

Licensing Act Sub-Committee - Record of Hearing held on Wednesday 9 February 2011 at 6.00pm

MEMBERS: Councillor SZANTO (Chairman); Councillor Mrs GOODALL and Miss WOODALL.

1 Declarations of Interest.

None were received.

2 Application for Variation of a Premises Licence – Funktion Rooms, 2a-2b Pevensey Road.

The Chairman introduced members and officers present and detailed the procedure to be followed at the meeting.

The Licensing Manager outlined the report regarding the application for a variation of a premises licence for the Funktion Rooms which sought to modify the internal layout and increase occupancy levels to 560 persons, including staff.

The figure would be subject to a satisfactory risk assessment which was currently being undertaken by East Sussex Fire and Rescue Service. The Sub-Committee was advised that the previous maximum occupancy level set at the time of the expedited review was 350 persons, a figure which was subsequently reduced further to 250. At the licence review hearing, East Sussex Fire and Rescue had identified concerns relating to adequate means of escape for the number of persons likely to be present at the premises at any one time. It was noted that the premises had previously operated with a maximum occupancy level of 640.

The Sub-Committee was advised that Sussex Police had lodged a representation in relation to the variation of the premises licence. It had subsequently been withdrawn following a series of meetings with the applicants and agreement to a number of additional conditions being attached to the licence if granted.

Inspector V Johnson addressed the Sub-Committee and referred to the 9 additional conditions which had been attached to the premises licence following the review hearing held on 10 August 2009. A further 7 conditions were proposed, as set out in the report, to ensure effective management of the premises and that the policies and procedures implemented would provide effective management of the proposed smoking area and address crowd and queue control issues. The Sub-Committee was reminded that Sussex Police had a total veto of any drinks promotions.

Sussex Police and East Sussex Fire and Rescue Service had met the applicants on 6 January 2011 to discuss the proposed conditions and to seek assurances regarding the future operation of the premises.

Inspector Johnson advised that from a potential public order perspective the additional controls agreed with the applicant were considered acceptable at this stage, but she sought to reassure the Sub-Committee that the operation of the premises would be closely monitored.

Mr A Grimsey, Solicitor for the applicant addressed the Sub-Committee on the proposed changes to the internal layout to the premises to improve fire exits and internal escape routes. The conditions attached to the licence were robust and the additional conditions proposed had been accepted to promote the licensing objectives. He assured the Sub-Committee of compliance with all the conditions and that it should be acknowledged that a new operator would be running the premises. He introduced Mr M Kill, the Designated Premises Supervisor and gave an overview of his previous experience working for large operators with responsibility for similar venues across the country.

Mr Grimsey stated that the capacity levels of the venue had fluctuated over the years and had been reduced as a result of concerns relating to inadequate internal escape routes and management controls. The venue had operated previously at a capacity level of 640 in 2006, prior to the implementation of the Council's Cumulative Impact Policy in 2007.

Mr Kill addressed the Sub-Committee on the proposed management structure and the future use of the premises for a variety of functions. A risk assessment of the building and the staffing levels required to effectively manage the premises would be carried out. He detailed the arrangements for the management of the smoking terrace and the layout which would overcome the concerns relating to noise nuisance.

The concerns regarding the increase in capacity were acknowledged but he remained confident that the implementation of appropriate control measures and effective management would promote the licensing objectives.

Work was ongoing on the required disorder and under 18's event policies which would be implemented in conjunction with the Licensing Manager and Sussex Police.

Mr Kill stated that he was committed to working with the authorities and the community to provide a safe environment for customers with minimal impact on residents in the surrounding area.

Written representations had been received from Mr A Ley, Chairman of the Pevensey Road Neighbourhood Association and Town Centre Neighbourhood Panel as an interested party under the public safety and crime and disorder licensing objectives.

He addressed the Sub-Committee in objection to the proposed increase in capacity which is significantly above the levels agreed at the review hearing.

Mr Ley supported the Council's Cumulative Impact Policy and stated that the material increase in the capacity of the premises as proposed would undermine the licensing objectives. The increase in the number of supervisory staff was acknowledged but it was considered that their effectiveness would be limited by overcrowding as a result of the proposed increase. Venues in the Town Centre remained under pressure to attract customers through the use of drinks promotions and he queried what steps would be taken to control alcohol abuse. Of particular concern were customers pre-loading prior to entry into

late night venues and that the admittance of drunken customers should be addressed and discouraged by all operators.

The premises and queues outside had been a flashpoint for disorder in the past and nearby residents and those living on access routes to the premises had suffered frequent noise and disturbance, anti-social behaviour and criminal damage to property. There would be additional pressure on police resources if incidents occurred at the premises.

Feedback from local residents had indicated that since the premises had closed their environment and quality of life had improved. Prior to this the area had been a crime hot spot. He requested that to provide reassurance to the community that the various policies proposed will seek to address the concerns raised copies should be forwarded to him.

He was reassured that no member of the previous Door Team would be employed by the new operators.

The Sub-Committee then retired to consider and determine the application having regard to the representations submitted and the further evidence presented at the meeting, the four licensing objectives and the Council's Statement of Licensing Policy. Advice had been sought from the Council's legal adviser regarding the Council's Cumulative Impact Policy.

Having taken into account all the relevant considerations the Sub-Committee reconvened and announced the decision as follows.

RESOLVED: That the variation application in respect of the Funktion Rooms, 2a-2b Pevensey Road be granted as set out in the attached appendix.

The meeting closed at 7.46p.m.

**G Szanto
Chairman**

Eastbourne Borough Council

Decision Notice

Licensing Act Sub-Committee held on Wednesday 9 February 2011

- Premises Licence Holder:
Premises: Mr R Sargent
Funktion Rooms
2a-2b Pevensey Road
Eastbourne
- Reasons for Hearing: Relevant representations received from interested parties under the public safety and prevention of crime and disorder licensing objectives.
- Parties in attendance: Applicant and representatives – Mr M Kill, Mr A Grimsey (Solicitor) and Mr R Sargent.
- Responsible Authorities:
Sussex Police – Inspector V Johnson
- Interested Parties – Mr A Ley (Chairman, Pevensey Road Residents Association and Town Centre Neighbourhood Panel).
- Licensing Authority:
Miss K Plympton (Licensing Manager) and Mr G Johnson (Regulatory and Litigation Lawyer).
- Decision made: To grant the variation of the Premises Licence as follows:
- To approve internal alterations at the premise as described in the plans deposited with the Authorities. Such plans to have effect once the works are complete as notified to the Council in writing.
- Subject to the following conditions:
- i) Any person who has left the premises to smoke shall be refused re-entry.
 - ii) The Top Floor Smoking Terrace shall be limited to a maximum capacity of 20 persons at any one time. It shall be managed and supervised at all times that the premises are open to the public by a Security Industry Authority Registered Door Supervisor. This area will be clearly delineated by way of suitable fencing agreed with Sussex Police.
 - iii) A written Under 18 Events Policy to be prepared, agreed and implemented in conjunction with the Council's Licensing Manager and Sussex Police prior to an under 18's event taking place at the premises.

- iv) A written Disorder Policy to be prepared, agreed and implemented in conjunction with the Council's Licensing Manager and Sussex Police. This includes effective crowd and queue control measures which will be in place to effectively manage people congregating in the direct vicinity prior to the premises being open to the public, including those that are smoking.
- v) The Premises Licence Holder or their nominated representative shall agree to participate in Ion Track initiatives or other Police Operations to ensure the effective promotion of the Licensing Objectives.
- vi) A Personal Licence Holder will be on the premises whenever licensable activities are taking place.
- vii) The Challenge 21 Policy relating to age verification shall be replaced by the Challenge 25 Policy.

Reasons for Decision: The Sub-Committee has granted the variation application for a Premises Licence subject to the conditions specified having given due weight to the evidence placed before it, as well as the regulations and guidance under the Licensing Act 2003, the licensing objectives and the Council's Statement of Licensing Policy.

The Sub-Committee has taken into account the applicant's submissions and the representations made by the responsible authorities (Sussex Police) and interested parties (Town Centre Neighbourhood Panel and the Pevensey Road Neighbourhood Association).

The Sub-Committee has, in granting the licence, seriously considered the previous operation of the premises and the issues which had led to an expedited summary review of the premises licence in 2009. It has weighed this against the withdrawal of the representation from Sussex Police subject to the imposition of additional conditions on the licence and that no representations had been received from East Sussex Fire and Rescue in respect of the proposed occupancy levels.

The Sub-Committee acknowledged the measures proposed by the applicant to ensure the proper management and control of the premises and the assurances from Sussex Police that the operation of the premises would be closely monitored.

The Sub-Committee considered that the applicant had provided sufficient evidence to rebut the presumption against granting of the application arising from the Council's Cumulative Impact Policy. The additional conditions to the licence proposed by Sussex Police and accepted by the applicant were agreed as necessary to promote the licensing objectives.

Date of Decision: 9 February 2011

Date decision notice issued: 21 February 2011

A written or electronic copy of this Notice will be publicly available to all Parties and published on the Council's website.

RIGHT OF APPEAL

Under the provisions of S.181 and Schedule 5 of the Licensing Act 2003, there is a right of appeal against the decision of the Licensing Sub-Committee, should you be aggrieved at the outcome.

This right of appeal extends to the applicant in the case of refusal or restrictions on the licence, or the imposition of conditions to the licence. The right of appeal also extends to persons who have made representations where the licence has been granted, or that relevant conditions have not been imposed on the licence.

Full details of all the rights of appeal can be found within Schedule 5 of the Act. If parties wish to appeal against the Sub-Committee's decision, this must be made to the Magistrates Court, Old Orchard Road, Eastbourne, BN21 1DB within 21 days of receipt of this decision notice.