

Licensing Act Sub-Committee - Record of Hearing held on Wednesday 18 August 2010 at 6.00pm

MEMBERS: Councillor SZANTO (Chairman); Councillors GOODYEAR and Miss WOODALL.

1 Declarations of Interest.

None were received.

2 Application for New Premises Licence – The Spyglass Inn, Royal Parade.

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

The Chairman reported that a local resident sought to submit a petition in support of the objections raised by local residents. The Chairman stated that the evidence had not been disclosed to all parties in advance and was not therefore admissible at the hearing unless all parties were in agreement. Mr Hall, Licensing Consultant for the applicant objected to its submission and the Sub-Committee decided to reject the submission of any further evidence.

Councillor S Wallis addressed the Sub-Committee requesting an adjournment of proceedings until a planning application in respect of the premises had been determined.

The legal adviser to the Sub-Committee advised that the applicant was not required to secure any required planning consent prior to the submission of a licensing application. The planning and licensing regimes were separate processes and the Sub-Committee had no power to adjourn proceedings on these grounds.

The Sub-Committee agreed that the hearing should proceed.

The Licensing Manager outlined the report detailing the application for a new premises licence for the Spyglass Inn, Royal Parade.

The Sub-Committee was advised that Sussex Police and the Environmental Health Noise Team had recommended a number of conditions to be attached to the licence if granted, which had been accepted by the applicant. It was reported that two mediation meetings had been held in July and as a result additional conditions had been offered by the applicant, which were set out in the report. The Licensing Manager reported that no objections had been raised by the Area Child Protection Team in respect of the application and drew members' attention to Section 182 guidance in relation to children and access to licensed premises.

Mr B Hall addressed the Sub-Committee in support of the application. The application sought to provide a first class restaurant facility to complement the existing facilities provided at Treasure Island. Mr Saunders stated that a meeting had been held with local residents and other interest parties to explain

the proposed operation of the proposed facility which would be a food led family restaurant and that it was not intended that the premises would operate as a pub.

After 10 years operating at the site and over £3m investment, a need for a venture of the type proposed had been identified. It was confirmed that access would be separate from the children's play area and that the entrance would be accessed via the seafront. The external area would be raised and enclosed by a decking area with an appropriate screen to minimise any possible noise pollution. There was no evidence that the venue would be used as a pub and drinking at the bar would not be permitted. With reference to the condition relating to vertical drinking, this was required to enable customers to make an order for drinks and food at the bar and a restriction had been placed on the numbers permitted at any one time. It was confirmed that no drinks promotions would be permitted and that the pricing policy would not encourage the use of the premises as a pub.

Mr Sanders stated that significant investment had already been made to improve security in the area and address the problems of anti-social behaviour which occurred at the adjacent car park. The company provided 24 hour security and although the car park was not within the control of the company it was prepared to enter into discussions with the Council regarding increased security measures at night, including enhanced CCTV and gating outside of operating hours. The concerns of local residents and businesses had been considered and additional conditions had been agreed following the mediation meeting.

Written representations had been received from businesses and local residents in the vicinity as detailed in the report.

Mr Godfrey addressed the Sub-Committee objecting to the proposal and raised concerns regarding the noise that would be generated from 150 potential customers using the outside area. There was potential for the venue to become a pub, even if this was not the use intended by the applicants. He stated that the condition restricting the number of vertical drinkers was unenforceable.

Councillor Wallis raised concerns regarding the noise and disturbance from customers leaving the premises late at night and the impact on the local community. It was considered that the location of the premises was inappropriate in such close proximity to a children's play area. Other concerns related to increased traffic, litter on the beach and the potential impact on visitors using the beach in close proximity to the premises.

Councillor Stanley believed in the commitment to create a family restaurant but stated that consideration must be given to the potential detrimental impact on the area given the late hours of operation sought and the number of people that the venue could accommodate. The concessions made by the applicants were acknowledged but the ability to enforce certain conditions was questioned. He referred particularly to the concerns raised by local guest houses in the area and the potential negative impact on their livelihoods.

Mr Murphy stated that no objections were raised to a restaurant but that a pub would be inappropriate in this location. Residents already suffered from noise and disturbance from customers leaving a pub in the area. He also raised concerns that some interested parties had been precluded from making representations as they were not considered to be located in the vicinity of the

area. Mr Shannon reiterated that the application as submitted would allow the premises to be used as a pub.

Mr Clementson stated that the application should be amended to reduce the hours of operation.

Mr Deedigan advised the Sub-Committee that the quality of life for residents would be affected and the noise and disturbance already experienced in the locality would be exacerbated by the operation of the premises. Large numbers of people dispersing across the car park was likely to heighten the risk of anti-social behaviour which was already a problem.

Mrs Vincent from the Coast Guest House addressed the Sub-Committee on behalf of a number of hoteliers in the area. Visitors purposely stayed at the end of Royal Parade as it is much quieter in general although problems with noise and anti social behaviour did occur, particularly with groups congregating in the car park adjacent to the site and causing nuisance until the early hours of the morning. The approval of the application for the sale of alcohol right on the seafront and the addition of a large number of people leaving the premises at 11.30pm was of great concern and would exacerbate the problems already experienced in the area.

Mrs Pereira stated that a few years ago amplified music had been played at the premises, which contravened the planning attached to the use of Treasure Island.

Mr Sanders advised the Sub-Committee that in response to the concerns raised by interested parties he was prepared to amend the hours of operation and proposed for consideration that the hours for the sale of alcohol and opening hours be reduced to 10.00pm and 10.30pm respectively.

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 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 The Spyglass Inn, Royal Parade be refused for the reasons as set out in the attached appendix.

The meeting closed at 8.55p.m.

**G Szanto
Chairman**

Eastbourne Borough Council

Decision Notice

Licensing Act Sub-Committee held on Wednesday 18 August 2010

- Applicant: Nationwide Inns
- Premises: Spyglass Inn
Royal Parade
Eastbourne
- Reasons for Hearing: Relevant representations received from interested parties under the public nuisance, prevention of crime and disorder, public safety and the protection of children from harm licensing objectives.
- Parties in attendance: Applicant: Mr B Hall (Licensing Consultant), Mr G Cleveley and Mr J Sanders.
- Interested Parties:
- Councillor Wallis, Councillor Stanley, Mrs Vincent (Coast Guest House), Mr Shannon, Mr M Deedigan, Mr F Godfrey, Mr J Clementson, Mr J Murphy and Mrs T Pereira.
- Licensing Authority:
Miss K Plympton (Licensing Manager) and Mr G Johnson (Regulatory and Litigation Lawyer).
- Decision made: That the application be refused on the following grounds:
- Reasons for Decision: The Sub-Committee has refused the application for a new 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 interested parties in attendance.
- The Sub-Committee acknowledged the measures proposed by the applicant to alleviate the concerns raised by local residents and businesses operating in the vicinity. This included a modification in trading hours and a number of proposed operating conditions. It was accepted that the applicant's vision was to create a family orientated restaurant however the Sub-Committee considered that the concerns relating to the potential increase in noise nuisance and anti-social behaviour were valid.
- In the view of the Sub-Committee it would be totally inappropriate to permit an establishment as proposed in the application ie. (Where alcoholic beverages can be served

without the consumption of food) in an area adjacent to a children's play area and in very close proximity to a mixed residential and holiday accommodation area. In view of the clear potential for an increase in public disturbance and crime and disorder arising from the operation of the establishment the application is therefore be refused on these grounds.

Date of Decision: 18 August 2010

Date decision notice issued: 25 August 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.