

Committee Report

Body: Licensing Sub Committee
Date: 13 September 2005
Subject: Application For Conversion & Variation of A Premises Licence For The Bourne Inn, 80-82 Pevensey Road, Eastbourne
Report Of: Karen Plympton, Licensing Manager
Ward(s) Devonshire
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 by The Bourne Inn, Pevensey Road, Eastbourne, East Sussex. The premises is owned by the Chapman Group Limited, Syon House, High Street, Angmering, West Sussex/168 Church Road, Hove, East Sussex.
- 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
 - New Years Eve – New Years Day as per Government deregulation Order
- 2.0 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 and has been determined as such within statutory timescales.
- 2.1 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:

Films – Video Entertainment on TV screens & amusement machines

Monday – Thursday 1000 hours – 0000 hours
Friday – Saturday 1000 hours – 0100 hours
Sunday 1030 hours – 0000 hours

Plus non standard timings as detailed in Box M

Indoor Sporting Events – Pub games that attract an audience whether by advert or spontaneously

Monday – Thursday 1000 hours – 0000 hours
Friday – Saturday 1000 hours – 0100 hours
Sunday 1030 hours – 0000 hours

Plus non standard timings as detailed in Box M

Live Music/Amplified music and Amplified Voice

Monday – Thursday 1000 hours – 0000 hours
Friday – Saturday 1000 hours – 0100 hours
Sunday 1030 hours – 0000 hours

The hours of live music shall be extended by 1 hour for the following days:

Christmas Eve 24th December
New Years Eve 31 December

Plus all the “named days” detailed in the non standard timings as detailed in Box M

Recorded Music including Jukebox and Karaoke with or without a DJ or as part of functions and including audience participation

Monday – Thursday 1000 hours – 0030 hours
Friday – Saturday 1000 hours – 0130 hours
Sunday 1000 hours – 0030 hours

In line with the hours referred to as “non standard timings” in Box M, plus an additional wind down period where the music will be reduced to a low background level to create an emollient mood change

Performances Of Dance – including teaching or the use of hired dancers for entertainment purposes

Monday – Thursday 1000 hours – 0000 hours
Friday – Saturday 1000 hours – 0100 hours
Sunday 1030 hours – 0000 hours

Plus non standard timings as detailed in Box M

Anything of a similar description – including compered events, quizzes etc with amplified voice

Monday – Thursday 1000 hours – 0000 hours
Friday – Saturday 1000 hours – 0100 hours
Sunday 1030 hours – 0000 hours

Plus non standard timings as detailed in Box M

Provision of facilities for making music

Monday – Thursday 1000 hours – 0000 hours
Friday – Saturday 1000 hours – 0100 hours
Sunday 1030 hours – 0000 hours

Plus non standard timings as detailed in Box M

Provision of facilities for dancing – areas of the premises to be set aside for dancing , including the function room

Monday – Thursday 1000 hours – 0000 hours
Friday – Saturday 1000 hours – 0100 hours
Sunday 1030 hours – 0000 hours

Plus non standard timings as detailed in Box M

Provision of facilities for entertainment of a similar description

Monday – Thursday 1000 hours – 0000 hours
Friday – Saturday 1000 hours – 0100 hours
Sunday 1030 hours – 0000 hours

Plus non standard timings as detailed in Box M

Late Night Refreshment

Monday – Thursday 1000 hours – 0000 hours
Friday – Saturday 1000 hours – 0100 hours
Sunday 1030 hours – 0000 hours

Plus non standard timings as detailed in Box M, plus an additional 30 minutes to count as a wind down period

2.2 Supply of alcohol

Monday – Thursday 1000 hours – 0000 hours

Friday – Saturday 1000 hours – 0100 hours

- For avoidance of doubt Good Friday and Christmas Day are included in standard timings as above.
- New Years Eve – New Years Day as per current arrangements

Save for:

Christmas Eve and Boxing Day until 0230 hours the following morning.

Sale of alcohol to be extended for an additional hour after the standard hour on

Burns Night	25 th January
Australlia Day	26 th January
St Davids Day	1 st March
St Patricks Day	17 th March
St Georges Day	23 rd April
St Andrews Day	30 th November
Thursday preceding Easter	
Sunday preceding Bank Holiday	

12 Event Days whereby the hours for the supply of alcohol are extended for an extra hour. Notice will be given to the appropriate authority in line with the statutory requirements for Temporary Event Notices.

2.3 Open to the public

Monday – Thursday	1000 hours – 0000 hours
Friday – Saturday	1000 hours – 0130 hours
Sunday	1000 hours – 0030 hours

Plus Hours detailed in Section M plus an additional 30 minutes to act as a wind down period. The premises also wish to reserve the right to open to the public for non licensable activities.

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 18 of the application form. (Appendix A)
- 5.2 A lengthy mediation meeting was held at the premises, chaired by the Licensing Manager and attended by the applicants and those making representations. At the meeting, the applicant offered the following conditions:
- CCTV, monitors and appropriate recording equipment shall be installed, operated and maintained following consultation with Sussex Police to a standard specification.
 - On the ground floor, all forms of live music shall cease at 2300 hours.
 - On the ground floor of the premises, there shall not be a designated dance floor
 - Signage asking patrons to leave the premises quietly shall be prominently displayed at all points of access and egress.
 - Windows and doors to the property shall be kept closed at all times, save for those relating to private living accommodation and when used as a point of access/egress or in the event of an emergency
 - Live entertainment on the ground floor of the premises shall be limited to a maximum of 2 occasions in any calendar month.
 - Any amplification used on the premises shall be set at a level agreed with the applicant and the Director Of Environmental Health (or their delegated officer)
 - On the morning of the first Monday of every month, for a period of 6 months after the second appointed day, a residents meeting will be held at the premises to discuss matters appertaining to the conduct of the premises
- 5.3 Several parties making representations have indicated that they would be prepared to withdraw representations, subject to the above conditions being attached to any licence.

6.0 Eastbourne Borough Councils Statement Of Licensing Policy (Copies Previously Circulated As Reference Material To Committees. Can also be located at www.eastbourne.gov.uk/licensing.)

- 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. All those making representations are entitled to attend the hearing in support of their case.

Interested Parties

- Ms Maafi & Mr Woodcock of Bourne Street, make representations as persons living in the vicinity of the premises under all 4 of the Licensing objectives.
- Ms Boyle and Hadingham of the Rosedale Hotel, make representations as persons living in the vicinity and as a local business. Representations focus on the prevention of crime and disorder objective.
- Mr Hone of Pevensey Road, makes a representation as a person living in the vicinity. He also acts as the spokesperson for 13 other residents. Representations centre on the prevention of crime and disorder, the prevention of public nuisance and the protection of children from harm objectives.
- Mr Colin Marchant of the Ranworth Christian Hotel, Pevensey Road, makes representations as a person involved in a business in the vicinity of the premises. Representations centre on the prevention of crime and disorder, public safety and public nuisance.
- Messers Lay of Pevensey Road make representations as persons living in the vicinity of the premises. Representations centre on the prevention of crime and disorder, public safety and the prevention of public nuisance.
- Mr and Angelia of the Crannog Guest House, Bourne Street, make representations as residents and a local business in the vicinity. Representations centre on the prevention of crime and disorder, public safety and public nuisance objectives.
- Mr Colin Urquhart of Linosa Court, Pevensey Road makes representations as a person living in the vicinity of the premises. Representations centre on all 4 licensing objectives.
- Mr T Turner of Langley Road, makes representations as a resident in the vicinity of the premises. Representations centre on the prevention of crime and disorder, public safety and public nuisance objectives.
- DM Smith of Pevensey Road makes a representation as a person living in the vicinity of the premises. Representations centre on all 4 licensing objectives.
- Mrs Higginbottom makes a representation as a person living in the vicinity of the premises. Representations centre on all 4 licensing objectives.

Representations from Responsible Authorities

- Police – No representations
- Fire – Previous representations relating to the provision fire alarms and escape routes now resolved. Representation now withdrawn, therefore are not included
- Health and Safety – No representations
- Planning EBC – No representations
- Area Child Protection – No representations
- Environmental Health EBC – Representations previously received from Mr Fenton of Environmental Health stating that complaints had been received from neighbouring properties regarding noise from the premises. Given the close proximity of residential premises in the area, I would request that the finishing time for live music is revised from 0000 hours to 2300 hours.
- Trading Standards East Sussex County Council – No representations

- 7.1 Discussions with all parties, including the applicants 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. Appendix D provides the Licensing Committee with a "Pool of Licensing Conditions," which can be attached to licences where it is considered necessary and appropriate.

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

*** Included as reference material for the Committee**

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

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