



Licensing Act Sub-Committee - Record of Hearing held on Monday 18 September 2006 at 10.30am

MEMBERS: Councillor Mrs MURRAY (Chairman); Councillors Mrs SIMS and STEVENS.

1 Declarations of Interest.

None were received.

2 Application for Variation of Premises Licence – Redstack, 226 Terminus Road.

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

The Licensing Manager outlined the report detailing the application for a variation of a premises licence in respect of Redstack, 226 Terminus Road. The variation sought additional regulated entertainment and the removal of existing restrictions which permitted the service of alcohol only when table meals were supplied.

Mr Whitehead, Licensing Officer, Sussex Police and Mr R Fenton, Environmental Health had made written representations as responsible authorities under the prevention of crime and disorder, prevention of public nuisance and public safety objectives.

The legal advisor advised the Sub-Committee that the initial representations made by Sussex Police had requested conditions to be attached to the licence without clearly specifying how they related to the licensing objectives. All parties had subsequently received additional information from the police within the time frame for the submission of additional supporting evidence. The Sub-Committee used its discretion to permit the submission of the additional information in view of its relevance to the application and with the agreement of the applicant, who accepted that no prejudice had been caused.

Mr Whitehead advised the Sub-Committee that discussions had taken place with the applicant regarding the reasons for the police objection to the unconditional removal of restaurant conditions. Terminus Road was placed as the second highest rated street in East Sussex for public place violent crime offences. A high number of these offences were fuelled by alcohol following drinking in pubs and nightclubs. Restaurants and café bars were largely trouble free and Redstack was located in part of Terminus Road with no current problems of this type. The café bar conditions were required to safeguard against the premises evolving into a vertical drinking establishment. The granting of the application as requested would set a precedent which may lead to other restaurants requesting the removal of similar conditions. This

could potentially lead to an increase in the number of vertical drinking establishments and an increase in crime and disorder.

The main objective was to prevent the restaurant becoming a bar. Any amendments to the proposed conditions which could achieve this, while allowing the applicant operational freedom and flexibility, would be accepted.

Mr R Fenton advised the Sub-Committee that conditions proposed by Environmental Health would ensure the protection of nearby residential properties from any noise nuisance associated with the application.

Representations in support of the application were made by the applicant, Mr P Cotterill. The restaurant catered for over 25's and had 50 tables with a bar area. The maximum capacity had been voluntarily reduced from 180 to 100 and a condition to this effect would be accepted. No variation of hours had been sought and it was not the intention to change the nature of the operation. Mr Cotterill advised of his experience and proven track record having run the premises for over 3 years together with a similar establishment in Bexhill and a cinema, both of which were fully licensed. It was considered that limiting the sale of alcohol to waiter service only for consumption by customers seated at tables was a prescriptive condition which would prove operationally difficult. Additional staff would be required as transactions at the bar would not be permitted. It was felt that the commercial viability of the restaurant could be reduced if this condition was imposed.

The measures to prevent noise nuisance to residents had been discussed with Environmental Health and the proposed conditions were accepted. In addition Mr Cotterill agreed to two further conditions relating to the installation of CCTV and becoming a member of Nightwatch.

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. When the Sub-Committee reconvened the legal advisor indicated that she had been called in to provide advice regarding the wording of the proposed licence conditions. Having taken into account all the relevant considerations the Sub-Committee reconvened and announced the decision as follows.

RESOLVED: That the new premises licence application in respect of Redstack, 226 Terminus Road be granted as set out in the attached appendix.

The meeting closed at 11.50 a.m.

**Mrs A Murray
Chairman**

Eastbourne Borough Council

Decision Notice

Licensing Act Sub-Committee held on Monday 18 September 2006

- Applicant(s): Mr P D Revill and Mr P A Cotterill
- Premises: Redstack
226 Terminus Road
Eastbourne
- Reasons for Hearing: Relevant representations received from Sussex Police and Environmental Health under the public nuisance, public safety and the prevention of crime and disorder licensing objectives.
- Parties in attendance: Applicant – Mr P A Cotterill
Responsible Authorities:
Sussex Police - Mr A Whitehead, Licensing Officer and Inspector D Roskilly
Environmental Health – Mr R Fenton
- Decision made: To grant the variation of the Premises Licence as follows:
- (1)** Remove the restriction that alcohol can be served only when a table meal is supplied.
- (2) Standard hours:**
- Sale of Alcohol:**
- | | |
|-------------------|---------------------------|
| Monday – Saturday | 10.00 hours – 00.00 hours |
| Sunday | 12.00 hours – 23.30 hours |
- Regulated Entertainment:**
Plays/films/indoor sporting events/live music, performances of dance and anything of a similar description/provision of facilities for dancing and for entertainment of a similar description:
- | | |
|-------------------|---------------------------|
| Monday – Saturday | 10.00 hours – 00.00 hours |
| Sunday | 12.00 hours – 23.30 hours |
- Open to the Public:**
- | | |
|-------------------|---------------------------|
| Monday – Saturday | 10.00 hours – 00.30 hours |
| Sunday | 12.00 hours – 00.00 hours |
- (3) Non-standard hours:**
- Finish time to be extended for opening hours, sale of alcohol and regulated entertainment as follows:
- New Year's Eve from the end of permitted hours until their commencement on the following morning.

- On 12 occasions annually on giving at least 10 days notice to the licensing authority and the police.

Subject to the following conditions (in addition to applicable mandatory conditions prescribed by section 19 of the Licensing Act 2003):

- i) The maximum permitted occupancy of the premises shall not exceed 100 persons.
- ii) CCTV, monitors and appropriate recording equipment shall be installed, operated and maintained following consultation with Sussex Police to a standard specification.
- iii) All music to be played, save for incidental and background music, shall be put through a noise limiter device, set at a level agreed with the Licensee and the Environmental Health Manager, Eastbourne Borough Council or their nominee.
- iv) All windows and doors are kept shut, except for access and egress whenever music is being played, save for incidental and background music.
- v) Substantial refreshment (food) shall be available at all times.
- vi) The Licensee shall join and remain an active member of Nightwatch.

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

The Sub-Committee has weighed up the applicant's submissions alongside the representations made by the responsible authorities. It was considered that the concerns relating to crime and disorder and the potential for noise nuisance, given the close proximity of residential properties and particularly the flats directly above the premises, could be met by the imposition of conditions.

The Sub-Committee disregarded as not relevant to the application the comments made by the police in respect of the planning process and cumulative impact.

The conditions imposed were considered necessary to meet the objectives of preventing public nuisance and crime and disorder.

Date of Decision: 18 September 2006

Date decision notice issued: 19 September 2006

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.