



Licensing Act Sub-Committee - Record of Hearing held on Monday 5 March 2007 at 10.30am

MEMBERS: Councillor LACEY OBE (Chairman – for item 2); Councillor Mrs Murray (Chairman – for item 3) Councillors Mrs GOODALL and Mrs POOLEY.

1 Declarations of Interest.

Councillor Lacey OBE declared a prejudicial interest in the application from Eastbourne College and withdrew from the meeting. Councillor Mrs Murray took the Chair for this item.

2 Review of Premises Licence – Joe's Corkscrew, 45-47 Green Street.

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 review of a premises licence for Joe's Corkscrew.

The applicant's legal advisor, Mr I Potter, sought to submit 4 letters in support of Mr Smith's case. The Legal Advisor noted that that evidence had not been disclosed to all of the parties in advance and therefore was not admissible at the hearing unless all parties were in agreement and the Sub Committee were content for it to be adduced. Inspector Porter objected to the submission of the evidence on the grounds that no opportunity had been given to consider the content of the letters. The Sub-Committee decided to reject the submission of any further evidence in all of the circumstances.

Inspector N Porter had made an application for a review of the premises licence on behalf of Sussex Police and had made written representations as a responsible authority under the prevention of crime and disorder, public nuisance and the protection of children from harm objectives. It was stated that between April 2006 and December 2006 officers from Sussex Police had issued three £80 fixed penalty notices to staff at Joe's Corkscrew for serving alcohol to persons under the age of 18. Mr Smith had made one of the sales to an underage person during the test purchase operation in December.

Trading Standards had also conducted a test purchase in December 2006 and a further fixed penalty ticket was issued as sales were again made to an underage person. Sgt Cochran and Mr Cohen from Trading Standards had attended the premises to advise Mr Smith of their concerns about the problems identified. The police in conjunction with Trading Standards had offered advice and help to assist prevention in the future and Mr Smith had been given the opportunity to improve the management of the premises. It was noted that Mr Smith had attended a meeting of Nightwatch.

Further details of the incidents were submitted and the Sub-Committee was advised that in the opinion of the Police the incidents, which spanned a year, demonstrated that Mr Smith had consistently neglected his responsibilities and legal obligation not to serve underage people.

The actions had contributed to the disorder and public nuisance in the immediate area as youths congregated outside the premises consuming alcohol. Witness statements from three local residents detailing the impact of the disorderly and intimidating conduct from youths in the vicinity were submitted together with photographic evidence of groups gathered outside the premises.

The police requested that the application be revoked as they considered that there was no doubt that the constant problems associated with the premises were affecting the local community.

The applicant's legal advisor, Mr I Potter, addressed the Sub-Committee and stated that since the failings that had occurred in 2006, Mr Smith had taken steps to improve the management of the premises and to ensure that staff were adequately trained. The under 21 policy was being followed and identification was requested from persons thought to be underage. A log of refusals was now regularly updated with checks to ensure that it was used. Posters were displayed to advertise the shop's policy.

Mr Smith advised the Sub-Committee of the arrangements for staff training. Customers purchasing alcohol were asked whether it was for home use in an effort to eliminate street drinking. Customers identified as buying alcohol on behalf of underage drinkers were now banned from entering the premises and in the last two weeks four people had been asked to leave. A revocation of the licence would have a detrimental financial impact on Mr Smith and as the business was currently on the market, it may be difficult to sell as a going concern given that alcohol accounted for 38% of total sales. Mr Smith was willing to accept conditions requiring the continued display of posters and to become a member of Nightwatch

Mr Smith indicated that it was difficult to move the youths gathered outside the premises and expressed his disappointment in the response of the police when calls had been made to deal with the problem.

Mr Potter advised the Sub-Committee that Mr Smith had been interviewed by Trading Standards as a result of the incidents and that enforcement action may result. The Sub-Committee was however advised that its role was to determine what steps were necessary to promote the licensing objectives. The legal advisor noted that the issue of possible criminal proceedings was not a matter for the Sub Committee and that a decision need not be delayed pending the outcome of any criminal proceedings.

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 legal advisor regarding Article 1 of the first protocol 1 of the Human Rights Act and guidance issued under Section 182 of the Licensing Act 2003 in relation to the relevance of legal proceedings in the determination of a review application.

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

RESOLVED: That the premises licence in respect of Joe's Corkscrew, 45-47 Green Street be revoked for the reasons as set out in the attached appendix A.

3 Application for New Premises Licence for College Field, Eastbourne College.

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 from Eastbourne College for a new premises licence to cover the college field bounded by Grange Road, Blackwater Road and Old Wish Road.

Written representations had been received from a number of local residents as detailed in the Licensing Manager's report.

The Sub-Committee acknowledged and took into account the letters of representation submitted from interested parties not present at the hearing.

Representations in support of the application were made by the applicant's representatives, Mr R Stanton, Facilities Bursar, Mr J Thornley (Society Director), Mr H Guthrie, Mr P Crockford and Mr White.

Mr Stanton advised the Sub-Committee that the application had been amended so that all forms of regulated entertainment would cease at 11.00pm as requested by Environmental Health. It was noted that regulated entertainment would be managed and monitored to ensure that events did not cause unreasonable noise nuisance or disturbance to the locality.

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. 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 the College Field, Eastbourne College, be granted as set out in the attached appendix B.

The meeting closed at 12.56 p.m.

**R Lacey OBE/Mrs A Murray
In the Chair**

Eastbourne Borough Council

Decision Notice

Licensing Act Sub-Committee held on Monday 5 March 2007

- Applicant: Mr Bruce Smith
- Premises: Joe's Corkscrew
45-47 Green Street
Eastbourne
- Reasons for Hearing: Relevant representations received from Sussex Police under the public nuisance, prevention of crime and disorder and the protection of children from harm licensing objectives.
- Parties in attendance: For the applicant – Mr B Smith and Mr I Potter (legal advisor)
- Responsible Authorities:
Sussex Police - Mr A Whitehead, Licensing Officer, Inspector N Porter, PC Harris and Sgt G Cochran.
Trading Standards – Mr R Cohen
- Decision made: That the Premises Licence is revoked.
- Reasons for Decision: The Sub-Committee has revoked the Premises Licence 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 considered that the police had provided sufficient evidence of breaches of the crime and disorder, public nuisance and the protection of children from harm licensing objectives and that the only course available to them on the facts was to revoke the licence to ensure that the licensing objectives were met.
- The Sub-Committee acknowledged that the decision to revoke might have a detrimental financial impact on the applicant however they felt that they had no other option given the need to promote the licensing objectives, this with reference to the interests of the wider community.
- The Sub-Committee had particular regard to the evidence put before it that the law had not been followed with the sale of alcohol to underage persons. It also considered that the training provided for staff was inadequate and not taken sufficiently seriously. The premises were considered to be poorly managed with a lack of proper supervision and control of staff.
- The Sub-Committee stated that it had disregarded as irrelevant to the application the fact that the holder of the premises licence had not joined Nightwatch. It also

disregarded as irrelevant the reference that had been made during the hearing as to the enforcement action which might or might not be taken by Trading Standards as a result of the incidents detailed in the report.

Date of Decision: 5 March 2007

Date decision notice issued: 8 March 2007

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 for the review, the holder of the premises licence and any other person who made relevant representations in relation to the application.

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.

Eastbourne Borough Council

Decision Notice

Licensing Act Sub-Committee held on Monday 5 March 2007

Applicant: Eastbourne College

Premises: College Field bounded by Grange Road, Blackwater Road and Old Wish Road.

Reasons for Hearing: Relevant representations received from interested parties under the public nuisance objective.

Parties in attendance: For the applicant – Mr S Stanton (Facilities Bursar), Mr J Thornley (Society Director), Mr H Guthrie, Mr P Crockford and Mr White.

Decision made: To grant the Premises Licence as follows:

Standard hours:

Sale of Alcohol: (Indoor and outdoor)

Monday to Sunday 11.00 – 23.59

Regulated Entertainment: (Indoor and outdoor)

Live and recorded music, performances of dance and anything of a similar description/provision of facilities for making music and dancing and for entertainment of a similar description:

Monday to Sunday 11.00 – 23.00

Open to the Public:

Monday to Sunday 11.00 – 00.30

Subject to the mandatory conditions prescribed by section 19 of the Licensing Act 2003.

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 acknowledged the concerns of local residents but were reassured by the steps proposed by the applicant to manage the events at the site.

Date of Decision: 5 March 2007

Date decision notice issued: 6 March 2007

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.