

MINUTES OF THE LICENSING (HEARING) SUB COMMITTEE
THURSDAY, 2 JUNE 2016

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

Sub Committee

Peter Dunphy (Chairman)
Deputy John Barker
Deputy Jamie Ingham Clark

City of London Officers

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

The Applicant

Stuart Langley, Founder and Co-owner of Disappearing Dining Club Limited
Anna Mathias, Barrister representing the Applicant

Parties with Representations

Ms Rachel Sambells, City of London Environmental Health Officer
Brendan Barnes, resident
Laura Daly, resident
Peter Dennis, resident
Mary Hustings, resident
Julian Ingall, resident
Keiran Thind, resident

Licensing Act 2003 (Hearings) Regulations 2005

A Review Hearing was held at 11:00am in Committee Room 1, Guildhall, London, EC2, to consider and determine, through review, measures regarding the premises licence for '24-26 Newbury Street, London EC1A 7HU.'

The Sub Committee had before them the following documents:-

Report of the Director of Markets and Consumer Protection:
Appendix 1 – Copy of Application
 Amendments to Application

Appendix 2 – Conditions Consistent with the Operating Schedule

Appendix 3 – Representations from Responsible Authorities:
 Environmental Health

Appendix 4 – Representations from Other Persons
Residents and Elected Members

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

Additional Bundle from Applicant (separately circulated)

Applicants proposed Noise Management/Dispersal Policy (separately circulated)

- 1) The Hearing commenced at 11:00am.
- 2) The Chairman introduced the Sub-Committee members and confirmed that all papers had been considered by the Sub-Committee in advance of the hearing. The Chairman asked all of those present to introduce themselves and state in what capacity they were attending the Sub-Committee.
- 3) The Chairman opened the hearing by underlining that the Sub-Committee must be made with a view to promoting one or more of the four licensing objectives.
- 4) The Chairman invited the applicant to clarify all of the proposed amendments to the application to date.
- 5) Ms Mathias highlighted that, at the invitation of the City of London's Environmental Health Team, the applicant had submitted a Noise Management/Dispersal Policy which had been circulated to the panel and to all those making representations ahead of the Hearing. The terminal hours sought had now been considerably scaled back to 10pm on Sundays, 11pm Monday-Thursday and midnight on Fridays and Saturdays with the premises closing 30 minutes thereafter. Ms Mathias drew attention to pages 12-13 of the applicants bundle (also circulated to all electronically ahead of the hearing) which set out, in full, the additional conditions proposed by the applicant in response to the concerns of both Environmental Health and of residents.
- 6) The Chairman then invited the applicant to explain the nature of the business proposed.
- 7) Mr Langley reported that the plans were for a small restaurant where the main intention would be for patrons to enjoy a sit down meal accompanied by drinks. It would, however, also be possible for patrons to order a bottle of wine and some bar snacks. The plan was for approximately 26-28 covers at the restaurant, creating a very small, very discreet dining establishment.
- 8) The Chairman invited those representing the responsible authorities to address the Sub-Committee. The Sub-Committee heard from Ms Sambells of the City of London's Environmental Health Office who stated that the proposed location of

the premises was a very quiet, predominantly residential, street in which there was currently no through traffic and no other licensed premises meaning that there were very low background noise levels compared with most other areas of the City and no alternative noise sources to mask any added sound. This would make it incredibly difficult to prevent a public nuisance and any noise disturbance to local residents. Concerns around those arriving at and leaving the venue as well as patrons outside of the venue smoking therefore remained despite the mitigation offered by the applicant. Ms Sambells was of the strong view that the business would be much better located elsewhere in a location with existing background noise.

- 9) Ms Sambells went on to state that the City of London's Environmental Health Team were committed to trying to protect the World Health Organisation's guidance around protected hours of sleep from 11pm to 7am. If this application were to be granted it was therefore Environmental Health's view that it would require considerable work including a formal Sound Management Policy from the applicant indicating where any noise limiters would be installed and where any smoking location might be situated.
- 10) Ms Sambells concluded by stating that the City of London Corporation could find no record of the premises having been previously licensed.
- 11) The Chairman invited those who had made representations as 'other persons' to address the Sub Committee.
- 12) Mr Barnes stated that he had moved into Newbury Street on the basis that it was a particularly quiet area of the City. He added that the Disappearing Dining Club had previously been situated in Brick Lane – a very different area to Newbury Street. He agreed with the concerns expressed by Environmental Health regarding smokers congregating outside the venue and went on to question the Dispersal Policy put forward by the applicant, by stating that it was very rare for patrons to ask staff to book taxis for them before leaving a venue. Mr Barnes added that the imminent introduction of the late-night tube would only encourage patrons to walk through Newbury Street towards the St Paul's area to continue their evening. Mr Barnes concluded by informing the Sub Committee that there was a surgery located near the proposed premises, that was regularly attended by both elderly and parents pushing children in pushchairs. Given the narrowness of the Street this posed further concerns in terms of Health and Safety, particularly if pavements were to be blocked at any time of the day by deliveries to the premises and/or waste.
- 13) Ms Daly reported that she had been a Newbury Street resident for 6 years now. She thanked the applicant for their efforts in terms of the proposed amendments to the original application and the proposed Noise Management/Dispersal Policy. She added that she had taken the opportunity to discuss the plans further with Mr Langley and had also recently visited the premises. Despite this, Ms Daly underlined that her initial concerns still remained. She did not feel that the amended application met the Licensing Objectives and was also concerned at the precedent that granting this licence might set for a night time economy in the area. Ms Daly went on to state that

she did not feel that the conditions proposed by the applicant in terms of noise management were either workable or enforceable (particularly with alcohol involved) as they were wholly dependent on customer compliance. Ms Daly talked the Sub Committee through the characteristics of Newbury Street which she described as a very narrow, tranquil, two-way street. She highlighted that traffic flow problems could therefore easily arise here. Customers smoking on the pavements outside could also easily spill out on to the road. Ms Daly added that the acoustics of the street amplified any noise upwards in a 'canyoning' effect to residential buildings. Ms Daly requested permission to show the Panel some photographs of the street to illustrate her points. The applicant and applicant's barrister viewed the photographs and stated that they had no objection to these being shared with the panel.

- 14) Ms Daly went on to outline her concerns around the conditions offered by the applicant concerning waste and recycling in that these may not be tenable. She stated that, with plans for approximately 100 covers per day, a large amount of waste and recycling would be generated by the premises. There were real concerns amongst residents that this would be left on the pavements outside of the premises, potentially compromising the fire evacuation routes of nearby offices. Ms Daly concluded by accepting that, whilst the applicant's business proposal seemed genuinely interesting and well considered, the conditions offered (including the installation of CCTV cameras and agreement to no promoted events) were certainly no guarantee of good behaviour. She therefore asked that the Sub Committee reject the application outright.
- 15) Mr Dennis began by stating that he was grateful for the mitigating proposals put forward by the applicant however, he was strongly of the view that these did not go far enough in addressing the concerns of residents. He reiterated that Newbury Street was a very quiet enclave with the only licensed premises nearby having a terminal hour of 11.00pm and no weekend opening. He highlighted that Farmers and Fletchers, also situated nearby, was very respectful of the nature of the area and did not use their full licensable hours. He added that even the chimes of the clock on St. Bartholomew the Great were silenced from 11pm to 7am and had been for many years now. Mr Dennis stated that, from conversations with Mr Langley, he was led to believe that it was the quietness and uniqueness of the location that was the very thing that had first attracted him to Newbury Street for this venture. This would, inevitably, lead to clashes with residents who equally valued and were attracted by the quietness of the area. Mr Dennis commented on the narrowness of the street, stating that, even if the restaurant were to book taxis for patrons leaving the venue, there was no guarantee that the taxis would obey the traffic "laws" in this area. He went on to highlight that the premises would not be advertised in any way and that customers would, instead, be drawn from a database of around 20,000 people held by the Disappearing Dining Club. This therefore gave rise to concerns that this would not be an establishment for local people and that the vast majority of patrons were likely to be arriving from elsewhere and taking cars to and from the venue. This was clearly outside of the Disappearing Dining Club's control. Mr Dennis concluded by stating that whilst the intention was to host quiet, discreet dinner parties at the premises, he was very concerned that, if this did not prove successful, the Disappearing Dining

Club would revert back to their original plans and attempt to host similar events to those previously hosted in Brick Lane and in Bermondsey which were very different locations to Newbury Street and accustomed to a vibrant night time economy.

- 16) The Chairman clarified that it would not be possible for the applicant to vary any licence that might be granted today without submitting a new application.
- 17) Mr Dennis added that he believed that the application would have attracted more objections if a notice had also been placed on the premises' Middle Lane exit. He went on to say that, on the City of London's website, it recommended that notice of applications be placed in suitable publications such as 'The Metro' 'City AM' or 'The Evening Standard'. This notice was, however, published only in 'The City of London and Docklands Times' - a very obscure publication with limited circulation in the City.
- 18) Mr Ingall stated that he had lived in Newbury Street for 8 years and reiterated that, due to the narrowness of the street, any noise was very disturbing to all residents. Mr Ingall requested permission to show the Panel some photographs of the street depicting both waste and deliveries left outside the premises in recent days. The applicant and applicant's barrister viewed the photographs and stated that they had no objection to these being shared with the panel.
- 19) Mr Thind commenced by saying that he felt that the vast majority of the mitigating proposals put forward by the applicant implied that the concerns of residents were valid. He therefore requested that the Sub Committee reject the application outright. He went on to illustrate his point by saying that the proposal from the applicant that no drinks would be permitted outside the premises appeared to be a recognition that people would regularly leave the premises to smoke – something which residents felt would be unworkable and may lead to noisy disagreements between drunken patrons and staff. Mr Thind stated that he appreciated that local residents would be provided with a telephone number on which to report any noise disturbance but added that he would rather not have to frequently utilise this in the early hours of the morning. Mr Thind informed the Sub Committee that, where Newbury Street widened slightly was where the entrance to the premises was situated. The pavement here was therefore narrower and posed a real health and safety risk in terms of those leaving the premises having to step in to the road and in to the path of any oncoming traffic. Mr Thind concluded by stating that the applicant had proposed that no waste would be left outside the premises between 11pm and 8am. According to the City of London's regulations no waste was permitted to be left out between 8pm and 6am. This therefore meant that the only opportunity for the premises to leave waste outside would be during their peak trading hours which was not sensible and also presented further health risks.
- 20) The Chairman offered the Applicant the opportunity to cross examine those making representations. The Applicant declined.
- 21) The Chairman invited the Applicant to make their presentation and to also respond to any outstanding queries. Ms Mathias, on behalf of the applicant,

stated that it was felt that the amended hours proposed were reasonable and modest. She added that the applicant was confident that residents would not be disturbed by the business due to both the style of the operation and the way it would be run. Ms Mathias reiterated the conditions already agreed with the City of London Police and the details of the further amendments to the licence now proposed which were set out in full on pages 9 and 10 of the applicants bundle. Ms Mathias reported that, due to the small scale of the operation, with a maximum of 26-28 people at capacity, the applicant believed it would be possible to control noise from the venue and to encourage patrons to have taxis booked by staff before exiting the premises. As this was primarily a dining establishment, there was no expectation of any disagreements with drunken patrons. Ms Mathias noted that it was illegal to serve alcohol to individuals who were already intoxicated. With regard to concerns raised about waste, Ms Mathias highlighted that it was proposed that waste be collected between 6pm-11pm and put out a maximum of 30 minutes before collection. The applicant proposed to use a private waste contractor for this purpose. Mr Langley added that he was confident that the waste and recycling could be adequately stored on site during the day. In terms of patrons leaving the premises, Ms Mathias highlighted the proximity of Barbican tube station. Where it was necessary to book taxis, staff would use a local taxi firm and would instruct drivers to pick up on Long Lane on the opposite side of the road. Patrons would be encouraged to wait inside the premises, on the ground floor, for taxis to arrive. A member of staff would accompany patrons to the ground floor level to oversee dispersal.

- 22) Ms Mathias stated that, in addition to the Noise Management Policy already circulated, the applicant would be happy to continue dialogue with the City's Environmental Health team if the licence were granted. With regard to noise management, all staff would be trained in the use of noise limiting equipment, all doors (two double doors to the entrance and two double doors to the restaurant) would be self-closing, noise levels would be regularly checked and monitored and made available to the City's Licensing Team, a dedicated telephone number would be provided to local residents to report noise disturbance and there would be no deliveries to the premises between 6pm and 8am every day. Mr Langley added that a noise limiter would prevent any sound above a certain level and confirmed that speakers would be placed in the basement area only.
- 23) Ms Mathias went on to highlight that the co-owners of the Disappearing Dining Club had over 20 years' experience in managing high end dining establishments. Past ventures in both Brick Lane and Bermondsey, on a temporary basis, had both been an overwhelming success and this would be the company's first permanent lease. She referred to the sample menu and wine list circulated to all which also included a description of the Disappearing Dining Club and clearly set out the concept behind it. She reported that the menu would be changed on a daily basis and demonstrated that the emphasis would be on quality with a price point to match. Photographs and 'mood boards' circulated to all within the applicants bundle illustrated that the premises would be given a high quality finish.

- 24) Ms Mathias concluded by stating that the premises was currently unused and abandoned. It was the applicant's belief that it had previously been used as a bar/restaurant as there was already a fully functioning kitchen and bar area inside. They were unclear as to when the premises ceased to be used in this way. She added that the applicant did not propose to install any new extraction/ventilation equipment but reported that the existing equipment had now been cleaned and serviced and that the performance of this and any noise emitted from it would therefore be significantly improved.
- 25) Mr Langley clarified that the Disappearing Dining Club chose the style of business best suited to its location. He added that the premises would be for locals as well as for those living elsewhere listed on the company's database. He stated that the business was very passionate about people as well as good food and drink and that what was proposed here was a high end, small scale, informal dining establishment. He added that he was confident that the venture would be a success and that the way he proposed to operate the premises should defend the location/environment. Ms Mathias highlighted that the demographic of those on the database was primarily 25-45 year olds from the creative, corporate market. The database also meant that all patrons were traceable. The applicant would typically expect parties to dine in groups of 2 or 4 with 5-6 staff on duty each evening. The Sub Committee were informed that, whilst families were welcome, it was very rare for children to dine at the Disappearing Dining Club.
- 26) Mr Langley concluded by stating that he wanted the venture to work for everyone in the local area. Whilst he accepted that some noise from those arriving at or leaving the venue would be inevitable, he did not feel that this would constitute a noise problem and looked forward to working closely with Environmental Health on this matter should the licence be granted. He confirmed that any music on the premises would be background music only, intended to accompany dinner whilst still allowing for conversation.
- 27) In response to questions from Mr Dennis, Mr Langley confirmed that a delivery taken at the premises this morning was for an event being overseen by the Disappearing Dining Club elsewhere. He added that the delivery had been made after 8am. He confirmed that he had already secured a lease on the premises for 5 years and that, if the licence application were rejected, it would continue to be used as storage. He confirmed that, if a licence were to be granted, the premises would be used as a restaurant with deliveries for events elsewhere sent to other sites.
- 28) In response to further questions from residents, Mr Langley reported that his customers typically enjoyed being looked after and that staff ordering taxis for those leaving the premises could therefore reasonably be built into the service. He clarified that, generally, no bookings for the restaurant would be taken after 9pm. He added that no seating would be set aside for those wanting to order drinks only and that, in his experience, those wanting drinks and snacks only constituted less than 20% of all bookings taken.

- 29) In response to final questions from residents, Mr Langley stated that, with two sittings each evening, there would be a clear break point. Due to the nature of the business, the arrival and departure of customers would be staggered and there would be ample staff to deal with the quiet dispersal of individual groups. He accepted that this was difficult to put into any sort of legal condition. Mr Langley reported that there would be no heating, seating or covers outside of the venue and that customers would not be permitted to leave the premises with drinks. Staff would also regularly attend at ground floor level to encourage any smokers to re-enter the premises as quickly as possible. Those making representations were informed that the premises (including the basement area) would have full customer Wi-Fi coverage and that a seating area would also be installed at the ground floor, entrance level for those wishing to make telephone calls or use the internet.
- 30) Those making representations summed up by stating that, despite the additional conditions proposed by the applicant, the consensus remained that there would be too much outside of the Disappearing Dining Club's control and reliant on encouragement/customer compliance only.
- 31) The Chairman invited the Applicant to sum up. The Applicant stated that they had nothing further to add.
- 32) The Chairman thanked all parties and explained that the Sub-Committee would now retire to deliberate on the application.
- 33) The Chairman explained that written confirmation of the decision would be circulated to all within five working days.
- 34) The Sub-Committee retired at 12.25pm.

Chairman

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