

Body: Licensing Sub Committee
Date: 15th October 2008
Subject: Application for a New Premises Licence for 5 The Waterfront, Sovereign Harbour, Eastbourne
Report Of: Karen Plympton, Licensing Manager
Ward(s) Sovereign Ward
Purpose To determine a new premises licence under the Licensing Act 2003.
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1.0 Introduction & Background

- 1.1 An application has been received by Mr. Ronald Slatcher, for the premises known as 5 The Waterfront, Sovereign Harbour, Eastbourne BN23 5UZ
- 1.2 The premises is situated at the Sovereign Harbour and is currently operated as a retail shop. The applicant wish to operate the premises as a restaurant. The proposed layout plan is submitted with the application and is included at Appendix A.

2.0 The Application

- 2.1 An application for a new premises licence has been sought for the following activities:

Section E – Live Music

Indoors

18:00 hours to 23:30 hours

Monday to Saturday

18:00 hours to 23:00 hours

Sunday

Section F – Recorded Music Indoors

08:00 hours to 01:00 hours

Monday to Saturday

08:00 to 12 Midnight

Sunday

Section L – Late Night Refreshment

Indoors & Outdoors

23:00 to 02:00

Monday - Sunday

Section M – Supply of Alcohol

For consumption on or off the premises

10:30 hours to 02:00 hours

Monday to Saturday

11:00 hours to 02:00 hours

Sunday

Section O - Open to the public

08:00 to 02:00 hours seven days a week

2.2 **Licensing Objectives**

When submitting an application for a new licence under the Licensing Act 2003, the applicant is required to describe the steps they intend to take to promote the four Licensing Objectives. The applicants' declaration can be seen on page 21 of the application form, included at Appendix A.

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

4.2 The Councils Statement of Licensing Policy provides the framework and direction of the Licensing Authority in relation to matters governed by the Licensing Act 2003.

4.3 Whilst each application will be considered on its merits, the Licensing Committee will have due regard for the Eastbourne Borough Council Licensing Policy Statement, Section 182 Guidance issued in respect of the Licensing Act 2003, as revised, and the promotion of the 4 Licensing Objectives.

5.0 **Licensing Objectives**

The Prevention Of Crime and Disorder

5.1 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.

Public Safety

5.2 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.

Prevention of Public Nuisance

5.3 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.

Protection of children from harm

- 5.4 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.

6.0 Representations Received

- 6.1 A full copy of all representations is included at Appendix B, however a summary appears below. All those making representations are entitled to attend the hearing in support of their representations.
- 6.2 A map has also been provided as Appendix C to indicate the location of those making representations to assist the Committee in determining whether they are "interested parties" within the terms of the Licensing Act 2003.

Interested Parties
Local residents of area surrounding the premises have made eleven representations, as interested parties living in the vicinity of the premises, under all four of the licensing objectives
Representations from Responsible Authorities
<ul style="list-style-type: none">➤ Police - No representations.➤ Fire – No representations.➤ EBC’ s Health and Safety Team – No representations➤ EBC’ s Planning Team – No representations➤ East Sussex County Council Area Child Protection Department – No representations➤ Council’s Environmental Health Noise Team– No representations➤ Trading Standards East Sussex County Council – No representations

- 6.3 Regard will be had to any history or likelihood of noise, nuisance, crime and disorder at the site or in the vicinity of the site. Further, the Committee may consider other matters that may negatively impact upon the promotion of the Licensing Objectives.
- 6.4 The Committee may exercise their powers to impose conditions, or take appropriate action as is considered appropriate in order to promote the Licensing Objectives.
- 6.5 In determining what, if any, conditions should be attached to a licence, these should only be attached where it is considered appropriate, to support and promote the licensing objectives.

- 6.6 Only necessary, proportionate and reasonable conditions should be imposed on a case by case basis. The Licensing Committee has previously been provided with a "Pool of Licensing Conditions," which can be attached accordingly.

7.0 Options Open to the Panel

- 7.1 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 Council's Licensing Statement have been provided to the Licensing Sub Committee as reference material.
- 7.2 The Panel must take the following steps 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

8.0 Legal Considerations

- 8.1 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.

9.0 Human Rights

- 9.1 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.
- 9.2 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