

JERSEY / JUDGMENT

Licensing Assembly Applications

[2015] JRC 266A (21 December 2015)

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judgment

the bailiff: 1. At its sitting on 21 st December, 2015, the Assembly had a number of reserved matters regarding the following applications and now gives its decisions. Mr Karl Sutton - Off the Rails Café 2. Mr Sutton did not attend before the Assembly which was discourteous but we are required nonetheless to consider the application. There is no plan; this is in a residential area, there are all sorts of questions we might have wanted to ask Mr Sutton and he was not here to present the application and therefore it is refused. Le Braye Jersey Limited 3. In relation to Mr Baker's application for a First Category licence at Le Braye we also refuse that application. It really appears that the application arose out of a misunderstanding on the terms of Article 38(2) of the Licensing Law which adds conditions which apply only where the person is not taking a meal. In those circumstances we do not think it is necessary and indeed he did not really address us when that issue was put to him on any particular problem he had with his current licence. The extent of the problem is that he must currently serve alcohol to someone not taking a meal with waiter service and that does not appear to be a significant enough problem to warrant granting a tavernor's license for Le Braye . We agreed with the comment that it was a sledge hammer to crack a nut. So that application is refused. The Terminal GBJ Limited 4. In relation to the application for the Terminal GBJ Kiosk, this application is also refused. We do not think it is our function as an assembly granting licences to give advice particularly as requested. We gained a firm impression that this was a very temporary application and it clearly, in any event, although it has been advertised as a 6 th category application, a 6 th category licence is not what is sought and before this Assembly the applicant converted the application into a first category licence. Our view is that if there is going to be an application for a first category licence, it should be advertised and it should be considered first at Parish Assembly level before it is considered by this Assembly and that has not happened here and we therefore do not think it is appropriate to grant the application. If the application is to come back again it seems to us to be quite important again that there is a plan which sets out precisely what the licenced premises are expected to be. Ping Pong Gastro Bar 5. We now come to the Ping Pong Gastro Bar. We have heard lengthy submissions both from Mr Calvani and from Mr Seymour supported by some submissions from Mr Grey(sic). The application for both the third and seventh category licence is refused. There are several reasons why we think, in relation to the seventh category licence, we should refuse it.

First of all the provision of table tennis tables does not seem to us to be sufficient for the purposes of an entertainment provision any more than the provision of dart boards would be in a public house. When one looked at the number of people who could be accommodated playing table tennis compared with the number of patrons in the establishment, it makes it very difficult to say that the sale of liquor was ancillary to the provision of entertainment. We think also, and this is the major problem, that the premises are in Wharf Street and the extended hours of a 7th or 3rd category licence are likely to have a very serious impact on the patrons of the Pomme D'Or Hotel, not least because Wharf Street is quite a narrow street and the building is quite tall so the sound is bound to carry up in a way that will not be the case with the other applications which have been reserved and which we are going to come to shortly. The public interest, in our view, includes clearly those patrons of the Pomme D'Or Hotel but not least because the public interest includes hoteliers in the area having an opportunity to trade appropriately from their hotels. We do consider that it might be useful for the applicant to apply again for a restricted licence after some discussion with Mr Seymour as to the possibility of a restaurant licence only with restricted hours before 1 o'clock. I am thinking of something which envisages the close of the restaurant 11.45 or midnight or something of that kind where it may be, I cannot put it any higher than that, but it may be that the Assembly will take a different view; but it appears to us that 1 o'clock closing with people leaving the premises after that time is going to cause a significant noise problem in Wharf Street with the shape of the street and the buildings. Don Inn 6. We now come to the last application which was the Don Inn in relation to The Square. Application for a provisional First and Seventh category licence is to join the provisional Third category licence. The Assembly grants those provisional licences. We take the view that this application falls in a different category from the one in Wharf Street, certainly as far as noise is concerned. The noise is likely, it seems to us, not to come from the operations of the premises internally but the people leaving the premises, but they will be leaving away from the Pomme D'Or Hotel and not leaving absolutely adjacent to it in the same way as was the case in Wharf Street, and so we do not think noise is the same sort of problem. There are a number of conditions to be attached. They are as follows:- "1. that in addition to the requirements in respect of Article 8(5)(a) and (6) of the Licensing Law, the holder must transmit to the Judicial Greffier, who shall forward the same to the Attorney General, the certificate of an architect as to completion; the receipt of the Treasurer of the States for the appropriate licence fee or fees; the certificates of the Chief Fire Officer and the Chief Public Health Inspector to the effect that the construction of the premises has been carried out to their satisfaction, and the Attorney General is requested to present the same to the Inferior Number of the Royal Court so that thereafter the Court may order the licence can take effect; 2. that the number of persons permitted to be on the areas of the premises available to the public shall be limited to such number as the Inferior Number of the Royal Court (which is hereby authorised in that regard) may determine in the light of the recommendation of the Chief Fire Officer and the Chief Public Health Inspector, the lower of the two figures being chosen in that regard; and 3. that if any door security staff are employed they shall be members of the "Jersey Door Registration Scheme". 4. licensed premises are not to be permitted as a night club or discotheque We adopt the recommendation made in relation to the Chose Publique permit, if one is granted, in respect of the proposed external area. The Assembly, on the Taverner's licence

taking effect by its confirmation before the Inferior Number, has attached the following conditions in respect of the Chose Publique:- (a) that notwithstanding the permitted hours specified in the Licensing (Jersey) Law, 1974, as amended, the hours for the external area shall be restricted to those specified in the permit, if granted; (b) that there shall be no bar, as defined in Article 1 of the Licensing (Jersey) Law, 1974, on the said area of land; (c) that there shall be waiter service only; (d) that, should the application for a "Chose Publique" permit be refused, this licence shall be null and void; (e) that, should the application for a "Chose Publique" permit be granted but restricted in any way, this licence shall be subject to such restriction(s); and (f) that there shall be a clear division between the "Chose Publique" area and the area where the public pass; and (g) no alcohol shall be served or consumed in the external area after 11pm. 7. I would just add that in this context of a plan the Assembly has received a number of applications today without plans. It really is quite difficult to see an application in context without a plan that shows not only the area which is going to be licensed but also sometimes the areas to which it obviously relates. This is particularly true when you have got a licensing application over more than one floor or over one floor and accordingly we will be directing the Greffier - and I am saying it publicly - that applicants are to be told that they are likely, without the provisions of proper plans, to see their applications fail for that reason alone; they must be properly supported by information which we can then understand. 8. The last thing we would like to say is that the Licensing Law requires us to take into account the public interest and does not really give us much help apart from containing that provision. We do think that the spending of money, the investment of money in premises in the area is likely to be a factor if it is an investment which can be clearly shown to be in the public interest and in this case it was in the case of the last application. It was however a rather neutral question because the Pomme D'Or has spent a lot of money as well so we think the two balanced each other out as far as that is concerned. It is certainly not the case that the spending of money can, as it were, buy a licence because it cannot. But if it is in the context of spending money it may be in the public interest to encourage the spending of money and the investment in property and so that would be something we simply can take into account. The other thing finally to say is that this Assembly recognises entirely that there are fewer hard and fast lines in the context of licencing applications these days. It is to be hoped that there will be a new Licensing Law emerging at some point shortly and both the Ping Pong application and the last one in relation to The Square, as far as we are concerned looked to be producing exciting opportunities for investment for the future. No Authorities Page Last Updated: 14 Apr 2016 BAILII: Copyright Policy | Disclaimers | Privacy Policy | Feedback | Donate to BAILII

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