

Committee Report

Body: Licensing Sub Committee
Date: 3 October 2005
Subject: Application For Conversion & Variation of A Premises Licence For Eastbourne Pier, Grand Parade, Eastbourne, BN21 3EL
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 Eastbourne Pier, Grand Parade, Eastbourne, East Sussex. The premises offers various activities and attractions e.g. amusement arcades, retail and food outlets, bar and nightclub. It is open to the public for use of these activities or to walk, sit or fish.
- 1.2 The site presently is not licensed as a whole but as 3 individual premises:

The Waterfront

The Waterfront currently operates as a public house with a Justices On licence, with the addition of a children's certificate, which they have applied to convert under the "grandfather rights" system established by the Licensing Act 2003. This allows them to supply 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

The Children's Certificate operates from the commencement of general licensing hours until 2100 hours.

The Atlantis

The premises currently operates as a nightclub, with a Justices on licence and a Section 77 Special Hours Certificate and a Public Entertainment Licence. They have applied to convert these licences under the "grandfather rights" system established by the Licensing Act 2003. This allows them to supply alcohol and regulated entertainment within the previous permitted hours and restrictions as set by the Licensing Act 1964, Private Places of Entertainment (Licensing) Act 1967 and Local Government (Miscellaneous Provisions) Act 1982, namely:

1000 hours – 0200 hours	Monday – Saturday
1200 hours – 0200 hours	Bank Holiday Sundays save for Easter Sunday
1200 hours – 0030 hours	Sundays & Easter Sundays

NB: Plus 30 minutes drinking up time.

The Special Hours Certificate requires that alcohol is ancillary to food.

On Good Friday	1200 hours – 0030 hours
Christmas Day	As per On Licence Hours

Bar Copa

Bar Copa operates as a nightclub, with a Justices on licence and a Section 77 Special Hours Certificate and a Public Entertainment Licence. They have applied to convert their licences under the "grandfather rights" system established by the Licensing Act 2003. This allows them to supply alcohol and regulated entertainment within the previous permitted house and restrictions as set by the Licensing Act 1964, Private Places of Entertainment (Licensing) Act 1967 and Local Government (Miscellaneous Provisions) Act 1982, namely:

1000 hours – 0200 hours	Monday – Saturday
1200 hours – 0200 hours	Bank Holiday Sunday save Easter Sunday
1200 hours – 0030 hours	Sundays and Easter Sundays
As per standard On Licence Hours	Christmas Day
1200 hours - 0030 hours	Good Friday

NB: Plus 30 minutes drinking up time.

The Special Hours Certificate requires that alcohol is ancillary to food and that food is available throughout the hours of operation.

The following Public Entertainment Schedule, provides exemptions/modifications to the standard conditions and relates to both the Atlantis and Bar Copa.

1. Prescribed additional standard conditions for late night entertainment premises numbers 103 – 104 (use of toughened or plastic glasses, application of door supervisors registration scheme) shall apply to this licence.
 2. Two door supervisors minimum shall be stationed at the Pier entrance from the time customers arrive for late night public entertainment to control entry to and exit from the Pier for the purpose of controlling public order on and in the neighbourhood of the Pier.
 3. The licensee shall apply a scheme to prevent customers arriving for public entertainment from bringing alcoholic drinks onto the Pier to prevent uncontrolled drinking on the Pier for the purpose of controlling public order.
 4. No person shall be admitted to the Atlantis or Bar Copa after 12.30 am controlled from the Pier entrance.
 5. The licensee or his nominated representative shall attend Pub Watch meetings, for the purpose of information exchange with other licensees.
- 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.
- 2.0 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 E

Live Music – inside and occasionally outside on the deck

Monday – Sunday 1000 hours – 0200 hours
Seasonal variations 1000 hours - 0500 hours.

SECTION F

Recorded music – inside and occasionally outside on the deck (DJ & Karaoke)

Monday – Sunday 1000 hours – 0500 hours

SECTION G

Performances of dance – inside and occasionally outside on the deck

Monday – Sunday 1000 hours – 0400 hours

SECTION H

Anything of a similar description to that falling within (e), (f) or (g) - Both indoors and outdoors (Children's entertainers on the deck and comedians/karaoke and like type entertainment in the bars.

Monday – Sunday 1000 hours – 0400 hours

SECTION J

Provision of facilities for dancing - inside limited to areas within Atlantis, Bar Copal and Waterfront, and occasionally outside on the deck.

Monday – Sunday 10.00 hours – 0500 hours

Non standard Times - New Years Eve and Bank Holiday Saturdays until 6am and additional hour past end of sale of alcohol for winding down.

SECTION L

Late Night Refreshment – both indoors and outdoors (to cover Fish Restaurant and Kiosks)

Monday – Sunday 2000 hours – 0500 hours

NB: Under the Licensing Act 2003, a licence for late night refreshment is not required until 2300 hours.

SECTION M

Supply of alcohol

Monday – Sunday 1100 hours – 0400 hours

SECTION O

Hours premises are open to the public

Monday - Sunday 0700 hours – 0600 hours

SECTION P

Conditions, terms and restrictions currently imposed which are required to be removed.

- Provision of food with sale of alcohol after 2300 hours
- Consolidation of Sunday hours with rest of the week
- Extend terminal hours for provision of alcohol to 0400 hours – dancing and music to 0500 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 in Section Q of the application form. (Appendix A)

5.2 Further to representations being received, the applicant has provided further evidence in respect of his application and this can be found 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

The following individuals make representations as either “interested parties living in the vicinity of the premises” or “interested parties involved in a business in the vicinity”.

The representations are of similar nature and cover all 4 Licensing Objectives.

- Mr & Mrs Archer of Cavendish Place, Eastbourne
- Mr Giorgi/Afton Hotel, Cavendish Place, Eastbourne
- D. Ashley of North Street, Eastbourne
- G. Haffenden of Cavendish Place, Eastbourne
- Mr Clapperton of Cavendish Place, Eastbourne
- Seafarer Restaurant, Seaside Road, Eastbourne
- Mr Street of Cavendish Place, Eastbourne
- Mr Jagne of Cavendish Place, Eastbourne
- P. Cole of Cavendish Place, Eastbourne

- Mr Vine of Seaside Road, Eastbourne
- Sandwich Bar, Mr Borza, Seaside Road, Eastbourne
- Smokewise, Mr Russell, Seaside Road, Eastbourne
- Miss Francis, Cavendish Place, Eastbourne
- Gordon Busbridge Ltd, Mr Calladine, Seaside Road Eastbourne
- A. Fox of Elms Avenue, Eastbourne
- J. Evans of Elms Avenue, Eastbourne
- Mr Rye of Elms Avenue, Eastbourne.
NB: Further evidence to support their representation has been supplied by Mr Rye, a copy of which is attached at the back of Appendix B.
- Mrs Estevez of Elms Avenue, Eastbourne
- J.C Long of Elms Avenue, Eastbourne
- K. Naisbett of Elms Avenue, Eastbourne
- Mr Aghili of Elms Avenue, Eastbourne
- C Radford of Elms Avenue, Eastbourne
- S.M. Goddard of Elms Avenue, Eastbourne
- Mr Waring, Grays Hotel, Elms Avenue, Eastbourne
- B.P.R Morton of Elms Avenue, Eastbourne
- Mrs Gailue of Elms Avenue, Eastbourne
- S.J. Lear of Elms Avenue, Eastbourne
NB: Further evidence to support their representation has been supplied by Mr & Mrs Lear, a copy of which is attached at the back of Appendix B.
- E. Picka of Cavendish Place, Eastbourne
- Mr Millar of Cavendish Place, Eastbourne
- M. Parra of Cavendish Place, Eastbourne
- J Dullaway of Cavendish Place, Eastbourne
- L Dullaway, Regent Hotel, Cavendish Place, Eastbourne
- S. Offord, Lynns Travel, Seaside Road, Eastbourne
- B. Sumoreeah, Savoy Court Hotel, Cavendish Place, Eastbourne
- C Burgess, Cavenish Place, Eastbourne
- Mrs Hannam, Claremont Hotel, Grand Parade, Eastbourne
- Mr Dean, Burlington Hotel, Grand Parade, Eastbourne
- Ambleside Hotel, Elms Avenue, Eastbourne
- Cromwell Private Hotel, Cavendish Place, Eastbourne
- Mr Barron of Elms Avenue, Eastbourne
- Mr Garland of Elms Avenue, Eastbourne
- Ms Howard of Elms Avenue, Eastbourne
- The occupiers of Elms Avenue, Eastbourne
- Ms Scott, Elms Avenue, Eastbourne
- The occupier, Cavendish Place, Eastbourne

- Karen Sawbridge of the Queens Hotel makes a representation as a person involved in a business in the vicinity. Representations centre on the preventing of nuisance objective, stating "guests and staff already suffer considerable noise nuisance from rowdy and drunken youths exiting the Atlantis Disco."
- A & M.A. Hemsley of Marine House, Marine Parade makes a representation as a person involved in a business in the vicinity. The representation centres on Prevention of public nuisance, stating "noise can be heard from the disco music and revellers"

along the Pier”.

- G.K. Whitmore, Richmond House Hotel, Elms Avenue makes a representation as a person involved in a business in the vicinity. The representation centres on the prevention of crime and disorder objective stating “his family’s quality of life is greatly diminished by vulgar drunk and abusive people making their way to and from the Pier. Family and guests witness fighting, abusive language, urinating in the street and the vandalising of cars. The current proposals could lead to them enduring unsocial behaviour until 5 or 6am”.
- Edwards Coach Holidays, Pontypridd makes a representation as a body representing persons involved in a business in the vicinity. Their representation centres on the prevention of crime and disorder stating “guests are kept awake by drunken behaviour and abusive language”
- Grays Coach Holidays, South Yorkshire and Welsh’s Quality Coach Holidays, West Yorkshire make representation as bodies representing persons in a business in the vicinity. Their representation centres on the prevention of crime and disorder stating “guests at the Afton Hotel situated close to the premises will be affected by the noise”
- Eastbourne Hotels Association makes a representation as a body representing persons involved in a business in the vicinity. They lodge objections on behalf of the members of the association situated in Cavendish Place, Elms Avenue, Grand Parade and Marine Parade. The Representation centre on both the prevention of crime and disorder and public nuisance objectives stating “ guests of the Hotels and Guest Houses in the vicinity of the Pier already suffer disturbing noise levels, drunken and yobbish behaviour, fighting and their cars are regularly damaged. To extend the hours would obviously make matters worse and the aforesaid behaviour would continue over a longer period”.
- A. Stockley, Marine House, Marine Parade makes a representation as a person involved in a several businesses in the vicinity. The representation centres around the prevention of public nuisance and states “that business is already lost as a direct result of invasive disco music from the Atlantis disco, which Environmental Health is aware of.”
- Ms Domsalla of Elms Avenue makes a representation as a person living in the vicinity of the premises, the representation centres on the prevention of public nuisance and the prevention of crime and disorder. Correspondence states that “I am very often awoken in the early hours by drunken hooligans who are noise, urinate and vomit where they please, and who are aggressive is challenged. Have to witness fights and suffer vandalism to private property. I feel my general health is suffering due to sleep deprivation caused, in my opinion, by client of Eastbourne Pier”.

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 have failed to resolve matters, hence the case being brought to Committee.
- 7.2 Conditions may be added to licences or revisions made as considered necessary for the promotion of the Licensing Objectives. Only necessary, proportionate and reasonable licensing conditions should be imposed on licences on a case by case basis.

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 it considers necessary for the promotion of the Licensing Objectives and may:-
- 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

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