

Licensing Act Sub-Committee - Record of Hearing held on Monday 10 August 2009 at 6.00pm

MEMBERS: Councillor PURCHESE (Chairman); Councillor Mrs GOODALL and Mrs POOLEY.

1 Declarations of Interest.

None were received.

2 Review of Premises Licence – Funktion Rooms, 2a-2b Pevensey Road.

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

The Licensing Officer outlined the report detailing the application for a review of the premises licence for the Funktion Rooms.

The Chief Officer of Sussex Police had submitted an application for an expedited summary review of the premises licence under Section 53A of the Licensing Act 2003 as amended by the Violent Crime Reduction Act 2006 on the grounds that the premises is associated with serious crime.

A meeting of the Sub-Committee held on 16 July 2009 had taken the interim step of suspending the licence with immediate effect, a decision which was upheld at a Sub-Committee hearing on 23 July 2009. This interim step was considered necessary for the prevention of serious crime and for public safety.

Mr D Richards, Barrister for Sussex Police advised the Sub-Committee that Sussex Police and the applicant had reached an agreement on proposed conditions to be attached to the licence and revisions to their alcohol and disorder policies. Mr D Dadds, Barrister for the applicant confirmed that the conditions were accepted and considered necessary and proportionate to achieve the licensing objectives.

The Sub-Committee adjourned the meeting so that everyone present had the opportunity to consider the proposed conditions, before re-convening to hear from the other parties.

Written representations had been received from Mr A Ley, Pevensey Road Neighbourhood Association as an interested party under the prevention of public nuisance licensing and crime and disorder licensing objectives.

He addressed the Sub-Committee on behalf of the Association in objection to the licence. Of particular concern was the use of drinks promotions and it was considered that the management of the premises were failing to take adequate steps to control alcohol abuse. Nearby residents and those living on the access routes to these premises suffered frequent antisocial behaviour as customers went to and from the venue.

The Association supported the Council's Cumulative Impact Policy and it was the intention of the Association to object to any new licence applications in the impact area. He stated that premises which failed to meet the licensing objectives should be challenged by the police and subject to a review hearing.

With reference to paragraph 5.7 of the dispersal policy which detailed how complaints would be handled, he expressed concern that if the same complaint received twice within 12 months would be considered as repetitious, this could lead to valid complaints not being dealt with.

He stated that the management should be proactive in promoting sensible drinking and he queried how polices put forward at the meeting would be applied and monitored. Although the difficulties in establishing that the incidents witnessed by residents could be linked to the Funktion Rooms was acknowledged, there had been a high number of incidents of reported crime in the vicinity.

Written representations had been received from Mr R Fowler, Fire Safety Manager, East Sussex Fire and Rescue Service as a responsible authority under the public safety licensing objective.

Mr F Maura, Fire Safety Officer addressed the Sub-Committee on the outcome of a fire risk assessment of the Funktion Rooms which had been undertaken following concerns raised by the Police and the Council's Licensing Team regarding overcrowding and management controls relating to fire safety.

The review had identified concerns relating to inadequate means of escape in the event of fire for the number of persons likely to be present at the premises at any one time. He also stated that the number and width of the existing fire exits and the internal escape routes provided are not adequate for occupancy in excess of 350 persons.

The Fire Service proposed that based on the current layout of the premises, the maximum number permitted to occupy the premises at any one time be limited to 350. The applicant had confirmed acceptance of the proposal and Mr Maura advised that the Fire Service were now satisfied, subject to the submission of a Statement of Intent and risk assessment by the applicant, to ensure compliance with the measures outlined in the review.

Mr D Richards addressed the Sub-Committee and advised that as a result of the number of serious incidents at the premises Sussex Police had applied for an expedited review, seeking an interim closure of the premises.

Reference was made to the police evidence submitted and the grounds on which the expedited review of the premises licence had been sought and the interim steps of suspension of the licence which had meanwhile occurred.

Incidents of increasing severity had been recorded at the premises starting from 1 January 2009 and culminating in an assault that had led to a murder charge. In July 2009 three crimes of grievous bodily harm had been recorded, a dramatic increase in the crime type and incidence that had seriously undermined the licensing objectives. Friday night into Saturday morning had been identified as a problem night which it had been suggested could be linked to the cheap drinks promotions offered on a Friday night/Saturday morning.

Detailed statements, log sheets and number of ambulance attendances had established that the premises were associated with serious incidents of crime and disorder.

The Funktion Rooms had been designated a priority premises for targeted activity because of the rise in incidents involving drunkenness, anti-social behaviour and the police had determined the need for an action plan to address the problems at the premises.

The police and the Council's Licensing Manager had met with the management and discussed a number of issues, including the urgent need to better control the smoking area at the front of the premises and the queues outside which had been a flashpoint for disorder. The policies and procedures together with concerns over the management of the premises, particularly the reliance on cheap drinks promotions had also been discussed at length. It was also identified that the now previous Operations Manager had been resistant to a change in operation regarding cheap drinks promotions.

Following the suspension of the licence, the police had sought agreement from the applicant to measures to address their serious concerns. The submitted conditions to be attached to the premises licence and the amendments to the alcohol and disorder policies had been agreed by both parties.

Representations in support of the application were made by Mr D Dadds, Barrister.

The reduced occupancy levels were accepted but the applicant would be seeking to improve the means of escape and consult with the Fire Service regarding an increase to the maximum numbers permitted in due course.

The management structure of the premises had been changed and Mr Pinnock confirmed that he would be more heavily involved in the operation of the premises. The drinks promotions would be reassessed and a raise in prices and standards would be investigated in conjunction with Sussex Police.

Staff had been trained but would be given additional training on the new policies and the conditions proposed if approved by the Sub-Committee.

The Sub-Committee moved that the public be excluded from the meeting for a short period to discuss the incident at the premises on 10 July 2009 which had led to an ongoing criminal investigation.

The Sub-Committee resumed in open session and the applicant was questioned on the serious incidents at the premises between January and July 2009 which included 3 crimes of grievous bodily harm and asked to explain the drugs policy taking into account the findings of the ion track drug profiling undertaken at the premises on 12 July 2009.

Mr Pinnock stated that he had been unaware of the extent of the problems at the premises. He was committed to improving the operation of the premises which he would now personally oversee and was confident that the new management structure and procedures proposed would ensure the premises provided a safe environment for customers and which also promoted the licensing objectives

A condition had been agreed which limited the number of people permitted to use the smoking area at any one time and to ensure that an SIA door supervisor would be present to supervise the area at all times the premises were open. The agreed limit of 30 would be kept under review to ensure the limit was adequate. A facility for smoking on the roof of the premises was under investigation.

Drinks were not permitted outside the premises and any person using the smoking area would be subject to a search on re-admission. The Licensing Manager advised that setting times limits on the use of smoking areas had assisted other premises to limit noise nuisance and acted as a means to control patrons. The Door Team would be reviewed and the queue outside of the premises would be subject to close monitoring, in discussion with the police. The Sub-Committee was also advised of the different procedures to control drug misuse on the premises.

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. Advice had been sought from the Council's legal adviser regarding Section 182 guidance and conditions which could be attached to the licence.

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

RESOLVED: That the interim step of suspension be lifted, and the premises licence issued under Licensing Act 2003 in respect of the Funktion Rooms, Pevensey Road be re-instated and conditions added to the licence to promote the Licensing Objectives, as per the reasons set out in the attached appendix.

The meeting closed at 9.03p.m.

**D Purchase
Chairman**

Eastbourne Borough Council

Decision Notice

Licensing Act Sub-Committee held on Monday 10 August 2009

- Premises Licence Holder:
Premises:
- Madasco LLP
Funktion Rooms
2a-2b Pevensey Road
Eastbourne
- Reasons for Hearing:
- Following submission of an application from the Chief Officer of Sussex Police for an expedited summary review of the premises licence under Section 53A of the Licensing Act 2003 as amended by the Violent Crime Reduction Act 2006 on the grounds that the premises is associated with serious crime.
- Parties in attendance:
- Applicant and representatives – Mr D Dadds, Barrister and Mr M Pinnock (Madasco Ltd).
- Responsible Authorities:
Sussex Police – Inspector R Barrow, Inspector V Johnson and Mr D Richards (Barrister).
- East Sussex Fire and Rescue:
Mr F Maura and Mr N Biffen
- Interested Parties – Mr A Ley (Pevensey Road Residents Association).
- Licensing Authority:
Miss K Plympton (Licensing Manager) and Ms V Simpson (Lawyer to the Council)
- Decision made:
- That the following conditions are attached to the Premises Licence:
- i) No more than 30 persons shall be allowed to use the outside smoking area at any one time.
 - ii) An SIA registered door supervisor shall supervise those persons using the outside smoking area at all times the premises is open.
 - iii) From 23:00 hours to closing time there shall be two SIA registered door supervisors on each of the floors which are used for licensable activities.
 - iv) The Premises Licence Holder will risk assess any drinks promotion and present the written assessment to Sussex Police, no later than 72 hours in advance of implementation.
 - v) A police officer of the rank of inspector or above shall have a total veto of any drinks promotions.
 - vi) The Premises Licence Holder shall have an alcohol policy, a copy of which shall be given to all staff at the

- premises.
- vii) The Premises Licence Holder shall have a disorder policy, a copy of which shall be given to all staff at the premises.
 - viii) Any amendments to the alcohol and disorder policies shall be notified to a licensing inspector of Sussex Police.
 - ix) There shall be no new admittance to the premises after 01.00 hours.
 - x) That the final sentence of condition 14 on the licence be amended to read as follows: "These provisions shall be subject to review by the Licensee in consultation with a Sussex Police licensing Inspector approximately every six months".

The Sub-Committee required the following additional provisions to be made to ensure that the future operation of the premises could be monitored.

- (1) The Chairman of the Sub-Committee shall receive a monthly update from the Licensing Manager on the activities and operation of the premises.
- (2) The Licensee shall be invited to attend an informal meeting of the Sub-Committee in January 2010 to discuss the effectiveness of the measures put in place on the promotion of the licensing objectives.

The Licensee is reminded of their undertaking to submit to the Fire Authority a Statement of Intent to comply with the maximum permitted occupancy levels and associated management controls to be applied at the premises as stipulated in the review document dated 28 July 2009.

Reasons for Decision: The Sub-Committee has reviewed 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.

A meeting of the Sub-Committee held on 16 July 2009 had taken the interim step of suspending the licence with immediate effect, a decision which was upheld at a further Sub-Committee meeting held on 23 July 2009. This interim step was considered necessary for the prevention of serious crime and for public safety.

The Sub-Committee had taken into account the applicant's submissions and the representations made by the responsible authorities and interested parties.

The Sub-Committee considered that sufficient evidence had been provided of breaches of the crime and disorder and public safety licensing objectives and had agreed that given the facts, the additional conditions to the licence proposed by Sussex Police and accepted by the applicant were required to ensure that the licensing objectives were met. Additional

provisions had also been agreed to ensure that the future operation of the premises could be closely monitored.

The Sub-Committee had particular regard to the evidence submitted by Sussex Police of recent incidents of crime and disorder at the premises and the serious concerns raised regarding the current operation of the premises.

The Sub-Committee also considered that the Licensee should take steps to meet with the Pevensey Road Residents Association to discuss the concerns that had been raised.

Date of Decision: 10 August 2009

Date decision notice issued: 14 August 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 for the review, the holder of the premises licence and any other person who made relevant representations in relation to the application.

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.