

**Body:** Licensing Sub Committee  
**Date:** 18<sup>th</sup> August 2010  
**Subject:** Application For a New Premises Licence For Spyglass Inn,  
Royal Parade, Eastbourne  
**Report Of:** Karen Plympton, Licensing Manager  
**Ward(s)** Devonshire Ward  
**Purpose** To determine an application for 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 Eastbourne Borough Council's, Licensing Team, for the premises known as "Spyglass Inn," Royal Parade, Eastbourne. The application has been submitted by Nationwide Inns and forms part of the Treasure Island Complex.
- 1.2 The premise is currently mid build, and is being converted into a premise providing food, alcoholic and non alcoholic beverages to members of the public. The applicants have agreed to a number of conditions being attached to the licence if granted, to ensure that it remains predominantly a seated operation with background music only.

## **2.0 The Application**

- 2.1 An application for grant of a new premises licence under the Licensing Act 2003 has been sought for the following activities:

### **Section L – Late Night Refreshment (Indoors and Outdoors)**

23:00 – 23:30 hours Monday - Sunday

### **Section M – Supply of Alcohol (On the Premises only)**

10:00 – 23:00 hours Monday – Sunday

### **Section O – Open to the Public**

09:00 – 23:30 hours Monday - Sunday

- 2.2 The premises is also intending to provide incidental background music throughout the interior of the premise. This is not a licensable activity under the Licensing Act 2003, and therefore does not require formal application. However, in order to safeguard the locality, the applicants have agreed that a condition be attached to the licence, restricting entertainment to background music only.

## **3.0 Licensing Objectives**

- 3.1 When submitting an application for a premises licence under the Licensing Act 2003, the applicant is required to describe any steps; they intend to take to

promote the four Licensing Objectives as defined by the Licensing Act 2003. The Operating Schedule detailing these steps can be found at Section P of the application form. This is included at Appendix 1.

- 3.2 A layout plan of the premises and Google map indicating the position of "interested parties" is included at Appendix 2. A 100 metre radius has used, measured from the edge of the roadway to identify "interested parties."

#### **4.0 Consultation Process**

- 4.1 The Licensing Act 2003 requires applicants to advertise both on the premise and in a local newspaper in order to inform the public of the application. A number of "Responsible Authorities" have also been consulted as part of the process, allowing a consultation period of 28 days for representations to be made. In this instance, as a result of the consultation process, a number of representations have been received. These are detailed at Section 7 of the report, and included in full at Appendix 4.
- 4.2 Following discussions with the Council's Licensing Manager, Sussex Police, the Council's Health and Environment Noise Officer, the Applicants agreed to the imposition of a number of conditions on the premises licence if granted. A copy of this correspondence is included at Appendix 3.
- (1) The maximum occupancy of the premises internally shall be 100 persons including staff, and externally 150 persons including staff.
  - (2) When the interior of the premises is in use, a minimum of 70 covers to be retained at all times.
  - (3) When the designated exterior is in use, a minimum of 100 covers to be retained at all times.
  - (4) No more than 25 vertical drinkers shall be permitted within the premises at any one time.
  - (5) Shatterproof drinking receptacles only shall be used within the premises areas from 1800 hours until close.
  - (6) When the premise is in use both internally and externally, entertainment will take the form of background music only.

#### **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:
- The prevention of crime and disorder
  - Public safety
  - The prevention of public nuisance
  - The protection of children from harm

#### **6.0 Eastbourne Borough Council's Statement of Licensing Policy & Section 182 Guidance Issued**

- 6.1 Copies of the Council's Statement Of Licensing Policy have previously been circulated to Members. A copy is also retained in the Members Room or can be downloaded from [www.eastbourne.gov.uk/licensing](http://www.eastbourne.gov.uk/licensing).

6.2 Whilst each application will be considered on its merits, the Licensing Committee will have due regard for the Eastbourne Borough Council Licensing Statement of Licensing Policy and Section 182 Guidance issued by the Department of Culture, Media and Sport, revised in January 2010, and must act to promote of the 4 Licensing Objectives.

6.3 Eastbourne Borough Council's Statement of Licensing Policy outlines the matters the Authority will consider when determining matters under the Licensing Act 2003. An overview appears below.

#### 6.4 The Prevention Of Crime and Disorder

Eastbourne Borough Council's 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.

#### 6.5 Public Safety

The 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.

#### 6.6 Prevention of Public Nuisance

The 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.

#### 6.7 Protection of children from harm

The 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**

7.1 A full copy of all representations is included at Appendix 4, however a summary appears below. All those making representations have been determined "interested parties" as persons living or operating a business in the vicinity of the premises. A 100 metre radius has used, measured from the edge of the roadway, Royal Parade, to identify "interested parties." All have been invited to attend the hearing in support of their case.

### **Interested Parties**

There have been 20 representations in total

- 19 of these are from local residents and businesses operating in the vicinity of the premise. The representations vary in content but relate to all 4 of the Licensing Objectives.

7 representations were rejected on the basis that they were not considered to be within the 100 metre radius vicinity of the premises.

- Councillor Wallis has made a representation in his own right as Ward Councillor on behalf of Devonshire Ward. His representation relates to all 4 of the Licensing Objectives.

### **Representations from Responsible Authorities**

- **Sussex Police** – No representations subject to the imposition of conditions as detailed.
- **Eastbourne Borough Council Environmental Health Department (Noise)** - No representations, subject to the condition relating to background music only being provided within the venue.
- **East Sussex Fire and Rescue Service** – No representations.
- **Eastbourne Borough Council Health and Safety Department** – No representations
- **Eastbourne Borough Council Planning Department**– Representation received, however rejected due to the grounds for representation being a matter for the Planning Committee to consider as they are not relevant to the Licensing process.
- **Area Child Protection Team**– No representations
- **Trading Standards (ESCC)** – No representations

7.2 The first Mediation Meeting held on 20<sup>th</sup> July 2010, took place at a local guest house and was attended by local residents and businesses in the vicinity of the premises.

7.3 The second meeting on 27<sup>th</sup> July 2010 was held on site at Treasure Island, and was attended by residents, business operators in the vicinity, Councillors, the Applicants and their Licensing Consultant.

7.4 Both mediation meetings were chaired by the Licensing Manager who acted as a conduit in the proceedings, enabled all parties to express their views.

7.5 Further to this, correspondence was received from the Applicants Licensing Agent, outlining additional measures they propose to put in place if the licence

is granted. This is included at Appendix 5. Further conditions suggested by the applicants are detailed below:

- (7) The licence holder shall not install, nor use for any entertainment purpose, including sporting activities, dancing or music , a television screen, whether it be activated by live transmission or by pre-recorded signal, in the public licensed area
- (8) The licence holder will organise and control the collection of commercial waste, in particular that of empty receptacles, to be collected during the period between 1000 hours and 1800 hours only on any day required.
- (9) The licence holder will affix to the north outside edge of the outside decking area, and to the west side decking area, an appropriate screen, to minimise any possible noise pollution that may emanate from the premises when being used.

## **8.0 Matters to Consider**

- 8.1 The Sub Committee will need to have regard to any history or likelihood of noise, nuisance, crime and disorder at the site or in the vicinity of the site. In addition, matters impacting upon public safety and strategies to protect children from harm need to be considered.
- 8.2 The Sub Committee may also consider any other matters that may negatively impact upon the Licensing Objectives and exercise powers to impose conditions, or take the appropriate action as they see fit in order to promote such.
- 8.3 In determining what, if any, conditions should be attached to a licence, these should be imposed on a case by case basis, where it is considered necessary, proportionate and reasonable to do so.
- 8.4 The Licensing Committee has previously been provided with a "Pool of Licensing Conditions," which can be attached accordingly.
- 8.5 The applicant, "interested parties" and/or Responsible Authorities may also suggest conditions to address concerns as a means to promote the Licensing Objectives.
- 8.6 The Sub Committee must have regard to the following:
  - Eastbourne's Statement of Licensing Policy 2007-2010
  - Statutory guidance as amended in January 2010, under Section 182 of the Licensing Act 2003.
  - Representations from the proposed Premises Licence Holder and/or the Designated Premises Supervisor
  - Representations from any Responsible Authority
  - Representations from "interested parties."
  - Representations from Ward Councillors

## **9.0 Options Open to the Sub Committee**

- 9.1 The Licensing Sub Committee must take the steps it considers necessary for the promotion of the Licensing Objectives and may:
  - Grant the application in full as requested

- Grant the application but modify it:
  - by altering hours or activities;
  - adding conditions as necessary, or
  - Omit parts as considered necessary for the promotion of the Licensing Objectives.
- Reject the whole, or part of the application.

## **10.0 Legal Considerations**

10.1 The framework for the issue, variation and/or modification to applications is made under the Licensing Act 2003. The Department for Culture, Media and Sport has issued Guidance under Section 182 of the Act, amended in January 2010. This Guidance is provided in order to assist the Council in carrying out functions under the Act

10.2 Furthermore, the Licensing Sub Committee must have regard for the Eastbourne Borough Council's Statement of Licensing Policy 2007-2010.

10.3 When determining the matter, the decision should be supported by clear, evidence based reasons for such.

## **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.

11.2 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.

11.3 Whilst 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.

## **Background Material**

- LACORS Guidance – Committee Hearings 2006
- Section 182 Statutory Guidance to the Licensing Act 2003 (January 2010)
- Hearing and Regulations, Licensing Act 2003 2005
- Eastbourne Borough Council Licensing Statement 2007-2010
- Human Rights Act 1998