

Body: Licensing Sub Committee
Date: 16th April 2014
Subject: Application for a new Premises Licence for Seaside Recreation Ground, Whitley Road
Report Of: Jay Virgo, Senior Specialist Advisor
Ward(s) Devonshire Ward
Purpose To determine a new Premises Licence Application under the Licensing Act 2003.
Contact: Danielle Ball 01323 415367 or danielle.ball@eastbourne.gov.uk

1.0 Introduction & Background

- 1.1 An application has been received by Eastbourne Borough Council as the Licensing Authority, for the premises known as Seaside Recreation Ground, Whitley Road.
- 1.2 The premises does not currently have a premises licence.

2.0 The Application

- 2.1 An application for a club premises certificate under the Licensing Act 2003 has been sought for the following activities:

Plays (on and off the premises)

08:00 – 23:00 hours Monday – Sunday

Films (on and off the premises)

08:00 – 23:00 hours Monday – Sunday

Indoor sporting events

08:00 – 23:00 hours Monday – Sunday

Live music (on and off the premises)

08:00 – 23:00 hours Monday - Sunday

Supply of alcohol (on the premises only)

09:00 – 23:00 hours Sunday – Thursday

09:00 – 00:00 hours Friday - Saturday

Provision of recorded music (on and off the premises)

08:00 – 23:00 hours Monday- Sunday

Performances of dance (on and off the premises)

08:00 – 23:00 hours Monday – Sunday

Anything of a similar description (on and off the premises)

08:00 – 23:00 hours Monday – Sunday

Provision of facilities for making music (on and off the premises)

08:00 – 23:00 hours Monday – Sunday

Provision of facilities for dancing (on and off the premises)

08:00 – 23:00 hours Monday – Sunday

Provision of facilities for entertainment of a similar description

08:00 – 23:00 hours Monday - Sunday

Hours premises are open to the public

00:00 – 00:00 hours Monday - Sunday

3.0 Licensing Objectives

3.1 When submitting an application for a Club Premises Certification under the Licensing Act 2003, the applicant is required to describe any steps they intend to take to promote the four Licensing Objectives as defined by the Licensing Act 2003. The Operating Schedule detailing these steps can be seen in the application form. This is included in **Appendix 1**. A copy of the plans is included within **Appendix 2**.

4.0 Consultation Process

4.1 The Licensing Act 2003 requires applicants to advertise both at the premises and in a local newspaper in order to inform the public of the application. A number of "Responsible Authorities" have also been consulted as part of the process, allowing a consultation period of 28 days for representations to be made.

4.2 In this instance, as a result of the consultation process, representations have been received. The representations are detailed in Section 7 of this report.

5.0 The Decision Making Process - The Licensing Objectives

5.1 In their decision making, the Licensing Sub Committee must act to promote the four Licensing Objectives. All carry equal weight as part of the process. The Licensing Objectives are:

- The prevention of crime and disorder
- Public safety
- The prevention of public nuisance
- The protection of children from harm

6.0 Eastbourne Borough Council's Statement of Licensing Policy & Section 182 Guidance Issued

- 6.1 Copies of the Council's Statement of Licensing Policy have previously been circulated to Members. A copy is also retained in the Members Room or can be downloaded from:

<http://www.eastbourne.gov.uk/about-the-council/council-policies-plans-and-strategies/licensing-policy/licensing-policy-and-cumulative-impact-policy/>

- 6.2 Whilst each application will be considered on its merits, the Licensing Sub Committee will have due regard to Eastbourne Borough Council's Statement of Licensing Policy 2014 – 2019, and Section 182 Guidance (updated June 2013) issued by the Department of Culture, Media and Sport, and must act to promote the four Licensing Objectives. This can be downloaded from:

https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/209526/1167-A_Licensing_Act_2003_2_.pdf

- 6.3 Eastbourne Borough Council's Statement of Licensing Policy outlines the matters that the Authority will consider when determining matters under the Licensing Act 2003. An overview appears below.

6.4 The Prevention Of Crime and Disorder

The Operating Schedule should include steps to ensure the deterrence and prevention of crime and disorder on and in the vicinity of premises. The restriction of types of licensable activity, hours and imposition of conditions may be considered and applied as appropriate.

6.5 Public Safety

The Operating Schedule should include steps to ensure the physical safety of patrons. This might include the restriction of types of licensable activity, hours and the imposition of conditions considered and applied as appropriate.

6.6 Prevention of Public Nuisance

Applicants will be required to demonstrate how they intend to prevent nuisance arising, disturbance occurring and mechanisms to protect amenities. The restriction of types of licensable activity, hours and imposition of conditions may be considered and applied as appropriate.

6.7 Protection of children from harm

The Operating Schedule must specify the measures and management controls in place to protect children from harm. Conditions can be placed to restrict access to children from accessing the premises during certain times or when certain licensable activities are taking place. The restriction of types of licensable activity, hours and imposition of conditions may be considered and applied as appropriate.

7.0 Representations

7.1 A full copy of all representations is included at **Appendix 3**, however a summary appears below.

Interested Parties

Representations received from members of the public, including representations that did not include names or addresses:

Mr R Moore- 173 Seaside
G Button- 61 Avondale Road
Mr C Street- 81 Avondale Road
Mr & Mrs Toft- 23 Coastguard Square
Mr S Spence- 2 Gilbert Road
Mrs S Round- 2 Mona Road
Mrs M Sandford- 18 Whitley Road
Ms J Warren- 20 Whitley Road
55 Clarence Road
83 Avondale Road
K Moynihan- 75 Avondale Road
B Stolton- 71 Avondale Road
Mr S Humphreys- 69 Avondale Road
Mr G Johnstone- 4 Gilbert Road
Mrs S Belchamber- 7 Gilbert Road
Mr D Coldwell- 11 Gilbert Road
12 Gilbert Road
S Grimer- 26 Gilbert Road
R Howe- 21 Gilbert Road
Mr C Mackinnon- 17 Gilbert Road
Mrs Winterbottom- 20 Gilbert Road
Mr A Walder- 25 Gilbert Road
Mr & Mrs Hamlyn- 29 Gilbert Road
Mr & Mrs Bowman- 28 Gilbert Road
A Edwards- 27 Gilbert Road
24 Gilbert Road
23 Gilbert Road
22 Gilbert Road
20 Gilbert Road
D Cook- 13 Gilbert Road

The representations centre on the prevention of crime and disorder and the prevention of public nuisance (noise) Licensing Objectives.

Concerns include; potential noise, nuisance and alcohol fuelled disturbance in the area.

Representations from Responsible Authorities

There has been **0** representations from responsible authorities:

- **Sussex Police** – No representations.
- **Eastbourne Borough Council Health and Environment Team** - No representations.
- **Eastbourne Borough Council Health and Safety Department** – No representations.
- **Eastbourne Borough Council Licensing Team**- No representations
- **Eastbourne Borough Council Planning Department**– No representations.
- **East Sussex Fire and Rescue Service** – No representation
- **Area Child Protection Team**– No representations
- **Trading Standards (East Sussex County Council)** – No representations.
- **Primary Care Trust**- No representations

- 7.2 The Sub Committee will need to have regard to any history or likelihood of noise, nuisance, crime and disorder at the site, or in the vicinity of the site. In addition, matters impacting upon public safety and strategies to protect children from harm will also need to be considered.
- 7.3 The Sub Committee may also consider any other matters that may negatively impact upon the Licensing Objectives and exercise their powers to impose conditions, or take the appropriate action as they see fit, in order to promote the Licensing Objectives.
- 7.4 In determining what, if any, conditions should be attached to a licence, these should only be imposed where it is considered necessary, proportionate and reasonable on a case by case basis.
- 7.5 The applicant, “interested parties” and/or Responsible Authorities may also suggest conditions to address concerns as a means to promote the Licensing Objectives.
- 7.6 Two letters in support of the application are included in **Appendix 4**.
- 7.7 One representation was received by the Licensing Authority outside of the statutory consultation timeframe. This is included at **Appendix 5** for *information purposes* only.

8.0 Legal Considerations

- 8.1 The framework for the issue, variation and/or modification to applications is made under the Licensing Act 2003. The Department for Culture, Media and Sport has issued Guidance under Section 182 of the Act, amended in June 2013. This Guidance is provided in order to assist the Council in carrying out its

functions under the Act.

8.2 Furthermore, the Licensing Sub Committee must have regard to Eastbourne Borough Council's Statement of Licensing Policy 2014-2019.

9.0 Human Rights

9.1 The provisions of the Human Rights Act 1998 must be borne in mind by the Committee when taking licensing decisions under the Licensing Act 2003. Particular regard should be had to Article 1 of the First Protocol, which relates to the protection of property and the peaceful enjoyment of possessions and property, and Article 8 - which relates to the right to respect for private and family life, home and correspondence - should also be borne in mind. While the Human Rights Act makes it unlawful for a local authority to act or to fail to act in a way that is incompatible with a Convention right, Article 1 of the First Protocol and Article 8 are both qualified rights which means that interference - to a justifiable extent - may be permitted as long as what is done:

- Has a basis in law;
- Is intended to pursue a legitimate purpose
- Is necessary and proportionate; and
- Is not discriminatory.

Background Material

- LACORS Guidance – Committee Hearings
- Section 182 Statutory Guidance to the Licensing Act 2003 (June 2013)

<https://www.gov.uk/government/publications/section-182-of-the-licensing-act-2003-amended-guidance>

- Hearing and Regulations, Licensing Act 2003
- Eastbourne Borough Council Licensing Statement 2014-2019
- Human Rights Act 1998

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