



Licensing Act Sub-Committee - Record of Hearing held on Tuesday 30 August 2005 at 10.30am

MEMBERS: Councillor BELSEY (Chairman); Councillors MARSH and STEVENS.

Also present: Councillor D Elkin.

1 Declarations of Interest.

None were received.

The Chairman reported that whilst the premises under consideration, (Bibendum, 1 Grange Road), was in close proximity to the Town Hall and used by some Councillors occasionally, the proprietor or the licensee were not known personally to the Members of the Sub-Committee; the legal advice that had been obtained was, therefore, that there were no personal declarable interests in relation to this application.

2 Application for Conversion and Variation of a Premises Licence for Bibendum, 1 Grange 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 from Gillian Mehan, the proprietor for Bibendum (Eastbourne) Ltd, for the conversion and variation of a premises licence in respect of the above premises. In respect of the application for conversion of the premises licence, no representations had been received from Sussex Police and, therefore, that part of the application was deemed to be granted. The Sub-Committee were asked to determine that part of the application relating to the variation of the premises licence.

Written representations had been received from 6 local residents. Ms Peters, Mr Fisher, Ms Szanto (on behalf of Fathers Howell and Hester), and Councillor Elkin addressed the Sub-Committee. Ms Peters contended that Bibendum now attracted a younger client base, customers were often visibly intoxicated and used bad language and created a nuisance when leaving the premises, cars and people blocked the road and pavement, bottles were deposited in gardens, and the management of the premises did not appear to include an

adequate policy and training regime to deal with restricting the sale of alcohol to already intoxicated customers. Ms Szanto (representing Fathers Howell and Hester who resided opposite Bibendum), endorsed the views expressed by Ms Peters, and drew attention to the heavy workload carried by the priests in caring for the Catholic community in Eastbourne, and the difficulties they would have in discharging their duties if they were deprived of sleep caused by the disturbance that could arise from the extended operating hours at Bibendum.

Mr Fisher expressed concern about the current noise nuisance created by customers leaving Bibendum, and contended that this would be exacerbated should the premises remain open until 2 a.m. He was also concerned that the noise limiter in the premises had not been functioning properly and that the Manager was uncertain about who was responsible for its repair.

Councillor Elkin addressed the Sub-Committee on behalf of local residents and opposed the opening of the premises until 2 a.m. He supported the obtaining of an acoustics report, and was concerned about the behaviour of some customers when leaving the premises late at night creating a disturbance to local residents.

Mr Fenton, Environmental Health, addressed the Sub-Committee. He suggested that in respect of amplified music, all windows should be closed and a noise limiter be in operation; a report should be sought from an acoustic consultant before live music is allowed; and the garden should be empty by 11.20 p.m. and managed properly before that time to minimise disturbance.

The applicant's representative and the licensee, Mr A Horsburgh, made representations in support of the application. He said that it was unlikely that the premises would be used up to 2 a.m. but, should the Sub-Committee approve the requested variation to the licence, the applicant may exercise this on occasions. He said that there were no qualified door supervisors employed at the premises. He confirmed that air conditioning units were being purchased for the upstairs function room (to avoid windows being open), and signs were being displayed downstairs asking clients for their consideration when leaving the premises. He was also a resident in Grange Road and was aware of the noise arising from customers leaving at night. He was also arranging for the noise limiter to be repaired. There was an in-house training schedule in place that dealt with restricting the sale of alcohol, and he confirmed that Bibendum was a member of Pub Watch. In respect of the noise created from bottles being deposited in containers on the premises, Mr Horsburgh confirmed that 99% of this took place on the following day, and not at night. He said that he would be willing to accept the recommendations of an acoustic consultant's report.

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 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 variation application in respect of Bibendum, 1 Grange Road, be granted as set out in the attached appendix.

The meeting closed at 12.55 p.m.

**C Belsey
Chairman**

Eastbourne Borough Council

Decision Notice

Licensing Act Sub-Committee held on Tuesday 30 August 2005

Applicant: Gillian Mechan

Premises: Bibendum,
1 Grange Road,
Eastbourne

Reasons for Hearing: Relevant representations were received from interested parties and Responsible Authorities in connection with the licensing objectives as follows:

- Noise and disturbance from music inside the premises and noise from customers leaving the premises.

Parties in attendance: For the applicant – Mr A Horsburgh

Responsible Authorities (Environmental Health) – Mr R Fenton

Interested Parties - Mrs V Peters, Mr C T Fisher, Ms C Szanto (for Fathers Howell and Hester) and Councillor D Elkin

Decision made: To grant the variation of the Premises Licence as follows:

(1) Standard Hours:

Sale of Alcohol:

Sunday to Thursday	10.00 - 23.00
Friday to Saturday	10.00 - 00.30

Regulated Entertainment:

Indoor Sporting events (pub games)/video entertainment and amusement machines/live and recorded music (including DJ/karaoke) performance of dance and anything of a similar description/provision of facilities for making music and dancing:

Every day of the week from 10.00 (with the exception of live music which will commence at 20.00) until the hours open to the public.

Late night refreshment:

From 23.00 until the hours open to the public.

Open to the Public:

Every day of the week from 10.00 to thirty minutes after the latest hour permitted for the sale of alcohol to allow for "drinking up" time.

(2) Non standards Hours

All Bank and Public Holidays, which do not precede a working day:

10.00 – 00.30 for sale of alcohol.

10.00 – 01.00 for opening hours, late night refreshment and regulated entertainment (with the exception of live music which will commence at 20.00).

(a) 10.00 on New Year's Eve (31 December) through until 23.00 on New Year's Day (1 January)*.

* Continuous opening being permitted in any event between 23:00 on New Year's Eve and 11:00 on New Year's Day pursuant to the Regulatory Reform (Special Occasions Licensing) Order 2002.

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

- i) The outside areas shall not be used between the hours of 23.20 and 10.00 the following day.
- ii) After 20.00 hours on Fridays, Saturdays and any other event night, a Security Industry Authority registered Door Supervisor shall be employed to assist in ensuring that the conditions of the licence are met.
- iii) An acoustic report shall be commissioned from a professionally accredited consultant and its recommendations acted upon prior to the 2nd appointed day (ie 24 November 2005).
- iv) All forms of music played at the premises shall be played through a noise limiter device, set at a level agreed by the Licensee and the Environmental Health Manager, Eastbourne Borough Council.
- (v) All doors in the premises and all windows in the function room shall be kept shut during operating hours, save for access and egress.
- (vi) Bottles shall not be emptied into a re-cycling skip

between the hours of 22.00 and 08.00 the following day.

Reasons for Decision: The Sub-Committee has granted the application and variation of a Premises Licence subject to the conditions and hours specified, having taken into account only the evidence that is relevant, regulations and guidance under the Licensing Act 2003 and the licensing objectives.

Having considered the evidence before it, the Sub-Committee was minded to impose conditions upon the applicant's request for extended opening hours, regulated entertainment and the sale of alcohol. The reason for this is that the Sub-Committee has weighed up the applicant's submissions alongside the representations made by those interested parties as persons living in the vicinity of the premises and the Sub-Committee considers conditions to be necessary in order to meet the objectives of preventing public nuisance.

Date of Decision: 30 August 2005

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.