

Body: Licensing Sub Committee
Date: 05 September 2005
Subject: Application For Conversion & Variation of A Premises Licence For
The Crown Public House, 22 Crown Street, Eastbourne
Report Of: Karen Plympton, Licensing Manager
Ward(s) Old Town
Purpose To determine a variation application under the Licensing Act 2003 for an existing licensed premises
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1.0 Introduction & Background

- 1.1 An application has been received from Punch Taverns PLC, Jubilee House, Burton Upon Trent, Staffordshire in respect of The Crown Public House, 22 Crown Street, Eastbourne.
- 1.2 The premises have traded as a public house for many years without conditions and have applied to convert their Justices On Licence under the "grandfather rights" system established by the Licensing Act 2003. This allows them to supply alcohol to a premises licence for the sale of alcohol within the previous permitted hours and restrictions as set by the Licensing Act 1964, namely:
- 1000 hours – 2300 hours Monday – Saturday
1200 hours – 2230 hours Sunday
- 1000 hours – 1500 hours Christmas Day
1900 hours – 2230 hours
- 1200 hours -2230 hours Good Friday
As per Deregulation Order NewYears Eve - Day
- 1.3 In respect of the application for Conversion of the premises licence, no representations have been received from Sussex Police and as such, this part of the application is deemed granted.
- 1.4 The applicant has applied at the same time for a variation of such a premises licence in this transitional period, pursuant to Schedule 8 Para 71(b) of the Licensing Act 2003. The premises application form, found in Appendix A, seeks permission for the following licensable activities:-

Provision of regulated entertainment, comprising of:

- Indoor Sporting events
- Live music
- Provision of recorded music
- Late Night Refreshment

2.2 Hours of licensable activities:

2.3 Supply of alcohol

- Monday – Wednesday 1000 hours – 0000 hours
- Thursday - Saturday 1000 hours – 0100 hours
- Sunday 1100 hours – 2330 hours

Save For

- A further additional hour into the morning following every Friday, Saturday, Sunday and Monday for each May Bank Holiday, Spring/Whitsun Bank Holiday and every August Bank Holiday
- A further additional hour into the morning following every Thursday, Friday, Saturday, Sunday and Monday for the Easter Bank Holiday weekend
- A further additional hour every Christmas Eve & Boxing Day
- A further 45 minutes on the either the morning following Fridays or Saturdays where the premises are hosting a pre- booked, private function
- To reflect existing New Years Eve/New Years Day hours

2.4 Other licensable activities

As above

2.5 Open to the public

- Monday – Wednesday – 1000 hours – 0030 hours
- Thursday – Saturday - 0900 hours – 0130 hours
- Sunday - 1200 hours – 0000 hours

3.0 Consultation Process

3.1 The Licensing Act 2003 requires applicants to advertise variations both on the premises and in a local newspaper to inform the public of the application. A number of "Responsible Authorities" are also consulted, allowing a consultation period of 28 days for representations to be made. As a result of the consultation process, representations have been received.

4.0 The Decision Making Process **The Licensing Objectives**

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

- A) The prevention of crime and disorder
- B) Public safety
- C) The prevention of public nuisance
- D) The protection of children from harm

5.0 The Application

5.1 When submitting an application to vary a licence under the Licensing Act 2003, the applicant is required to describe the additional steps, if any; it intends to take to promote the four Licensing Objectives. The applicants' declaration can be seen on Page 23 of the application form. (Appendix A)

6.0 Eastbourne Borough Councils Statement Of Licensing Policy

6.1 Whilst each application will be considered on its merits, the Licensing Committee will have due regard for the Eastbourne Borough Council Licensing Statement and the promotion of the 4 Licensing Objectives.

(A) The Prevention Of Crime and Disorder

Eastbourne Borough Council (EBC) 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.

(B) Public Safety

EBC 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.

(C) Prevention of Public Nuisance

EBC 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.

(D) Protection of children from harm

EBC 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 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 **(Appendix B)**

A full copy of all representations is included in Appendix B, however a summary appears below:

Interested Parties

- Mr & Mrs Ward of Ocklynge Road, Eastbourne makes representations as persons living in the vicinity. Representations centre around the prevention of nuisance objective They state:
 - "This is a residential area and the premises is closely surrounded by private housing."
 - "The pub has acquired a reputation for rowdy behaviour, underage drinking and has been visited by the Police on numerous occasions."
 - "The question of live or pre recorded music is unacceptable.." "We will be able to hear everything all evening and into the night. This will encroach on our privacy and our right to quiet in our home."

- Mr B Robinson of Selwyn Park Court, Selwyn Road makes representations as a person living in the vicinity, primarily under the Prevention of Public Nuisance Licensing Objective. Observations include that he and others can hear "regular loud music and general shouting often well beyond midnight" originating from the premises. "This noise, particularly music , is loud enough to keep us awake, particularly in the summer when the windows are open." "Extended opening times would only prolong and increase adverse impact on the many local

residents, through noise and behaviour.”

- Mr & Mrs Bowering make representations as persons living in the vicinity of premises. Representations centre on the prevention of public nuisance objective. The premises “closes at 11pm and the noise continues unabated until the last customers mercifully leave the area around midnight.” If the licence is granted the “noise and nuisance particularly on Friday, Saturday and Sunday will continue until two and three in the morning.”
- Ms ME Taylor of 16 New Upperton Road, Eastbourne makes representations as a person living in the vicinity of the premises claims that “young people, worse for drink cause noise late at night, especially weekends.” Ms Taylor cites several incidents which she “is sure alcohol is a factor.” Ms Taylor mentions to the “low key/invisible police presence” and refers to a byelaw “stipulating no noise between 11pm – 7am,” which if the application is granted, “will be flouted.” The correspondence ends “If permission for extended night- time opening is granted, how many nights of misery will the residents have to suffer before complaints are heeded and action taken?”
- Mr & Mrs Edgerton of Crown Street, Eastbourne, make representations as interested parties living in the vicinity. Representations centre on prevention of public nuisance objective. They state that the “premises is located in a primarily residential location, which is densely populated. Any additional disturbance from extending licensing hours will occur when presumably most local inhabitants will be asleep.” A large number of public houses (5) are concentrated in a small area, therefore the potential for disturbance is magnified quite considerably.”
- Ms Parry, of Ocklynge Road, Eastbourne makes representations as a local resident living in the vicinity. Representations address all four licensing objectives. Correspondence cites “.noise from pubs will cause a disturbance to nearby residents in the early hours,” “encouragement to drink longer could have an adverse effect on families and be a danger to children,” people could be in danger where alcohol consumption has increased, resulting in drunken behaviour.”
- Ms Sinden , of Ocklynge Road, Eastbourne makes representations as a local resident living in the vicinity. Representations address the issue of public nuisance. Correspondence details historical problems with the Police, being woken by noise, both ancillary and that directly linked to the pub. Ms Sinden states “when they have noisy music, there is no way and no where to find peace.” “When people

have a few drinks, they get very noisy and quarrelsome." "I consider it selfish to have this deal thrust upon us." "We will have even more noise and sleepless nights."

- Ms Connell of Ocklynge Road, Eastbourne makes representations as a local resident living in the vicinity. Representations address the public nuisance objective. She states "It seems very likely that this will result in nuisance from newly allowed music, vehicles leaving so late, customers congregating especially after consuming alcohol, open windows and doors."

Representations from Responsible Authorities

- Police – No representations
- Fire – No representations
- Health and Safety – No representations
- Planning EBC – No representations
- Area Child Protection – No representations
- Environmental Health EBC – No representations
- Trading Standards East Sussex County Council – No representations

- 7.1 Discussions with all parties, including the applicants Solicitors have failed to resolve matters, hence the case being brought to Committee.
- 7.2 Regard will be had to any history or likelihood of nuisance. Powers may be exercised to impose conditions as to hours of opening in order to avoid unreasonable disturbance to residents of the neighbourhood.
- 7.3 In determining what conditions should be attached to licences and certificates as a matter of necessity for the promotion of the licensing objectives. Only necessary, proportionate and reasonable licensing conditions should be imposed on licence on a case by case basis. The Licensing Committee has been provided with a "Pool of Licensing Conditions," which can be attached to licences.

8.0 Options Open To The Panel

- 8.1 The Panel must have regard for the Local Authority Licensing Statement and statutory guidance in the Licensing Act 2003. Copies of Guidance under Section 182 of the Licensing Act 2003 and Eastbourne Borough Councils Licensing Statement have been provided to the Licensing Committee as reference material.
- 8.2 The Panel must take the following steps as it considers necessary for the promotion of the Licensing Objectives:-

- a) Grant the application as requested
- b) Grant the application but modify it by altering hours or activities, adding conditions, * or omitting parts as necessary for the promotion of the licensing objectives.
- c) Reject the whole or part of the application

9.0 Legal Considerations

- 9.1 The Department For Culture, Media and Sport has issued Guidance under Section 182 of the Licensing Act 2003. This guidance is provided to assist the Authority in carrying out their functions. Furthermore, the Licensing Panel must have due regard for the Eastbourne Licensing Statement.

Human Rights

- 9.2 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. 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.

10.0 Background Material

- Licensing Act 2003
- LACORS Guidance – Committee Hearings
- Section 182 Statutory guidance to the Licensing Act 2003 Hearing and Regulations
- Eastbourne Borough Council Licensing Statement 2005
- Human Rights Act 1998