



Licensing Act Sub-Committee - Record of Hearing held on Tuesday 21 October 2008 at 6.00pm

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

1 Declarations of Interest.

None were received.

2 Application for Variation of Premises Licence – Premier Extra, 28 Seaside 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 variation of a premises licence for Premier Extra, 28 Seaside Road to permit the sale of alcohol until 1.00am.

Reference was made to the Council's Cumulative Impact Policy which was adopted on 25 July 2007 and that the premises were located within the area identified as being subject to the policy.

The Licensing Manager responded to questions regarding visits made to the premises by the licensing team following a complaint regarding alleged underage sales. The member of staff on the first visit had been unhelpful and uncooperative. On subsequent visits staff had been unable to produce the refusals register until Mr Abbas arrived on site. There had been a number of improvements but it was stated that staff had been unable to respond to basic questions on the forms of identification required to verify a person's age. Although there was no evidence of underage sales, it had been necessary to remind staff and Mr Abbas of their responsibilities.

Inspector N Wainwright, Sussex Police had made written representations as a responsible authority under the prevention of crime and disorder, public nuisance and the protection of children from harm licensing objectives.

Inspector Wainwright gave an overview of the area covered by the Cumulative Impact Policy which was adopted as the impact of the number and concentration of licensed premises in the area was having an adverse effect on the promotion of the licensing objectives. He referred to the indisputable links between crime and disorder, the night time economy and alcohol consumption and that public place violent crime, criminal damage and anti-social behaviour offences all occur at a totally disproportionate rate in this small zone compared to the rest of the town.

Premier Extra was located at the heart of the zone and contained a number of late night refreshment venues, convenience stores and other licensed premises. Seaside Road was one of the principle locations which saw an influx of customers from 11.00pm onwards when pubs and clubs closed due to the number of fast food outlets in the street. The police were concerned that an extension of alcohol sales to 1.00am would seriously exacerbate problems of

crime and disorder in the town. If the application was granted there was anecdotal evidence to suggest that similar applications for extended hours of operation would be submitted by other licensed premises in the cumulative impact area.

Reference was made to recent problems in Seaside Road and the regular reports received by the police of youths congregating in the street from around 8.00pm onwards on Fridays and Saturdays, in many cases openly drinking alcohol.

The Sub-Committee was advised that police statistics for the six month period from January to August 2008 had recorded 15 assaults, 15 incidents of criminal damage and 36 incidents of anti-social behaviour in Seaside Road alone.

He referred to the adverse publicity for the area throughout the summer and made reference to the headline which had reported on the mayhem being caused by underage drinkers in Seaside Road.

Two witness statements had been submitted from Members of a local residents' association which outlined their experiences of incidents of anti-social behaviour, damage to property and noise and disturbance in the vicinity during the early evening and continuing until the early hours of the morning.

Sgt Williams expanded on the evidence submitted as the officer for the town centre and of his regular attendance at public and residents' meetings covering Elms Avenue, Cavendish Place and Pevensey Road where local residents voiced their concerns regarding the on-going problems in their streets.

He referred to Operation Blitz and Operation Pier which both involved targeting youth disorder on the seafront, the pier and the immediate area as a result of the recent problems. He advised that the police were regularly called to the area surrounding Seaside Road and that groups of youths were often found congregating with alcohol.

Although there was no evidence to say where the alcohol was purchased, it was clear that alcohol was being obtained by under 18's from premises with off sales licences, most likely from nearby premises. Alcohol had been seized from youths who had bought supplies from shops in Seaside and then taken it to a different location to consume.

Throughout the year youths had been seen congregating outside Premier Extra and recent complaints had been received from residents regarding underage sales of alcohol. Based on their operational experience the police disagreed with Mr Hall's suggestion that only small numbers of youths would congregate between the hours of 11.00pm and 1.00am.

Reference was also made to the significant increase in street drinking which had prompted the removal of benches in the area as a preventative measure. The proposed extension of hours would provide an opportunity to buy alcohol much later in the evening.

The police considered that the offer to employ two SIA registered door supervisors on Fridays and Saturdays from 11.00pm was not sufficient to allay their concerns. It would have no impact on the alcohol fuelled problems caused by off licence sales which occur elsewhere in the town and problems were not confined to the weekend as Seaside Road was generally busy on other nights of the week.

In conclusion the police stated that targeted policing and the adoption of the Cumulative Impact Policy had contributed to a 30% reduction in public place violent crime compared to last year. Any extension to off licence sales would be likely to increase the number of reported incidents to the detriment of the licensing objectives.

Representations in support of the application were made by Mr R Abbas, Miss C Taylor and Mr B Hall.

Mr Hall advised the Sub-Committee that the premises had operated as a grocery store since December 2007 and that since May 2008 it had opened until 1.00am for non-alcohol sales on a Friday and Saturday.

Mr Abbas stated that 20% of his estimated turnover came from alcohol sales. The later opening hours had been introduced to give greater flexibility to customers. The main users were families and regular customers who worked later hours.

Mr Abbas advised the Sub-Committee of his intention to employ more staff who would hold personal licences.

Miss Taylor stated that street drinkers rarely came to the premises. Youths had been witnessed in the area but not outside the premises and any youths congregating outside the premises would be asked to move on. The area outside the premises was regularly checked and cleared of litter.

With reference to visits made by licensing officers, it was stated that the staff member involved no longer worked at the premises. In response to questions from the Sub-Committee it was confirmed that the procedures required by the licensing team were now in place, including staff training, proof of age requirements and a refusals register. In response to a question from the Licensing Manager Mr Abbas stated that staff received verbal training on a monthly basis but that he did not keep records of the training given. The employment of SIA Registered door supervisors was proposed on Fridays and Saturdays to deter shop lifting and to manage any problems within the store.

Mr Hall stated that off-licences were not specifically identified as premises within the Cumulative Impact Policy and should not therefore be subject to the policy. He maintained that there was a need to provide a later trading hour in this part of town to accommodate the growing night time economy. He stated that the premises would be closed by the time customers left the main clubs in the town.

He referred to recent press reports submitted as evidence on the reduction of overall crime in the town according to the latest police figures. He stated that the police evidence was non-specific which made any meaningful analysis difficult. He queried the relevance of the witness statements which appeared to refer to incidents outside the vicinity of the premises. Whilst the concerns of the police regarding proxy sales were acknowledged, certain activities remained outside the control of the applicant. The premises were well illuminated and would be appropriately managed.

The legal advisor stated that the Cumulative Impact Policy covered all licensed premises and did not just refer to vertical drinking establishments. Paragraph 1.3 referred to "the problems that can arise when large numbers of premises providing licensable activities are in close proximity to one another"

and that cumulative impact is defined as "The potential impact on the promotion of the Licensing Objectives where there are a significant number of licensed premises concentrated in one area."

The effect of a Cumulative Impact Policy is to create a presumption that where representations are received, new licences and applications to vary licences by increasing the size and timescale of operation would be refused if representations are received unless it can be demonstrated that the operation of the premises will not add to the cumulative impact already being experienced.

The Licensing Manager referred to Section 182 of the Licensing Act 2003 and the Council's Licensing Policy Statement that with regard to licensing hours it will be the normal Policy of the Council to allow shops, stores and supermarkets 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 evidence for restricting those hours, for example following police representations.

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, guidance under Section 182 of the Licensing Act 2003, 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 Premier Extra, 28 Seaside Road be refused for the reasons set out in the attached appendix.

The meeting closed at 8.25p.m.

**M Thompson
Chairman**

Eastbourne Borough Council

Decision Notice

Licensing Act Sub-Committee held on Tuesday 21 October 2008

- Applicant: Miss Claire Taylor
- Premises: Premier Extra
28 Seaside Road
Eastbourne
- Reasons for Hearing: Relevant representations received from responsible authorities under the prevention of crime and disorder and public nuisance licensing objectives.
- Parties in attendance: Applicant and representatives – Mr R Abbas, Miss C Taylor and Mr B Hall (Licensing Consultant).
- Responsible Authorities - Sussex Police - Inspector N Wainwright and Sergeant J Williams
- 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, the licensing objectives and the Council's Statement of Licensing Policy
- The Sub-Committee has weighed up the applicant's submissions alongside the representations made by the responsible authorities (Sussex Police.) The Committee accepts the concerns of the police and find that granting the application would be likely to exacerbate the incidences of crime and disorder and public nuisance in the Cumulative Impact Policy area. The Committee finds that the applicants have not, in the evidence submitted by them, demonstrated that there will be no negative impact on the licensing objectives arising from the application.
- The application should therefore be refused in line with the terms of the Cumulative Impact Policy adopted by the Council in July 2007 since the Committee did not hear evidence from the applicants to overcome the Cumulative Impact Policy, or indeed to promote the Licensing Objectives, in particular, the prevention of crime and disorder.
- Date of Decision: 21 October 2008
- Date decision notice issued: 5 November 2008

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.