

Licensing Act Sub-Committee - Record of Hearing held on Tuesday 8 June 2010 at 6.00pm

MEMBERS: Councillor PURCHESE (Chairman); Councillors BELSEY and Mrs SALSBURY.

1 Declarations of Interest.

None were received.

2 Application for New Premises Licence – King Kebabs & Pizza House, 335 Seaside.

The Chairman introduced members and officers present and detailed the procedure to be followed. The Licensing Manager outlined the report detailing the application for a new premises licence for King Kebabs and Pizza House, 335 Seaside to extend the current hours of operation to 01.00am.

The Sub-Committee was advised that Sussex Police had agreed with the applicant a number of conditions to be attached to the licence if granted.

Mr Gul addressed the Sub-Committee in support of the application. He stated that the no complaints had been received regarding the operation of the premises and that no calls had been made to the police. It was not intended that the premises would remain open until 1.00am during the week. The conditions requested by Sussex Police had been accepted which included the use of SIA registered door supervisors if required on a Friday and Saturday after 11.00pm. The additional hours had been sought to ensure the commercial viability of the premises to operate on a similar basis to other venues in the area.

Written representations had been received from two local residents living in the vicinity as detailed in the report. Concerns had been raised that the extended hours of operation would create public nuisance for residents.

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

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 announced the decision as follows.

RESOLVED: That the new premises licence application in respect of King Kebabs and Pizza House, 335 Seaside be granted as set out in the attached appendix A.

3 Application for New Premises Licence – A One Stores, 106 Firle Road.

The Chairman introduced members and officers present and detailed the procedure to be followed. The Licensing Manager outlined the report detailing the application for a new premises licence for A One Stores, 106 Firle Road for the sale of alcohol.

The legal adviser to the Sub-Committee reported that a number of residents had raised the issue of whether a covenant on the premises prevented the sale of alcohol. He advised that the issue was not relevant to the determination of the application and that the only representations which related to the licensing objectives could be considered.

The Licensing Manager reported that in respect of the petition submitted and signed by 184 residents a view had been taken as to which persons seeking to make representations as interested parties were deemed to reside in the vicinity. It had not been possible to identify all signatories due to the absence of an address or information being illegible and it had been determined that 67 signatories met the general test of living in the vicinity as they resided within a 100 metres radius of the premises.

The Sub-Committee was referred to paragraph 10.21 of Section 182 guidance which stated that shops, stores and supermarkets should normally be free to provide sales of alcohol for consumption off the premises at any times when the retail outlet is open for shopping unless there are good reasons, based on the licensing objectives, for restricting those hours.

Mr A Wagstaff, Barrister for the applicant advised the Sub-Committee that in response to the concerns of local residents an amendment to the hours for the sale of alcohol would be accepted. A later time of 8.00am on Mondays to Saturdays and a earlier termination hour on Monday to Thursday of 10.00pm. He referred to the concerns raised regarding deliveries and confirmed that only milk and bread would be delivered during the early morning. He stated that the issues relating to parking and lighting of the premises were not relevant to the application for the sale of alcohol as they could relate to any business trading at the premises.

The applicant had adopted a proactive approach to the protection of young people with the operation of a refusals book for the sale of cigarettes. The applicant would accept a condition requiring the challenge 21 initiative to be implemented to deter underage drinkers. CCTV was installed and details of staff training and Mr Mathew's retail experience was given. Mr Mathew would be on site from 4.00pm to closing time and was contactable at all other times.

In response to a question it was confirmed that the store would stock high strength beers and ciders. At a suggestion as to whether these products could be placed behind the counter, Mr Wagstaff stated that although this would not be commercially advantageous to the applicant, it would be accepted as a condition to promote the licensing objectives.

In conclusion Mr Wagstaff stated that there was no evidence to suggest that the sale of alcohol would lead to anti-social behaviour in the area, given that an off-licence operated in close proximity to the premises.

Written representations had been received from interested parties as detailed in the report.

Councillor N Stanley addressed the Sub-Committee on behalf of local residents and Councillor Wallis. Local residents and the police had worked together to eradicate anti-social behaviour and the area was much improved as a result. Residents were concerned that a store permitted to sell alcohol to 11.00pm may result in a return to the previous problems. No objections were raised to the current operation of the store and its occupation was welcomed as it had been empty for some time. He requested that the Sub-Committee restrict the hours sought for the sale of alcohol.

Mr J Fotherby, Secretary of the Eastbourne Working Men's Club addressed the Sub-Committee in objection to the application. Concerns related to the location of the premises on a bend on a very busy road and any additional traffic stopping on the bend would add to traffic congestion in the area. A further concern was that customers cars and delivery lorries may hinder access to the access road between the Club and the premises and that drinkers may loiter in the area and cause disturbance to local residents. Mr Fotherby confirmed that the club had a licence to sell alcohol until midnight.

Mr Patel addressed the Sub-Committee in objection to the application on the grounds that the sale of alcohol at the premises would lead to anti-social behaviour. He ran a newsagent and off-licence in Firle Road and although he was permitted to open until 11.00pm the premises closed at 9.00pm every evening following consultation with local residents and his wish to preserve their quality of life. Previous problems in the area due to drug dealing and anti social behaviour had largely been addressed in liaison with the police and a further outlet permitted to sell alcohol to the hours requested could lead to a re-emergence of the problems experienced.

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 representation 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 adviser indicated that he had been called in to provide advice on conditions which could be attached to the licence and Section 182 guidance in respect of opening hours and the sale of the alcohol.

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

RESOLVED: That the new premises licence application in respect of A One Stores, 106 Firle Road be granted as set out in the attached appendix B.

The meeting closed at 7.55p.m.

**D Purchase
Chairman**

Appendix A

Eastbourne Borough Council

Decision Notice

Licensing Act Sub-Committee held on Tuesday 8 June 2010

- Applicant: Mr N Gul
- Premises: King Kebabs & Pizza House
335 Seaside
Eastbourne
- Reasons for Hearing: Relevant representations received from interested parties and responsible authorities under the public nuisance and prevention of crime and disorder licensing objectives.
- Parties in attendance: Applicant: Mr N Gul.

Licensing Authority:
Miss K Plympton (Licensing Manager) and Mr G Johnson (Regulatory and Litigation Lawyer).
- Decision made: To grant the new premises licence as follows:
- Late night refreshment:**
- Monday – Sunday 23.00 – 01.00 hours
- Open to the Public**
- Monday – Sunday 12.00 – 01.00 hours
- Subject to the following conditions (in addition to applicable mandatory conditions prescribed by section 19 of the Licensing Act 2003):
- i) A digital CCTV system, monitors and appropriate recording equipment shall be installed, operated and maintained to the specification required by Sussex Police.
 - ii) Regular litter picks will be undertaken in the vicinity.
 - iii) SIA Registered Door Supervisors shall be employed on a Friday & Saturday night after 23:00 hours on a risk assessment basis.
 - iv) All staff shall be trained in dealing with inebriated customers, with records available to the Local Authority and the Police on request.
 - v) The front door shall be kept closed after 23:00 hours except for access and egress.
 - vi) Anyone who loiters outside after making a purchase, waiting for a taxi or eating shall be moved on.
 - vii) Signs shall be displayed asking customers to leave quietly.

Reasons for Decision: The Sub-Committee has granted the application for a new 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 the two local residents but were satisfied that the concerns relating to public nuisance could be met by the imposition of the conditions recommended by Sussex Police and which had been accepted by the applicant.

The Sub-Committee advised the applicant that the Licensing Team would monitor the premises to ensure no anti-social issues arose from the operation of the premises and that door staff were being used appropriately.

Date of Decision: 8 June 2010

Date decision notice issued: 10 June 2010

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.

Appendix B

Eastbourne Borough Council

Decision Notice

Licensing Act Sub-Committee held on Tuesday 8 June 2010

Applicant: Mr R Mathew

Premises: A One Stores
106 Firle Road
Eastbourne

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

Parties in attendance: Applicant and representatives: Mr R Mathew and Mr A Wagstaff (Barrister).

Interested Parties: Councillor N Stanley (on behalf of Councillor Wallis), Mr J Fotherby (Eastbourne Working Men's Club), Mr D Haffenden, Mr Patel and Mrs Y See.

Licensing Authority:
Miss K Plympton (Licensing Manager) and Mr G Johnson (Regulatory and Litigation Lawyer).

Decision made: To grant the new premises licence as follows:

Sale of Alcohol:

Monday – Saturday	08.00 – 22.00 hours
Sunday	10.00 – 22.00 hours

Open to the Public

Monday – Saturday	06.00 – 23.00 hours
Sunday	10.00 – 22.00 hours

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

- viii) High strength beers and ciders over 8% abv shall be located behind the counter or in a chiller fridge away from the public area.
- ix) That the Challenge 21 trading initiative regarding age verification, or any future replacement initiative, shall be implemented.
- x) Signs shall be prominently displayed asking customers to leave the premises quietly.

Reasons for Decision: The Sub-Committee has granted the application for a new 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 interested parties. It was considered that the concerns relating to crime and disorder and public nuisance could be met only by the imposition of conditions. The Sub-Committee had particular regard to the concerns raised in respect of the early and late night hours sought for the sale of alcohol.

The Sub-Committee disregarded as not relevant to the application representations made by interested parties which did not relate to the licensing objectives.

Date of Decision: 8 June 2010

Date decision notice issued: 10 June 2010

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RIGHT OF APPEAL

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