted the residents before putting in the licensing application.
21. It was noted that D&D, the owner and operator of the premises, acquired the space as soon as the lease became available. Throughout the development of the area, the space in question was always to be for A3 usage.
22. Mr Houscheid-Lentz confirmed that he was aware of the nature of the premises' run by D&D having visited some of them himself but he still had concerns over potential noise disturbance. It was confirmed to Mr Houscheid-Lentz that the

times shown on the websites for the other premises' run by D&D were not opening hours but the time frame reservations were available for.

23. A Member of the panel informed those present that the outside terraced areas would always be closed from 11.00pm. It was noted that there was a clause in the resident's lease to address noise issues and that could be used as a remedy.
24. Mr Salvi stated that Hurford Salvi Carr was one of the marketing agents for residential properties in Tapestry Square. He had been contacted by clients to object as they were concerned that noise would affect the rental income on the properties. Mr Salvi was aware that there were plans for a restaurant to open but he had assumed it would be open no later than 11.00pm. He confirmed that most of his clients owned property towards the east of London and not in the City itself.
25. It was noted that the proposed smoking area would be located at the eastern end of the premises at the Bengal courtyard as there were offices above this area.
26. The Chairman highlighted that the Sub Committee would need to determine whether any nuisance would be public or private, by taking in to account a variety of factors including other premises, the surrounding area and the fact that residents reside in a listed building.
27. It was noted that the public house at the end of New Street received deliveries before 8.00am due to parking restrictions and that Dining Venture deliveries would be at a similar time. The Chairman stated that this was not for the Sub Committee to consider as it was not a licensable activity.
28. Ms Southorn summed up her case and highlighted that D&D ran highly regarded fine dining restaurants and in comparison to most London restaurants, Dining Venture would be a small venue. She stated that there were various ways the objectors could channel complaints should they experience noise nuisance once the premises opens. There would be a designated taxi point on Bishopsgate to avoid taxi services going down New Street itself. Additional security would also be provided in the way of a security guard on patrol who would operate throughout opening hours. An extra CCTV camera had been installed overlooking the courtyard which linked up to the security centre in Devonshire Square.
29. It was confirmed by the applicant that dancing would be required until 2.00am in case of private parties and weddings etc. but live music could cease at 11.00pm if required.
30. The Sub Committee retired at 11.44am, accompanied by the representatives of the Town Clerk and the Comptroller & City Solicitor to deliberate and reach a decision.

- (1) The Sub-committee considered the application with care and, in particular, the representations submitted in writing and orally at the hearing by the applicant's representative, Ms Southorn and the objectors, Mr Seal, an Environmental Health Officer, Mr and Mrs Houscheid-Lentz, local residents and Mr Salvi, on behalf of Eastbank Studios Limited. The Sub Committee also considered written representations from the New Street Residents Association, Mr Andrew Dempsey, a local resident and Ms Fiona Harries, on behalf of Shield House Ltd.
- (2) In reaching their decision the Sub-committee was 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 2011.
- (3) 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 to impose conditions on the granting of the application in order to promote one (or more) of the licensing objectives.
- (4) 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 was the prevention of public nuisance.
- (5) In reaching its decision the Sub-committee took into account the nature of the operation proposed by the applicant and was particularly impressed by the additional written information supplied in support of the application which provided a helpful insight into the manner in which the premises were to be operated. The Sub-committee also noted that the information contained in this document had allayed many of the concerns held by the environmental health officer. The Sub-committee was not convinced that the representations made by Mr. & Mrs. Houscheid-Lentz and Mr. Salvi in respect of potential public nuisance resulting from the premises operation would materialise.
- (6) Consequently the Sub-committee concluded that, in discharging its duty to promote the licensing objectives, it was not necessary to reject the application or to exclude any of the licensable activities sought in the application.
- (7) The Sub-committee then considered whether it was necessary to impose any conditions upon the licence. Again, the Sub-committee was assisted by the applicant's additional written information and the proposed condition suggested by the City of London Police and set out in the applicant's solicitor's letter of 22nd November 2011. The Sub-committee noted the applicant's proposal that there be no live music after 23.00 hours and that the terraces would not be used after 23.00 hours. The Sub-committee was

of the opinion that to impose such restrictions on the premises licence would promote the prevention of public nuisance.

(8) It was the Sub-committee's decision to grant the application with the following conditions to be imposed:

1. *The premises will not be used for Promoted Events. 'A promoted event is an event involving music and/or dancing where the musical entertainment is provided at any time between 11.00pm (2300) and 7.00am (0700) by a disc jockey or disc jockeys one or some of whom are not employees of the licensee (premises licence holder) and the event is promoted to the general public.'*
2. *The terraces shall be closed by 23.00.*

(9) In addition the Sub-committee decided to restrict the hours for the performance of live music to 07.00 to 23.00

(10) If the Panel are wrong and these conditions provide insufficient to prevent public nuisance associated with these premises, all parties are reminded that any responsible authority or business or resident in the vicinity is entitled to apply for a review of the Licence. This may result, amongst other things, in a further variation of the conditions or the removal of a licensable activity for this area.

(11) If any party is dissatisfied with the decision, he or she is reminded of the right to appeal, within 21 days, 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.

31. The Chairman thanked all those present at the hearing.

The meeting closed at 12.55pm

CHAIRMAN

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