

Body: Licensing Sub Committee
Date: 19 September 2005
Subject: Application For Conversion & Variation of A Premises Licence For The Hadleigh Hotel, 14-22 Burlington Place Eastbourne
Report Of: Karen Plympton, Licensing Manager
Ward(s)
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 Hadleigh Hotel, 14-22 Burlington Place, Eastbourne, East Sussex.
- 1.2 The premises have traded as a hotel for a number of years. They have applied to convert their Justices Residential and Restaurant Licence under the "grandfather rights" system established by the Licensing Act 2003. This allows them to supply alcohol, subject to the following conditions:
 - Intoxicating liquor shall not be sold or supplied on the premises otherwise than to a) persons taking table meals there and for consumption by such a person as ancillary to his meal b) Persons residing there or their private friends bona fide entertained by them at their own expense and for consumption by such a person or his private friend so entertained by him either on the premises or with a meal but to be consumed off the premises.
 - Suitable beverages (including drinking water) shall be equally available for consumption with or otherwise as an ancillary to meals served in the premises.
 - There shall be afforded in the premises for the persons provided with board and lodging for reward adequate sitting accommodation in a room not used or to be used for sleeping accommodation, for the service of substantial refreshment or for the supply or consumption of intoxicating liquor.

- Suitable for the sale of alcohol within the previous permitted hours and restrictions as set by the Licensing Act 1964, namely for non residents for consumption of alcohol with a table meal:

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

For residents and bona fide guests – the sale and supply of alcohol is effective 24 hours a day seven days a week

- 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 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:

SECTION A Plays

Monday – Sunday 0900 hours – 0200 hours

SECTION B Films

Monday – Sunday 0900 hours – 0200 hours

SECTION C Indoor Sporting Events

Monday – Sunday 0900 hours – 0200 hours

SECTION D Boxing or wrestling entertainment

Monday – Sunday 0900 hours – 0200 hours

SECTION E Live Music – amplified or unamplified

Mainly functions

Monday – Sunday 0900 hours – 0200 hours

SECTION F Recorded music – for functions and/or generally throughout the hotel

Monday – Sunday 0900 hours – 0200 hours

SECTION G Performance of dance

Monday – Sunday 0900 hours – 0200 hours

SECTION H Anything of a similar description to that falling within (e), (f) or (g)

Monday – Sunday 0900 hours – 0200 hours

SECTION I Provision of facilities for making music

Monday – Sunday 0900 hours – 0200 hours

SECTION J Provision of facilities for dancing

Monday – Sunday 0900 hours – 0200 hours

SECTION K Provision of facilities for entertainment of a similar description to that falling within (i) or (j)

Monday – Sunday 0900 hours – 0200 hours

SECTION L Provision of food served at an ambient temperature by way of room service to bona fide hotel residents and guests

Monday – Sunday 0900 hours – 0200 hours

SECTION M Supply of alcohol

Monday – Sunday 0000 hours – 0000 hours

NB Supply of alcohol to the general public will be limited to between 1100 hours – 2300 hours. Other times will be for bona residents and guests attending functions including between 0200 hours and 1100 hours by way of room service /night porter to residents and guests

SECTION O Open to the public

Monday – Sunday 0700 hours – 2300 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 24 of the application form. (Appendix A)

5.2 Given the shortness of time, a mediation meeting with the interested party who resides in the vicinity of the premises meeting has not been possible. A representation was received from Mr Albon of Environmental Health, Noise but this has been resolved. (Correspondence attached at the rear of the application form.)

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
<ul style="list-style-type: none">➤ Mr Peter Williams of Park Gates, Chiswick Place, Eastbourne, who makes a representation as person residing in the vicinity of the premises. Representations centre on the Public nuisance objective. Correspondence states "I object to the extension of licensing hours on the grounds of public nuisance." "This is predominantly a residential area and residents are entitled to some peace and quiet at night. Loud music emanating from these premises has already been a cause for complaint and extending the hours would exacerbate this."
Representations from Responsible Authorities
<ul style="list-style-type: none">➤ Police – No representations➤ Fire – No representations➤ Health and Safety – No representations➤ Planning EBC – No representations➤ Area Child Protection – No representations➤ Trading Standards East Sussex County Council – No representations➤ Environmental Health EBC – Representations previously received from Mr Albon of Environmental Health stating "complaints have been received regarding noise and a notice to abate a statutory nuisance was served in

23/04/01. Further complaints have been received, but not witnessed by Environmental Health. On the application, there is no information as to how noise will be contained and monitored." Representations have been withdrawn, subject to the measures detailed by the applicant's solicitors, Mayo and Perkins. It is a matter for the Committee to determine whether measures should be included as conditions on the licence.

- 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 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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