

Body: Licensing Sub Committee
Date: 2nd July 2013
Subject: Application For a New Premises for Bright Ideas Studio Limited, Unit 3 The Waterfront, Sovereign Harbour
Report Of: Jay Virgo, Senior Specialist Advisor
Ward(s) Sovereign Harbour
Purpose To determine an application for a new premises licence under the Licensing Act 2003.
Contact: Danielle Ball 01323 415367 or danielle.ball@eastbourne.gov.uk

1.0 Introduction & Background

- 1.1 An application has been received by Eastbourne Borough Council as the Licensing Authority, for the premises known as Bright Ideas Studio Limited, unit 3 The Waterfront, Sovereign Harbour.
- 1.2 The premises are currently trading as a retail shop.

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:

Supply of alcohol (on and off the premises)

Monday to Saturday 09.30 – 22.00 hours

Sunday 10.00 – 20.00 hours

Open to the Public

Monday to Saturday 09.30– 22.00 hours

Sunday 10.00 – 20.00 hours

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 seen in the application form. This is included at Appendix 1.
- 3.2 A layout plan of the premises is included at Appendix 2.

4.0 Consultation Process

- 4.1 The Licensing Act 2003 requires applicants to advertise both on the premises, 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
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made.

- 4.2 In this instance, as a result of the consultation process, one representation has been received. This is detailed at Section 7 of this report.

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.

- 6.2 Whilst each application will be considered on its merits, the Licensing Sub Committee will have due regard to the Eastbourne Borough Council Statement of Licensing Policy 2011 – 2014, and Section 182 Guidance issued by the Department of Culture, Media and Sport, (revised in Oct 2012), and must act to promote the four Licensing Objectives.

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

6.4 The Prevention Of Crime and Disorder

The 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 the representation is included at Appendix 3, however a summary appears below.

<p>Interested Parties</p> <p>There has been 1 representation from a member of the public who is also a local business owner</p> <p>Mr Falconer</p> <p>The representation centres on the prevention of crime and disorder, public safety and the prevention of public nuisance (noise) Licensing Objectives.</p>
<p>Representations from Responsible Authorities</p> <p>There has been no representations from the Responsible Authority's:</p> <ul style="list-style-type: none">➤ Sussex Police – No representations.➤ Eastbourne Borough Council Health and Environment Team - No representations.➤ Eastbourne Borough Council Health and Safety Department – No representations.➤ Eastbourne Borough Council Planning Department– No representations.➤ East Sussex Fire and Rescue Service – No representation➤ Area Child Protection Team– No representations➤ Trading Standards (East Sussex County Council) – No representations.➤ Primary Care Trust- No representations

- 7.2 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 will also need to be considered.

- 7.3 The Sub Committee may also consider any other matters that may negatively impact upon the Licensing Objectives and exercise their powers to impose
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conditions, or take the appropriate action as they see fit, in order to promote the Licensing Objectives.

- 7.4 In determining what, if any, conditions should be attached to a licence, these should only be imposed where it is considered necessary, proportionate and reasonable on a case by case basis.
- 7.5 The applicant, "interested parties" and/or Responsible Authorities may also suggest conditions to address concerns as a means to promote the Licensing Objectives.

8.0 Mediation

- 8.1 The applicant sent an email which outlines their business plan on the 29th May 2013. This was sent to Mr Falconer who subsequently wishes to maintain his representation. Copies of these emails are included at Appendix 4.
- 8.2 On the 16th June 2013 an email was received from Jan Weeks on behalf of the Sovereign Harbour Residents Association and Neighbourhood Panel in support of the application. This is included in appendix 5.

9.0 Options open to the Sub Committee

- 9.1 The Sub Committee must have regard to the following:
- Eastbourne's Statement of Licensing Policy 2011-2014;
 - Statutory guidance as amended in April 2012, 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.
- 9.2 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 April 2012. This Guidance is provided in order to assist the Council in carrying out
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functions under the Act.

- 10.2 Furthermore, the Licensing Sub Committee must have regard to Eastbourne Borough Council's Statement of Licensing Policy 2011-2014.

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, and 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.

Background Material

- LACORS Guidance – Committee Hearings 2006
 - Section 182 Statutory Guidance to the Licensing Act 2003 (April 2012)
 - Hearing and Regulations, Licensing Act 2003
 - Eastbourne Borough Council Licensing Statement 2011-2014
 - Human Rights Act 1998
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