

Body: Licensing Sub Committee
Date: 5 October 2011
Subject: Application For a New Premises Licence For All Saints Chapel, Darley Road, Eastbourne, BN20 7PE
Report Of: Kareen Plympton, Licensing Manager
Ward(s) Meads 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 All Saints Chapel, Eastbourne, located in Darley Road, Eastbourne.
- 1.2 The Chapel is a Grade II listed building and is currently being run as an events venue for functions, concerts and conferences. It has a current maximum occupancy of 120 persons. The application has been lodged seeking a licence to provide a licence for alcohol and regulated entertainment in both the Chapel and within a defined area of external lawn.

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 E – Live Music (Indoors only)

10:00 – 23.00 hours Monday – Sunday

Section F – Recorded Music (Indoors only)

10:00 – 23.00 hours Monday – Sunday

Section G – Performances of dance (Indoors only)

10.00 – 23.00 hours Monday - Sunday

Section H – Anything of a similar description to that falling within (e) (f) or (g) (Indoors only)

10.00 – 23.00 hours Monday - Sunday

Section I - Provision of facilities for making music (Indoors only)

10:00 – 23:00 hours Monday – Sunday

Section J – Provision of facilities for dancing (Indoors only)

10:00 – 23:00 hours Monday – Sunday

Section K – Provision of facilities for entertainment of a similar description to I or J (Indoors only)

10:00 – 23:00 hours Monday – Sunday

Section M – Supply of alcohol (Both on and off the premises)

11:00 – 22:30 hours Monday - Sunday

O – Open to the Public

08:00 – 23:00 hours Monday - Sunday

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 is included at Appendix 2.

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 8 of the 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 Committee will have due regard for the Eastbourne Borough Council Licensing Statement of Licensing Policy 2011 – 2014, 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 3, however a summary appears below. All those making representations have been determined “interested parties” as persons living or operating a business in the direct vicinity, of the proposed premises.

Interested Parties

- There have been 8 representations in total from local residents. 1 representation was received outside of the statutory timescale for objections, therefore has not been included.

- Mrs Hendry of St. Gabriel House, Darley Road
- Mrs Paterson of St. Gabriel House, Darley Road
- Dr Haydon of St. Gabriel House, Darley Road
- J Withers and B Williamson of St Gabriel House, Darley Road
- Mr and Mrs Walker of St Gabriel House, Darley Road
- P Bedfield of St Gabriel House, Darley Road
- Dr Dilloway of St Gabriel House, Darley Road
- Mr Burwash of St Gabriel House, Darley Road

The representations centre on the Prevention of Crime and Disorder Licensing Objective and the Prevention of Public Nuisance Licensing Objectives.

Concerns centre on the potential for noise, nuisance and alcohol fuelled disturbance arising from limited parking, patrons frequenting the premises, and increased vehicular and pedestrian traffic as a result.

A letter of support from Mr and Mrs Worsley of Darley Road has also been received and is included at Appendix 4. Ward Councillor Goodyear will attend the meeting in support of the application.

Representations from Responsible Authorities

- **Sussex Police** – No representations.
- **Eastbourne Borough Council Health and Environment Team** - No representations.
- **East Sussex Fire and Rescue Service** – Representations now resolved, no further comments.
- **Eastbourne Borough Council Health and Safety Department** – No representations
- **Eastbourne Borough Council Planning Department**– No representations
- **Area Child Protection Team**– No representations
- **Trading Standards (East Sussex County Council)** – No representations

7.2 The Sub Committee will need to have 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. 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

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.
- 7.6 A mediation meeting was held at the premises on the 14th September 2011, chaired by the Council's Licensing Manager to ascertain if the concerns of those making representations could be overcome.
- 7.7 Mr Bird, the applicant has agreed to the following conditions being attached to the premises licence if granted:
- 1) All windows and doors will be kept shut, save for access and egress.
 - 2) Save for live music, all forms of regulated entertainment shall be played through a sound limiting device, set at a level agreed with the Council's Health and Environment Noise Team Lead Officer.
 - 3) Notices asking patrons to leave the premises quietly and respect nearby residences shall be displayed prominently throughout the licensed site.
 - 4) The external area shall not be used for any licensable activities between the hours of 21:00 hours – 08:00 hours.
- 7.8 However, those making representations were not satisfied that the above conditions would adequately address their concerns or promote the Licensing Objectives, hence the matter being put before a Licensing Sub Committee for determination.

8.0 Options open to the Sub Committee

- 8.1 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.
- 8.2 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.

9.0 Legal Considerations

9.1 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

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

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.

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 2011-2014
- Human Rights Act 1998