



## **Licensing Act Sub-Committee - Record of Hearing held on Wednesday 1 August 2007 at 6.00pm**

**MEMBERS:** Councillor BLOOM (Chairman); Councillors Mrs GOODALL and HARRIS.

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### **1 Declarations of Interest.**

None were received.

### **2 Application for Variation of Premises Licence for Kentucky Fried Chicken, 29-31 Langney 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 variation of a premises licence for Kentucky Fried Chicken, 29-31 Langney Road. Reference was made to the Council's Cumulative Impact Policy which was adopted on 25 July 2007. The premises were located within the area identified as being subject to the policy.

Representations in support of the application were made by Mr M Bradley. He explained the operation of the premises which provided a takeaway and restaurant service. It was not anticipated that the variation sought would be implemented on Mondays and Tuesdays. An extension to the current hours until 0400 would provide facilities for customers not provided by other premises that only operated a takeaway service. He stated that alcohol related incidents in the area could not be attributed to KFC as no alcohol was sold on the premises. He acknowledged the concerns of local residents and the police and offered an amendment to the application. The first option proposed operating a takeaway service only until 2.30am every night. The second proposed a restaurant only service until 4.00am on a Thursday, Friday and Saturday only. Mr Bradley referred to a requirement for planning permission to change the proposed hours of operation and the Principal Solicitor advised that the issue of planning was not a matter for consideration by this Sub-Committee.

In response to a question from the Licensing Manager, Mr Bradley stated that door supervisors were not currently provided, although the current licence required the provision of SIA registered door supervisors on Thursdays to Saturdays. He advised the Sub-Committee that no problems were currently experienced at the premises. The premises had a comprehensive CCTV system which was utilised by the police.

Inspector N Porter, Sussex Police had made written representations as a responsible authority under the prevention of crime and disorder objective.

Inspector Porter advised the Sub-Committee that the premises were well run and the staff provided excellent co-operation relating to the police use of the CCTV system.

In 2005 as a result of an application from KFC for a late night refreshment licence, the police had discussed with the applicant concerns regarding the amount of crime and disorder incidents which the police thought may be directly related to the premises. At the time the premises was closing at 3.00am on Fridays, Saturdays and Sundays. Following a meeting with the applicant it was agreed that the opening times be reduced to 1.00am. The number of incidents relating to crime and disorder linked to the premises had significantly diminished since the reduced hours were implemented.

The premises' location is a Police priority "hotspot" with high levels of alcohol related public place violent crime and disorder. In the opinion of the police the current application to vary the licence contained no new measures which were not previously employed at the premises at the time the opening hours were reduced.

The Police objected to a premises terminal hour later than 1.00am as additional opening hours would have an adverse effect on recorded crime and disorder in Langney Road and would undermine the licensing objectives. The applicant had not provided evidence to rebut this as required by the Council's Cumulative Impact Policy.

Written representations and a petition had been received from local residents living and businesses operating in the vicinity as detailed in the Licensing Manager's report.

Councillor Mrs Bannister addressed the Sub-Committee on behalf of Mr and Mrs Burrell. Any extension of opening hours would lead to a serious increase in problems of public nuisance which would impact on the quality of life of residents in the area. She referred to the damage suffered by local business premises. As the latest opening refreshment venue, more customers would be attracted to the area. The applicant had not provided evidence that the later hours sought would not have a negative impact on the area.

Mrs Hughes addressed the Sub-Committee in objection to the proposal and also represented the views of Mr Neale and Mr Patel who operated business in the vicinity. She referred to a number of violent incidents witnessed outside the premises, damage to residential and business properties, noise and disturbance from customers and boy racers outside the premises and the rubbish created from discarded food and wrappers. The present closing time of 1.00am had resulted in a reduction of the problems experienced and she hoped no changes would be permitted to the current opening hours. The measures proposed by the applicant would not prevent a reoccurrence of the problems experienced when the premises closed at 3.00am.

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. When the Sub-Committee reconvened, the Principal Solicitor indicated that she had been called in to provide advice regarding the decision-making process in respect of a variation application for

premises in an area where a cumulative impact policy is in place. The effect of a cumulative impact policy is to create a presumption in favour of refusing applications to vary licences by increasing the timescale of operation where representations are received. The presumption is capable of being rebutted only where evidence is produced which demonstrates that the proposed change will not add to the cumulative impact being experienced.

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 Kentucky Fried Chicken, 29-31 Langney Road be refused for the reasons as set out in the attached appendix.

The meeting closed at 7.35 p.m.

**M Bloom  
Chairman**

# Eastbourne Borough Council

## Decision Notice

### Licensing Act Sub-Committee held on Wednesday 1 August 2007

- Applicant: Southdowns Restaurants Ltd
- Premises: Kentucky Fried Chicken  
29-31 Langney Road  
Eastbourne  
BN21 3QA
- Reasons for Hearing: Relevant representations received from responsible authorities and interested parties under the public nuisance and prevention of crime and disorder objectives.
- Parties in attendance: For the applicant – Mr M Bradley
- Responsible Authorities:  
Sussex Police - Inspector N Porter and Mr A Whitehead, Licensing Officer.
- Interested Parties – Councillor Mrs M Bannister (representing Mr and Mrs Burrell) and Mr & Mrs Hughes (also representing Mr R Neale, Boot & Shoe Repairs and Mr J Patel, Newies News).
- Decision made: That the application be refused on the following grounds:
- Reasons for Decision: The Sub Committee has refused the application for a variation of 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 has weighed up the applicant's submissions alongside the representations made by the responsible authorities (Sussex Police) and interested parties and considers that an extension of hours would lead to an increase in public nuisance and incidents of crime and disorder which cannot be met by the imposition of conditions.
- The Sub-Committee had particular regard to the evidence put before it by the police and interested parties that a previous reduction in operating hours from 0300 to 0100 had resulted in a reduction in public nuisance and crime and disorder related incidents at the premises.
- It was noted that cumulative impact policies create a presumption against the granting of a licence and that in this instance the applicant had not adduced evidence to rebut that presumption.
- Date of Decision: 1 August 2007

Date decision notice issued: 13 August 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.