

Licensing Act Sub-Committee - Record of Hearing held on Wednesday 9 December 2009 at 5.00pm

MEMBERS: Councillor GOODWIN (Chairman); Councillors BELSEY and Mrs POOLEY.

1 Declarations of Interest.

None were received.

2 Application for New Premises Licence – The Lamb, 36 High Street.

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

The Licensing Manager outlined the report detailing the application from Harvey & Son (Lewes) Ltd for the variation of a premises licence to permit the use of the external area to be used as a "trade garden" for the consumption and sale of alcohol by table service.

Representations in support of the application were made by Mr G Denne, Harvey & Sons and Mr J McRobert, Premises Licence Holder. The Sub-Committee was advised that to improve facilities at the premises it was proposed to use the outside area as a garden for customers. Currently there was no garden area and this had resulted in a loss of business during the summer months. The area had a building, referred to as the barn and sufficient parking space for up to four cars. As a new venture it was difficult to predict usage at this stage but it was anticipated that between 50-60 customers could be accommodated. It was also proposed to encourage smokers to use the side area rather than the narrow pavement at the front of the premises.

The concerns of local residents were acknowledged but to date no complaints had been received regarding the operation of the premises. The Lamb was a long established, traditional and well run premises and Mr McRobert invited residents to contact him with any concerns in the future. The objectors had raised issues in relation to noise emanating from the function room and the early hour that recycling was collected and the Sub-Committee was advised that these issues would be addressed. It was not proposed to have music in the outside area.

A number of conditions had been offered to promote the licensing objectives and in response to a question, Mr McRobert stated that access to the area would be supervised to control numbers and that a condition would be accepted that this be carried out by staff and/or the installation of CCTV. It was acknowledged that the use of the garden area would bring customers closer to neighbouring residents. Mr McRobert reiterated that as a community pub the need to communicate with residents to ensure the premises could operate with a negligible effect upon the locality was of prime importance.

Written representations and a petition had been received from a number of local residents as detailed in the report.

Mr S Hurst addressed the Sub-Committee in objection to the proposal as the owner of a property adjacent to the area of land which was of timber construction and had little or no resistance to external noise. On a Friday and Saturday evening the noise and rowdy behaviour from the upstairs function room caused him to leave his property. Permitting the use of the outside area for customers would increase the levels of noise and disturbance. Concerns were also raised regarding the loss of parking and the likely increase in the number of cars parking in the surrounding area.

Mr R Noble addressed the Committee and stated that he occupied the property immediately adjacent to the proposed development. It was accepted that a certain level of noise should be expected but allowing customers to use the garden area close to the wall of his property would increase noise and disturbance to an unacceptable level. The proposed closure time of 11.00pm was considered too late and it was queried how the applicant proposed to supervise the area. It was considered that the smell of food and smoke already emanating from the premises was likely to increase. The submissions made by the applicant had not allayed the concerns raised and it was felt that the proposal would have a detrimental impact to the local environment and the quality of life for those living in the vicinity.

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

The Sub-Committee then considered 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 announced the decision as follows.

RESOLVED: That the variation application in respect of The Lamb, 36 High Street, be granted as set out in the attached appendix.

The meeting closed at 6.15p.m.

**A Goodwin
Chairman**

Eastbourne Borough Council

Decision Notice

Licensing Act Sub-Committee held on Wednesday 9 December 2009

- Applicant: Harvey & Son (Lewes) Ltd
- Premises: The Lamb
36 High Street
Old Town
Eastbourne
BN21 1HH
- Reasons for Hearing: Relevant representations received from interested parties under the public nuisance licensing objective.
- Parties in attendance: For the applicant – Mr G Denne (Harvey & Son), Mr J McRobert (Premises Licence Holder) and Mr G Dove (AWG Licensing)
- Interested Parties – Mr S Hurst and Mr R Noble
- 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 permit the external area (as detailed on the plan submitted) to be used as a “trade garden” for the consumption of alcohol and for the sale of alcohol by table service.
- Subject to the following conditions:
- i) The outside area shall be closed at 23.00 hours each evening.
 - ii) Polycarbonate containers shall be used for drinks to be consumed in the designated external area.
 - iii) Staff supervision of the external area will be in place whilst providing a table service to customers and/ or CCTV shall be installed.
 - iv) No music or entertainment shall be permitted in the outside area.
 - v) Appropriately worded signs shall be displayed advising customers to keep noise levels to a minimum when using the outside area and to respect the needs of local residents.
 - vi) The maximum permitted occupancy of the external area shall not exceed 100 persons at any time.
- 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 and the licensing objectives.

The Sub-Committee has weighed up the applicant's submissions alongside the representations made by interested parties. It was considered that the concerns relating to public nuisance could only be met by the imposition of conditions.

Date of Decision: 9 December 2009
Date decision notice issued: 11 December 2009

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.