

**BEFORE THE ADUR AND WORTHING COUNCIL LICENSING SUB COMMITTEE**

**BEACHBOX DEVELOPMENT LIMITED (BDL)**

**APPLICATION FOR PROVISIONAL STATEMENT**

**FORMER PUBLIC CONVENIENCES – BEACH GREEN SHOREHAM**

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**SKELETON ARGUMENT ON BEHALF OF THE APPLICANT**

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1. My name is Ewen Macgregor. I am a Partner at TLT LLP and act on behalf of the Applicant, BDL. I have specialised in licensing and related matters for over 20 years.
  
2. Roger Wade, director of BDL, has provided a statement in support of this application and a bundle of documents has been provided, to the Licensing Authority, by BDL in support of the application which include:
  - (a) Brochure
  - (b) Layout Plans
  - (c) Revised Operating Schedule
  
3. This skeleton argument should be read in conjunction with the statement of Roger Wade and the above documents.

**Background and Application for a Provisional Statement**

4. BDL were appointed as the chosen developer of the former public conveniences, Beach Green, Shoreham following a competitive tender process. BDL do not intend to operate the premises, but instead will appoint a third party to operate the site.
  
5. Whilst it would have been open to BDL to apply for a premises licence, it was felt, in the circumstances, the more appropriate way of progressing the licence application was by way of an application for a provisional statement. This will allow residents and responsible authorities

the opportunity to further scrutinise the intended operator's plans for the running of the premises in due course.

6. The Licensing Sub Committee have the same powers when considering the application for the provisional statement as they would if an application for a premises licence had been submitted.
7. On the granting of the provisional statement any appointed operator would be required to make an application for a premises licence. This process requires further consultation with the responsible authorities and wider public. A public notice would have to be displayed on the premises and in the local press
8. The responsible authorities and members of the public have a further opportunity to contribute to the application process at this stage, save where:
  - a. The same, or substantially the same, representations about the application could have been made at the provisional statement stage but were not; and
  - b. There has been no material change in circumstance relating either to the premises or the area in proximity of the premises since the provisional statement was made

### **Relationship between Planning and Licensing**

9. An application for planning permission was submitted to Adur and Worthing Council on the 19 July 2019. Following significant public consultation, including local engagement events arranged by BDL, planning permission for these premises was granted by Adur and Worthing Council on the 19 November 2019.
10. The planning permission is subject to a number of conditions.
11. Whilst it is acknowledged that planning and licensing are different, albeit related, regimes, the Revised National Guidance to Licensing Authorities issued in April 2018 acknowledges, at para. 14.63 that

*14.63 It is recommended that statements of licensing policy should provide clear indications of how the licensing authority will secure the proper integration of its licensing policy with local crime prevention, planning, transport, tourism, equality schemes, cultural strategies and any other plans introduced for the management of town centres and the night-time economy. Many of these strategies are not directly related to the promotion of the licensing objectives,*

*but, indirectly, impact upon them. Co-ordination and integration of such policies, strategies and initiatives are therefore important*

12. This is re-enforced by the Councils own licensing policy at para. 9 under the heading "Integration of Strategies", and states as follows:

*9.1 The Licensing Authority shall secure the proper integration of this policy with local crime prevention, anti-social behaviour away from licensed premises, planning, transport, tourism and cultural strategies by:*

*Liaising and consulting with the Sussex Police and have regard to any relevant guidance or strategy concerning crime and disorder.*

*Have due regard to any relevant guidance or policy concerning:*

- *Town Planning*
- *Transport*
- *Promotion of culture*
- *Economic regeneration*
- *Anti-social behaviour.*

*9.2 Other permissions or consents may be applicable to licensed premises and applicants are expected to ensure that such permissions etc are obtained where necessary.*

13. A number of the conditions attaching to the planning permission, and the reasons why they have been attached to the planning permission, are instructive to the licensing application process, bearing in mind the nature of the application and the nature of some of the comments made in some of the representations that have been made in relation to the application for the Provisional Statement:

4. No part of the development shall be first occupied until 27 cycle parking spaces have been provided in accordance with plans submitted to and approved in writing with the Local Planning Authority.

**Reason:** *To provide alternative travel options to the use of the car in accordance with current sustainable transport policies.*

8. The premises shall only be open for the public between the hours of 07:00hrs until 23:00hrs, Monday to Saturday and 07:00hrs to 22:00hrs on Sundays and

Bank Holidays, with the exception to Christmas Eve and New Year, where the public shall vacate the premises no later than 00:30hrs.

**Reason:** *In the Interests of residential amenity*

9. No part of the development shall be first occupied until such time as a Travel Plan Statement has been submitted to and approved in writing by the Local Planning Authority...the recommendations of the Plan shall thereafter be implemented and monitored to encourage more sustainable modes of transport to the site.

**Reason:** *To encourage sustainable modes of transport to the site*

11. The development shall be undertaken in accordance with the recommendations of the submitted Ecology Report and the building shall not be occupied until bird boxes have been installed on the building as specified in the Ecology report.

**Reason:** *To mitigate any adverse impacts on wildlife and to ensure a net gain in biodiversity.*

14. Prior to the occupation of the building a Noise Management Plan shall be submitted to and approved in writing with the Local Planning Authority detailing the proposed use of the terrace and the use of the ground and first floor areas (with particular emphasis on amplified and or live music) and shall set appropriate maximum noise levels inside the building. Thereafter, the premises shall only be occupied in accordance with the approved Plan.

**Reason:** *In the interests of residential amenity.*

15. The public toilets on the ground floor of the building and the external showers shall be open at all times to the public between the minimum hours of 9.00 am and 9.00 pm during the period of 1st April to 30th September in each year and between the minimum hours of 9.00 am and 5.00 pm during the period of 1st October to 31st March in each year. The toilets and external showers shall be maintained in accordance with a management/maintenance plan first submitted to and approved in writing by the Local Planning Authority prior to the occupation of the building.

**Reason:** *To accord with the terms of the application and to ensure the replacement of public facilities on the site.*

14. The application for the Provisional Statement is consistent with the planning permission that has been granted for these premises.

## **Pre Application Consultation**

15. In advance of submitting the application for the Provisional Statement, pre application consultation was carried out with the Licensing authority and Responsible Authority, initially on the 8 March 2021. Of the responsible authorities, only the police engaged with the process and as a consequence, the proposed conditions were amended.
16. A further follow up pre application email was sent to both the Licensing Authority and the Police on the 29 June 2021 to advise that the application was about to be submitted, the application for the Provisional Statement being submitted on 2 July 2021.

## **The position of the responsible authorities**

17. The responsible authorities were all served with a copy of the application, plans and proposed operating schedule.
18. In the course of the statutory consultation process, BDL entered in to further discussions with the Police. As a consequence of this, the operating schedule was further amended to take in to account their comments, which included, amongst other things, reducing the hours for the sale of alcohol at the end of each day by 20 minutes so as to enable a period of “drinking up” to take place. Revised conditions were agreed with the police and they have confirmed that they have no objection to the application.
19. None of the other responsible authorities made any substantive comment to the application, nor sought to amend, or add, any conditions to the licence
20. The current National Guidance to Licensing Authorities, issued under s.182 of the Licensing Act 2003, states at para 9.12 that

*Each responsible authority will be an expert in their respective field, and in some cases it is likely that a particular responsible authority will be the licensing authority's main source of advice in relation to a particular licensing objective. For example, the police have a key role in managing the night-time economy and should have good working relationships with those operating in their local area<sup>5</sup>. The police should usually therefore be the licensing authority's main source of advice on matters relating to the promotion of the crime and disorder licensing objective.*

21. There are no objections to the application from any of the responsible authorities.

## **The position of the local residents**

- 22.** Throughout the application process BDL has engaged with the local residents, be that through their website [www.shorehambeachbox.co.uk](http://www.shorehambeachbox.co.uk) , by letter or through on line forums and events on Beach Green. As the project has developed, information about the project has been updated on the website, and where possible, communicated directly to local residents
- 23.** The application has drawn representations from a number of local residents who raise a range of issues, many of which do not concern, nor are related to the licensing process.
- 24.** These include, but are not limited to:
- Parking
  - Loss of green space
  - No need for a further licensed premise
  - Damage to the beach and nature reserve
  - Viability
- 25.** In so far as the relevant issues raised by the local residents are concerned, and in anticipation of these, a schedule of conditions was drawn up and circulated to the responsible authorities in advance of the application being submitted.
- 26.** These were further amended during the statutory consultation process following discussions with the police.
- 27.** Following a review of the representations made to the application, received after the consultation period had closed, further revisions to the operating schedule have been made.
- 28.** Roger Wade, in his statement (see para. 37), deals with how the proposed conditions address, directly, the concerns raised by the local residents. These deal specifically with:
- Operating hours
  - Noise, and in particular;
    - The requirement for a Noise Management plan to be submitted and approved in advance of occupation of the premises
    - The requirement for the roof terrace to be cleared of patrons by 2130
    - The requirement to draw up and implement a dispersal policy
    - To maintain a complaints register and to act upon these complaints

- Crime and disorder

29. The local residents raise concerns about the behaviour of customers of the applicant site once they have moved away from the premises. The Revised Guidance to Licensing Authorities, at para. 2.21, states as follows:

*Beyond the immediate area surrounding the premises, these are matters for the personal responsibility of individuals under the law. An individual who engages in anti-social behaviour is accountable in their own right. However, it would be perfectly reasonable for a licensing authority to impose a condition, following relevant representations, that requires the licence holder or club to place signs at the exits from the building encouraging patrons to be quiet until they leave the area, or that, if they wish to smoke, to do so at designated places on the premises instead of outside, and to respect the rights of people living nearby to a peaceful night.*

30. The planning permission also requires any operator of the premises to draw up a Travel Plan Statement which must be submitted to, and approved in writing, by Local Planning Authority before the premises can trade.

31. In all the circumstances, the conditions offered by the applicant are appropriate with the type and style of operation at the premises.

32. If there is a material change in circumstance, either to the locality or the premises themselves, between the granting of the provisional statement and the application for the premises licence, it would be open to the Licensing Authority, through their licensing committee, to attach further conditions when the application for the premises licence is submitted

## **Conclusion**

33. The Committee is invited to grant the application for the provisional statement, as applied for, for the following reasons:

- (i) The application is consistent with the Councils Licensing Policy
- (ii) The application is consistent with the Revised National Guidance for Licensing Authorities dated April 2018
- (iii) The application is consistent with the planning permission granted by the Planning Committee of the Licensing Authority

- (iv) The local residents 'amenity', as conditioned in the planning permission, offers significant protections to residents
- (v) Further conditions have been offered in the application for the provisional statement directed at protecting the amenity of the local residents
- (vi) The application is consistent with the strategic priority for Adur & Worthing Council, through the Shoreham Beach Neighbourhood Forum
- (vii) The National Guidance and Councils own licensing policy acknowledge the importance of the integration of, amongst other things, planning and licensing policies
- (viii) The applicant has agreed a revised schedule of conditions with the Police
- (ix) There are no representations to the application from any of the responsible authorities
- (x) Following consideration of the representations made by the local residents, the applicant has further reduced the proposed starting time for the sale of alcohol from 1000 to 1200
- (xi) Following consideration of the representations made by local residents the applicant has removed the provision of off sales from the operating schedule
- (xii) Any relevant concerns raised by the local residents in relation to the application for the provisional statement are addressed by the significant schedule of conditions proposed with application (which supplement the conditions attaching to the planning permission)
- (xiii) The non - Licensing Act related matters raised by the local residents are addressed by the conditions that attach to the planning permission
- (xiv) In balancing the concerns of the residents against the application, it is right and proper for the Licensing Sub-Committee to consider the nature and type of premises proposed and to conclude, based on experience, that premises of this type are unlikely to undermine the licensing objectives.

**34.** In all the circumstances, the Application should be granted.



**Ewen Macgregor**

**Partner**

**TLT**

**1<sup>st</sup> September 2021**

