

Committee Report

Body: Licensing Sub Committee

Date: 29th November 2005

Subject: Application For A New Premises Licence For Pizza Delight & Egyptian Kebabs, 70 Cavendish Place, Eastbourne

Report Of: Karen Plympton, Licensing Manager

Ward(s)

Purpose To determine an application under the Licensing Act 2003 for an new licensed premises

Contact: Karen Plympton, Licensing Manager, Telephone 01323 415937 or internally on extension 5937

E-mail address karen.plympton@Eastbourne.gov.uk

1.0 Introduction

1.1 An application has been received by Pizza Delight & Egyptian Kebabs, 70 Cavendish Place, Eastbourne. The premises is a new eat in and take away late night refreshment house offering pizzas and kebabs.

2.0 Application

2.1 The site seeks permission for a new premise licence to enable the following licensable activitie (Appendix A):-

Section L – Late Night Refreshment

Monday – Saturday	2300 hours – 0300 hours
Sunday	2300 hours – 0200 hours

Section 0 – Hours premises are open to the public

Monday – Saturday	1100 hours – 1500 hours 1700 hours – 0300 hours
Sunday	1700 hours – 0200 hours

3.0 Consultation Process

3.1 The Licensing Act 2003 requires applicants to advertise 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 for a new premises licence under the Licensing Act 2003, the applicant is required to describe the additional steps, if any; they intend to take to promote the four Licensing Objectives. The applicants' declaration can be seen in Section P, Page 21 of the application form. (Appendix A)

5.2 Discussions with all parties, including the applicants have failed to resolve matters, hence the case being brought to Committee.

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 Williams of Brighton makes a representation as a person who owns a premises in the vicinity. His representation centres on the public nuisance objection with correspondence stating that “ the application will cause serious noise for occupants of neighbouring flats. It is an inappropriate area for such late night activity and will attract noisy after pub and club customers” ➤ Ms Brookes of Cavendish Place makes a representation as a person living in the vicinity. Her representation covers all four of the licensing objectives. Correspondence states that “Opening until 3am every night of the week will increase the volume of traffic and people along the road late into the night, certainly an increase in drunken/violent behaviour at the weekend. The area is predominantly residential with young families, they will suffer noise disturbance and interrupted sleep and not be able to enjoy the quiet of their homes.”
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 ➤ Environmental Health EBC - No representations Trading Standards East Sussex County Council – No representations

7.1 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.

7.2 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.

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 previously 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.

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. 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 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