

Body: Licensing Sub Committee
Date: 5th July 2017
Subject: Application For a New Premises Licence For:
"Cafe", Princes Park, Royal Parade, Eastbourne, BN22 7AE
Report Of: Murrae Hume, Specialist Advisor
Ward(s) Devonshire Ward
Purpose To determine an application for a New Premises Licence under the Licensing Act 2003.
Contact: Murrae Hume 01323 415224. Murrae.hume@eastbourne.gov.uk

1.0 Introduction & Background

- 1.1 An application has been received by Eastbourne Borough Council as Licensing Authority, for a new premises licence at The Café, Princes Park, Royal Parade, Eastbourne BN22 7AE.
- 1.2 The premises are a 100 seat Restaurant Café, situated in the centre of a Eastbourne Borough Council owned recreation park.
- 1.3 The premises which has recently undergone a major refurbishment was previously known as the Strollers Lakeside Restaurant and had the benefit of a Premises Licence. That licence is currently suspended having been suspended in 2013 for the non-payment of annual fees.
- 1.4 There are no adverse report in relation to the premises on Licensing Authority data bases.
- 1.5 The suspended Strollers Lakeside Restaurant Premises licence issued under the Licensing Act 2003 on 27th October 2005 authorised the following licensable activities.

Sale of Alcohol by Retail

Monday to Thursday 11:00 to 23:00

Friday & Saturday 11:00 to 23:30

Live Music & Making Music (Indoors Only)

Monday to Thursday 19:00 to 23:00

Friday & Saturday 19:00 to 23:30,

Recorded Music (Indoors Only)

Monday to Thursday 10:00 to 23:00

Friday & Saturday 10:00 to 00:00

Late Night Refreshment.

23:00 to 23:30 Seven days a week.

Open to the Public

Monday to Thursday 10:00 to 23:30

Friday & Saturday 10:00 to 00:00

Sunday 10:00 to 18:00

Non Standard Timings

New Year's Eve deregulated for all activities.

- 1.6 A copy of the Strollers Lakeside Restaurant Premises licence is attached at **Appendix 1.**

2.0 The Application

- 2.1 An application for the grant of a new premises licence under the Licensing Act 2003 has been sought by Jazzco Group Ltd for the following activities:

Sale of Alcohol by Retail

08.00-20.00 hours Monday to Thursday

08.00-22.00 hours Friday to Sunday

Open to the Public

08.00- 18.00 hours Seven days a week. 1st November to 30th April

08.00-22.00 hours Seven days a week. 1st May to 31st October.

08.00-03.00 hours New Year's Eve.

- 2.2 No Application is made for Live or Recorded Music or Late Night Refreshment.

3.0 Licensing Objectives

- 3.1 When submitting an application for a Premises Licence 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 at **Appendix 2.**

4.0 Consultation Process

- 4.1 The Licensing Act 2003 requires applicants to advertise both on the premises,

and in a local newspaper in order to inform the public of the application. The application details are also advertised on the council's website. 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, one representation has been received.

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.

6.2 Whilst each application will be considered on its merits, the Licensing Sub Committee will act to promote the four licensing objectives and have due regard to:

- Eastbourne Borough Council's Statement of Licensing Policy 2014 – 2019 available via:

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

- Section 182 Guidance issued by the Department of Culture, Media and Sport, available via:

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

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 Council's Statement of Licensing Policy states that 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 Statement of Licensing Policy states that the Operating Schedule should include steps to ensure the physical safety of patrons. This might include the imposition of conditions regarding capacity and mechanisms to promote responsible drinking. The restriction of types of licensable activity, hours and imposition of conditions may be considered and applied as appropriate.

6.6 Prevention of Public Nuisance

The Statement of Licensing Policy states that within the Operating Schedule, 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 Statement of Licensing Policy requires that operating plans must specify the measures and management controls in place to protect children from harm. Conditions can be placed to restrict access to children to 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 copy of the representations is included at **Appendix 3**, however a summary appears below.

Interested Parties

There has been a representation from a member of the public.

The representation centres on the prevention of public nuisance (noise), and Public Safety Licensing Objectives.

The Interested party has been offered the opportunity to meet with the applicant to mediate the matter, but does not feel it is within the applicant's power to resolve the issues.

Representations from Responsible Authorities

There have been no representations from responsible authorities:

- 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 appropriate and proportionate on a case by case basis if the Sub Committees discretion has been exercised following receipt of relevant representations.
- 7.5 The applicant, any person or any Responsible Authorities may also suggest conditions to address concerns as a means to promote the Licensing Objectives.

8.0 Options open to the Sub Committee

- 8.1 The Sub Committee must have regard to the following:
- Eastbourne's Statement of Licensing Policy 2014-2019;
 - Statutory guidance, under Section 182 of the Licensing Act 2003;
 - Representations from any Responsible Authority;
 - Representations from "any person";
 - The application and supporting material.
- 8.2 The Licensing Sub Committee must take the steps it considers appropriate for the promotion of the Licensing Objectives and may:
- Grant the application in full as requested;
 - Grant the application but modify it:
 - By altering hours or activities;
 - By imposing conditions as appropriate, or
 - Omit parts as considered appropriate and proportionate for the promotion of the Licensing Objectives.
 - Reject the whole or part of the application.

9.0 Legal Considerations

- 9.1 The Legal Section has considered the contents of this Report (IKEN-6466-MW).

10.0 Human Rights

- 10.1 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.

11.0 Right of Appeal

Section 181 and Schedule 5 of the Licensing Act.

The applicant may appeal against any decision;

To reject an Application,

To Impose conditions on the licence or exclude any licensable activity or refusal to specify person as premises supervisor.

Likewise where a person who made a relevant representation in relation to the application desires to contend;

That the licence ought not to have been granted, or

That on granting the licence, the license authority ought not to have imposed different or additional conditions.

They may appeal the decision.

Any appeal must be made within 21 days of receipt of the written decision notice.

Background Material

- Section 182 Statutory Guidance to the Licensing Act 2003
- Eastbourne Borough Council Licensing Statement 2014-2019
- Human Rights Act 1998

APPENDICES

1: Strollers Lakeside Restaurant Premises licence

2: Application for a new to a premises licence under the Licensing Act 2003.

3: Representation from an Interested Party: Mr Mike Ward

4: The Licensing Act 2003 (Hearings) Regulations 2005.