



Licensing Act Sub-Committee - Record of Hearing held on Monday 16 October 2006 at 10.30am

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

1 Declarations of Interest.

Councillor Tester declared a prejudicial interest in the application and withdrew from the meeting. Councillor Stevens attended in his place.

2 Application for New Premises Licence – Tonic, 113/115 Seaside 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 new premises licence in respect of Tonic, 113/115 Seaside Road.

Sussex Police had made written representations as a responsible authority under the prevention of crime and disorder and public nuisance licensing objectives. The town centre accounted for the highest levels of violent crime and disorder and had the highest concentration of licensed premises. Data collated under "Operation Cobra" showed the most violent streets in Sussex, five of which were in Eastbourne town centre. The premises were adjacent to one of the streets and in very close proximity to the other four.

The police were extremely concerned that the cumulative impact of an additional nightclub in the area would result in an increase in violent crime and disorder in that street and the surrounding area.

Concerns were also raised that the proposed late opening hours of the premises and the existing dispersal issues in the town centre would increase the disturbance to residents if the licence were granted.

Supporting evidence which provided an analysis of offences recorded between 1 October 2005 and 30 September 2006 in the five key streets namely: Grand Parade, Langney Road, Pevensey Road, Seaside and Terminus Road. Inspector Porter stated that during this period 979 public place violent crime offences had been recorded in the town centre of which 484 had occurred in the five key roads. Of these offences 61.9% related to drugs and alcohol. The statistics showed that the majority of violent crime was committed at the weekends between 11.00pm and 3.00am.

Inspector Porter made reference to the steps set out within the operating schedule to promote the four licensing objectives. The proposals were common to those applied by other premises in the area, but Eastbourne continued to suffer high incidents of crime and disorder. It was considered that the actions proposed would not ensure the peaceful dispersal of customers from the premises.

Reference was made to the significant reduction in the number of offences recorded in Pevensey Road following the closure of the House of Commons night club in mid September 2005. The year leading up to its closure had recorded 87 offences of violent crime. Since that date and up to 15 September 2006 there had only been 21 offences.

As the owner of the House of Commons, Mr Islip had employed many of the measures proposed for the current application at this venue but serious incidents had still occurred.

Inspector Porter reported on police strategies to reduce public place violent crime through a high profile presence on Fridays and Saturdays and an action plan to target and deal with the most troublesome premises. Although the 87 incidents could not be directly linked to the House of Commons, the reduction in the number of incidents illustrated the dramatic impact the closure of the premises had on the figures.

The police requested that the application be refused as there was no doubt that granting the licence would lead to an increase in crime and disorder.

Conditions should be attached to the licence if it was granted to restrict the sale of alcohol to 1.00am, with limits placed on the number of alcoholic drinks served to individuals. A search policy should be implemented and methods to ensure the dispersal of customers and to address the potential for flashpoint for violence of people queuing to access the premises should be applied. Concerns were also raised that the maximum capacity figures had not been provided.

The Licensing Officer advised the Sub-Committee that the Fire Authority had indicated an occupancy level of 350, subject to a risk assessment.

Representations in support of the application were made by the applicant's legal representative, Mr B Hall.

The premises had historically operated as a night club and the new club would have a 70's/80's theme designed to provide a venue for mature customers. It was considered that the refurbishment of the premises would contribute to the regeneration of the area.

The applicant, Mrs Islip advised the Sub-Committee of his substantial professional experience. He was joint owner of Bolton's and operated Sussex cars in the town. As chairman of Nightwatch he had an excellent record of working with the police and no incidents had occurred at the premises which had required the police to be called.

The new premises would provide entertainment not currently catered for in the town and research supported the view that the theme proposed would attract older customers. It was considered that the operating schedule contained

measures appropriate to promote the licensing objectives. Mr Bird indicated that it was unlikely the premises would open 7 days a week, but that flexibility was required for special occasions.

A photo entry scheme was proposed and a random search policy would operate on the door. Internal measures were proposed to address the concerns of the police regarding problems associated with queuing customers. The applicant would work with the police to ensure the effective dispersal of customers.

Inspector Porter questioned the applicant on various aspects of the application including the promotion of the premises; the use of drinks promotions; proposals to promote sensible drinking; prevention of drug taking inside the premises and design measures to minimise conflict including the availability of seating.

Clarification was also sought on the search and confiscation policy and the safe removal of customers refused entry; the operation of the access to prevent queuing and methods for the dispersal of customers, including the provision of transport.

Mr Islip advised that the business would be promoted through direct marketing and press advertising. Alcohol consumption would be monitored by staff and no drinks promotions which encouraged volume drinking would be used. Tills would be placed at the top of the stairs to prevent queuing on the pavement. Door supervisors would be placed at the entrance to assess customers and a 1 in 10 search of customers would take place. The number of customers would be monitored on entry and exit and a last admission time of 1.15am was considered acceptable. The premises could provide seating for up to 150 and CCTV and appropriate lighting would be used to deter violence and drug taking.

It was not anticipated that the club would bring more people to the town centre as it was providing an alternative to that currently available. A free taxi phone service would be provided and door supervisors would be deployed to assist the dispersal of customers.

Written representations had been received from the Pevensey Road Neighbourhood Association and two hotels in the vicinity. The Sub-Committee was advised that 2 of the signatories who had signed the letter from the neighbourhood association had now withdrawn their representations. The legal advisor drew the Sub-Committee's attention to paragraph 5.33 of the guidance made under S182 of the Licensing Act 2003 regarding how licensing authorities should determine the matter of whether a person resides "in the vicinity of" the licensed premises. The Sub-Committee indicated that it would hear representations from those persons seeking to appear as interested parties and that when stating its decision, the Sub-Committee would indicate what its determination of the vicinity had been, as a matter of fact, in so far as this application was concerned.

Mr J Barclay of the Elm Park Hotel advised the Sub-Committee that the café entrance to his premises was approximately 120 yards away from the premises. Customers leaving other premises in the early hours of the morning and passing through Cavendish Place had caused damage to cars and property

on a regular basis. In the past 3 months nine cars had suffered vandalism. The hotel catered for more mature customers and noise nuisance had led to a decrease in trade.

Mrs Y Burrell considered that the number of nightclubs had now reached saturation point. The premises was located in a hot spot area for crime and although the measures proposed by the applicant were welcomed, it was not possible to control customers from causing a disturbance as they made their way home through residential areas. The Funktion Rooms in Pevensey Road had a capacity of 475 and was scheduled to open soon. This would add to the burden on the police whose resources were already stretched.

Mr Hall made reference to the police data which although gave a powerful message of the problems in the town centre, should be interpreted with care. Not all the incidents were in the vicinity of the premises and not all were alcohol related. If the problems being experienced by local residents and businesses in the area were so serious, it should be expected that a large number of objections would have been received. It was pointed out that no objections had been received from residents living in close proximity to the premises. There was no evidence that the premises would not be properly managed and the applicant was prepared to accept reasonable conditions to meet the licensing objectives.

The Sub-Committee then retired to consider and determine the application having regard to the representations submitted, including those from the interested parties not present at the meeting, 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 cumulative impact. 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 Tonic, 113/115 Seaside Road be granted as set out in the attached appendix.

The meeting closed at 2.25 p.m.

**Mrs A Murray
Chairman**

Eastbourne Borough Council

Decision Notice

Licensing Act Sub-Committee held on Monday 16 October 2006

Applicant(s): Futurevenue Limited

Premises: Tonic
113/115 Seaside Road
Eastbourne
BN21 3PH

Reasons for Hearing: Relevant representations received from Sussex Police and interested parties under the public nuisance and the prevention of crime and disorder licensing objectives.

Parties in attendance: Applicants – Mr C Islip, Mr R Bird and Mr B Hall (Barrister)
Responsible Authorities:
Sussex Police - Inspector N Porter, Mr A Whitehead, Licensing Officer and Sgt G Cochran.
Interest Parties – Mr J Barclay (Elm Park Hotel) and Mrs Y Burrell (Pevensey Road Neighbourhood Association).

Decision made: To grant the new Premises Licence as follows:

(1) Standard hours:

Sale of Alcohol:

Monday – Sunday 19.00 hours – 02.00 hours

Regulated Entertainment:

Live music:

Monday – Sunday 20.00 hours – 00.00 hours

Recorded music/provision of facilities for making music and dancing:

Monday – Sunday 19.00 hours – 02.15 hours

Late night refreshment:

From 23.00 until the latest hour permitted for the sale of alcohol.

Open to the Public:

Monday – Sunday 19.00 hours – 02.30 hours

(2) Non-standard hours:

12 event days of which the Police have had at least 7 days written notice and over which they have an absolute veto.

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

- i) That subject to the requirements of the Fire Safety Risk Assessment, the maximum permitted occupancy of the premises shall not exceed 350 persons (including staff).
- ii) No customers shall be admitted or re-admitted to the premises after 01.15 hours.
- iii) During opening hours one Security Industry Authority registered Door Supervisor shall be provided for every 100 customers or part thereof.
- iv) That a random search policy be implemented for customers entering and leaving the premises.
- v) A taxi free phone shall be provided on the premises for use by customers.
- vi) The Licensee shall be an active member of Nightwatch.

Reasons for Decision: The Sub-Committee has granted the application for 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 police and interested parties. It was considered that the concerns relating to crime and disorder and public nuisance could be met by the imposition of conditions.

The Sub-Committee disregarded as not relevant to the application representations made by interested parties located more than 200 metres away from the premises.

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

Date of Decision: 16 October 2006

Date decision notice issued: 26 October 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.