

**Body:** Licensing Sub Committee  
**Date:** 19<sup>th</sup> February 2008  
**Subject:** La La Lounge, 133-135 Seaside Road, Eastbourne  
**Designated Premises Supervisor** Mr Mehmet Vuranel  
**Report Of:** Karen Plympton, Licensing Manager  
**Ward(s)** Devonshire  
**Purpose** To determine a review of a premise licence under the Licensing Act 2003.  
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## **1.0 Introduction & Background**

- 1.1 La La Lounge, 133-135 Seaside Road, Eastbourne has operated as a licensed premises in Eastbourne for a number of years. It was previously licensed with an On Licence under the Licensing Act 1964 by the Magistrates Court, and operated under the name of Pepper Joes.
- 1.2 The premises operates as a restaurant on the ground and mezzanine floor, with a condition that the sale of intoxicating liquor shall be by waiter/waitress service to persons seated at tables. The basement operates as a nightclub offering all forms of regulated entertainment.
- 1.3 The site was issued a premises licence under the Licensing Act 2003 on 5<sup>th</sup> August 2005, which authorises the site to provide the following licensable activities within the times indicated below. A full copy of the current premises licence and layout plans are included at Appendix 1:-

### **The public opening hours of the premises: Basement and Ground Floor**

Monday – Saturday 10:00hrs - 02:00hrs  
Sunday 11:00hrs - 23:20hrs

### Non standard timings (throughout Premises)

New Years Eve - New Years Day in accordance with the Regulatory Reform (Special Occasions) Order 2002. From the end of permitted hours, 2300 hours, on 31 December to the start of permitted hours at 1000 hours 1st January.

### **The times the licence authorises the carrying out of licensable activities, indoors:**

**Live Music: - Basement Only**

Monday – Thursday	11:00hrs - 01:00hrs
Friday & Saturday	11:00hrs - 01:30hrs
Sunday	11:00hrs - 22:30hrs

**Recorded Music:**

Monday – Saturday	10:00hrs - 01:30hrs
Sunday	11:00hrs - 22:50hrs

**Performances of Dance: - Basement Only**

Monday – Thursday	11:00hrs - 01:00hrs
Friday & Saturday	11:00hrs - 01:30hrs
Sunday	11:00hrs - 22:30hrs

**Anything of a similar description to that of live music, recorded music or performances of dance: - Basement Only**

Monday – Thursday	11:00hrs - 01:00hrs
Friday & Saturday	11:00hrs - 01:30hrs
Sunday	11:00hrs - 22:30hrs

**Making Music: - Basement Only**

Monday – Thursday	11:00hrs - 01:00hrs
Friday & Saturday	11:00hrs - 01:30hrs
Sunday	11:00hrs - 22:30hrs

**Dancing: - Basement Only**

Monday – Thursday	11:00hrs - 01:00hrs
Friday & Saturday	11:00hrs - 01:30hrs
Sunday	11:00hrs - 22:30hrs

**Entertainment of a similar description to that of making music or dancing: Basement Only**

Monday – Thursday	11:00hrs - 01:00hrs
Friday & Saturday	11:00hrs - 01:30hrs
Sunday	11:00hrs - 22:30hrs

**Provision of late night refreshment:- Basement and Ground Floor**

Monday – Saturday	23:00hrs - 02:00hrs
Sunday	23:00hrs - 23:20hrs

### Non Standard Timing

New Years Eve - New Years Day in accordance with the Regulatory Reform (Special Occasions) Order 2002. From the end of permitted hours, 2300 hours, on 31 December to the start of permitted hours at 0500 hours 1st January.

### **Sale by Retail of Alcohol: Basement and Ground Floor**

Monday – Thursday	10:00hrs - 01:00hrs
Friday & Saturday	10:00hrs - 01:30hrs
Sunday	12:00hrs - 22:30hrs

### Non standard timings

New Years Eve - New Years Day in accordance with the Regulatory Reform (Special Occasions) Order 2002. From the end of permitted hours, 2300 hours, on 31 December to the start of permitted hours at 1000 hours 1st January.

## **3.0 Consultation Process**

- 3.1 In respect of an application for Review, the Licensing Act 2003 requires the applicant, in this instance, Sussex Police, to serve a copy of the review application on the Licensing Authority, the person who holds the Premises Licence, and all other Responsible Authorities as specified under the Licensing Act 2003.
- 3.2 Notification of the application to review the premises licence was given by Sussex Police to all Responsible Authorities on the 21<sup>st</sup> December 2007, received by the Licensing Authority on the 3<sup>rd</sup> January 2008. It was properly advertised, following consultation with Sussex Police, from 7<sup>th</sup> January 2008, by displaying a site notice prominently at the premises, the Town Hall and 1 Grove Road in order to inform the wider public of the application and for proper consultation to be undertaken, for the full 28 day period. A copy of the application for review is attached at Appendix 2, along with a copy of the prescribed site notice.
- 3.3 A notice has also been posted on the Eastbourne Borough Council's website in regard to the Review application. As a result of the consultation process, save for those received by Sussex Police, a further representation has been received from Eastbourne Borough Councils Health and Environment Noise Team.

## **4.0 The Hearing**

- 4.1 The Licensing Act 2003 (Hearings) Regulations 2005 state that a hearing must be held by the Licensing Authority within 20 working days after the initial 28 day consultation period. A determination on the review application must be made no later than 2 months after the day of the original giving of notice by relevant parties of the intention to review the premises licence.

## **5.0 The Decision Making Process** **The Licensing Objectives**

5.1 In their decision making, the Licensing Sub 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

## **6.0 Commentary on Eastbourne Borough Council's Statement of Licensing Policy**

NB. Copies previously circulated as reference material to licensing committees. Can also be located at [www.eastbourne.gov.uk/licensing](http://www.eastbourne.gov.uk/licensing).

6.1 Whilst each application will be considered on its merits, the Licensing Sub Committee will have due regard for the Eastbourne Borough Council Licensing Statement, Section 182 Guidance revised in June 2006, in respect of the Licensing Act 2003 and the promotion of the Licensing Objectives.

### **6.2 (A) The Prevention Of Crime and Disorder**

The Council's Statement Of Licensing Policy states that a premises 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 of such and imposition of conditions may be considered and applied as appropriate in order to promote the Licensing Objectives.

### **6.3 (B) Public Safety**

The Council's Statement of Licensing Policy states that the premise Operating Schedule should include steps to ensure the physical safety of patrons and the overall suitability of the premises. This might include the imposition of conditions regarding capacity and mechanisms to promote responsible drinking and safer socialising. The restriction of types of licensable activity, hours of such and imposition of conditions may be considered and applied as appropriate.

### **6.4 (C) Prevention of Public Nuisance**

The Council's Statement Of Licensing Policy states that within the Operating Schedule, operators will be required to demonstrate how they intend to prevent nuisance arising, disturbance occurring and the steps taken to protect amenities. The restriction of types of licensable activity, hours and imposition of conditions may be considered and applied as appropriate.

### **6.5 (D) Protection of children from harm**

The Council's Statement Of Licensing Policy requires that operating schedules 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.

6.6 The Eastbourne Licensing Policy goes on to state that:

“Nothing in this policy shall undermine the right of any individual to apply under the terms of the Act for a variety of permissions and to have any such application considered on its individual merits. Similarly, nothing in this policy shall override the right of any person to make representations on an application or seek a review of a licence or certificate where provision has been made for them to do so in the Act.”

## **7.0 The Review Application**

7.1 Eastbourne Borough Council is the relevant Licensing Authority in determining matters and a way forward where an application is sought for the review of a premises licence under the Licensing Act 2003.

7.2 Section 51 provides that “where a premises licence has effect, an interested party or a Responsible Authority may apply to the relevant licensing authority for a review of the premises licence.”

7.3 An application for a review in this instance has been applied for by Sussex Police, a responsible authority, under the following Licensing Objectives:

- The prevention of crime and disorder
- The protection of children from harm.

## **8.0 Grounds for Review**

8.1 A full copy of the application submitted by Sussex Police specifying the grounds for a review is included in Appendix 2; however a summary of the grounds for the review appears below.

8.2 A full copy of the representation lodged by Mrs Julie Hickling and Mr Richard Fenton of the Health and Environment Noise Pollution Team of the Council is included at Appendix 3, however a summary appears below.

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

Representation from Interested Parties:  - None received
Representations from Responsible Authorities:  • Sussex Police – Chief Inspector Coates on behalf of Sussex Police submitted an application to review which relates primarily to the prevention of crime and disorder and the Protection of children from harm Licensing Objectives.  <b>A full transcript of this application is included within Appendix 2 of this report.</b>

- On behalf of the Council's Health and Environment Pollution Team, Richard Fenton submitted a representation under the prevention of public nuisance Licensing Objective.

**A full transcript of this representation is included within Appendix 3 of this report.**

- East Sussex Fire and Rescue Service – No representations
- Health and Safety – No representations
- Planning EBC – No representations
- Area Child Protection – No representations
- Trading Standards, East Sussex County Council – No representations.

8.4 The Licensing Authority has carried out a number of inspections at the site. A summary is listed below:-

- 13<sup>th</sup> August 2006; an inspection was carried out by the licensing team. Issues relating to the licence conditions and operation of the site, i.e. display of licence and blocked fire exits were highlighted as areas of concern.
- 7<sup>th</sup> October 2006; an inspection was carried out by the Licensing Team and Sussex Police. A letter, following the inspection, drew attention to breaches of licence conditions, such as display of licence and door supervision of the site and the operation of the site, in particular fire precautions.
- 5<sup>th</sup> April 2007; a meeting took place at the premises between Sussex Police, Claire Groves Licensing Officer and Mr Vuranel, premises licence holder and Designated Premises Supervisor. The meeting highlight the areas of concern for both the Police and licensing department, offering Mr Vuranel assistance and advice. This meeting was followed up by a letter highlighting the pertinent points discussed.
- 20<sup>th</sup> April 2007 an inspection was carried out by the licensing team. A number of issues, highlighted on previous inspections, were still of concern. A meeting was subsequently held at the Council Offices, 1 Grove Road on 2<sup>nd</sup> May 2007 between Kareen Plympton, Licensing Manager, Claire Groves, Licensing Officer, Mr Vuranel, designated premises supervisor and Licence holder of the premises and Mr O'Donnell the manager of the site at the time of the inspection. A letter supporting this meeting was forwarded to Mr Vuranel on the 18<sup>th</sup> May 2007.
- 25<sup>th</sup> May 2007 an inspection was carried out to by licensing team. No problems identified.
- 22<sup>nd</sup> June 2007 a letter was sent to Mr Vuranel, following an inspection carried out on the 16<sup>th</sup> June 2007 by the Licensing Team and Sussex Police. Matters related to breaches of licence and poor management practices evident on previous inspections continue to remain unresolved.
- 1<sup>st</sup> December 2007 inspection carried out by licensing team, noise officer and Sussex Police. Areas of concern raised at the time of the inspection with Mr Vuranel were as follows: Walls had been erected on the ground floor; an amendment to the premises plan had not been received. An area on the ground floor, which was not being used as a restaurant on the evening, had

been cordoned off and was being used as a dance floor for the recorded music being played. This is a breach of the premises licence.

8.5 Electrical & Emergency Lighting Certificate licence condition No 92 and a Structural Certificate, licence condition No 101 are requirements of the premises licence. Both these certificates became due on 7<sup>th</sup> September 2006 and despite several reminders being sent to Mr Vuranel, no certificates have been received by the licensing department, therefore breaching the premises licence.

## **9.0 Options Open To The Committee**

9.1 When determining the application, the Licensing Sub Committee must have regard to the contents of the review application and any relevant representations contained therein. At this hearing the Licensing Authority must:

- Consider the request for review
- Consider any relevant representations and associated evidence accordingly.
- Where appropriate, take such steps as is considered necessary for the promotion of the Licensing objectives.

9.2 These steps are:

- To modify the conditions of the licence
- To exclude a licensable activity
- To remove the designated premises supervisor from the licence
- To suspend the licence for a period not exceeding 3 months, or
- To revoke the licence.

9.3 Where the Sub Committee decides to adopt a sanction which affects the conditions of a premises licence, and in so doing modify them, either by way of alteration, omission or where a new condition is added, it may provide that the modification or exclusion has effect for a specified period not exceeding 3 months.

9.4 The determination, if not completed at the hearing, shall be provided within 5 working days. Such a determination does not have effect until after the appeal period or, if an appeal is lodged, until after the appeal is disposed of.

## **10.0 Legal Considerations**

10.1 Licensing law is not the primary mechanism for the general control of nuisance and anti-social behaviour by individuals once they are away from the licensed premises and, therefore beyond the direct control of the individual, club or business to which the licence, certificate or authorisation relates.

10.2 Licensing is about the appropriate management and control of licensed premises, qualifying clubs and temporary events and the associated licensable activities governed by the Licensing Act 2003. Any conditions attached to licences, certificates and permissions will focus on matters which are within the control of the Designated Premises Supervisor and/or their nominated representative, and will centre on the premises themselves and their immediate vicinity.

- 10.3 When considering these terms and conditions the Sub Committee will primarily focus on the direct impact of the activities taking place at the licensed premise on members of the public living, working or engaged in activity in the area concerned, in addition to the promotion of the Licensing Objectives.
- 10.4 In June 2006, the Department for Culture, Media and Sport issued revised Guidance under Section 182 of the Licensing Act 2003. This guidance is provided to assist the Sub Committee in carrying out their functions. Furthermore, the Licensing Sub Committee must have due regard of the Councils' Licensing Statement.

### **11.0 Human Rights**

- 11.1 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.

### **12.0 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