

Body: Licensing Sub Committee
Date: 20 September 2005
Subject: Application For Conversion & Variation of A Premises Licence For The Red Lion, 99 Wish Hill, Willingdon, BN20 9HQ
Report Of: Karen Plympton, Licensing Manager
Ward(s)
Purpose To determine a variation application under the Licensing Act 2003 for an existing licensed premises
Contact: Karen Plympton, Licensing Manager, Telephone 01323 415937 or internally on extension 5937
E-mail address karen.plympton@Eastbourne.gov.uk

1.0 Introduction & Background

- 1.1 An application has been received by The Red Lion, 99 Wish Hill, Eastbourne, East Sussex. The premises is a traditional public house with an outside drinking area (including a beer garden) adjoining the premises.
- 1.2 The site have traded as a licensed premises without conditions and have applied to convert their Justices On Licence under the "grandfather rights" system established by the Licensing Act 2003. This allows them to supply alcohol within the previous permitted hours and restrictions as set by the Licensing Act 1964, namely:
- 1000 hours – 2300 hours Monday – Saturday
1200 hours – 2230 hours Sunday
1000 hours – 1500 hours Christmas Day
1900 hours – 2230 hours
1200 hours -2230 hours Good Friday
- New Years Eve – New Years Day as per Government deregulation Order
- 1.3 In respect of the application for Conversion of the premises licence, no representations have been received from Sussex Police and as such, this part of the application is deemed granted and has been determined as such within statutory timescales.
- 2.1 The applicant has applied at the same time for a variation of such a premises licence in this transitional period, pursuant to Schedule 8 Para 71(b) of the Licensing Act 2003. The premises application form, found in Appendix A, seeks permission for the following licensable activities:-

Provision of regulated entertainment, comprising of

SECTION B

Films – Films, DVD, Videos on televised screens during standard hours

Monday	0000 hours – 0200 hours 1000 hours – 2400 hours
Tuesday	0000 hours – 0200 hours 1000 hours – 2400 hours
Wednesday	0000 hours – 0200 hours 1000 hours – 2400 hours
Thursday	0000 hours – 0200 hours 1000 hours – 2400 hours
Friday	0000 hours – 0200 hours 1000 hours – 2400 hours
Saturday	0000 hours – 0200 hours 1000 hours – 2400 hours
Sunday	0000 hours – 0200 hours 1000 hours – 2400 hours

Plus non standard timings – from 1000 hours – 0200 hours on 02nd January 2005 each year.

SECTION C

Indoor Sporting Events – traditional pub games, for the entertainment of the participants but occasionally to an audience

As above

SECTION E

Live Music – whenever the premises are open, but likely to be on an occasional basis, Music may, on occasion be amplified.

As above

SECTION F

Recorded music – background and to facilitate dancing

As above

SECTION I

Thursday	0000 hours – 0130 hours 2300 hours – 2400 hours
Friday	0000 hours – 0130 hours 2300 hours – 2400 hours
Saturday	0000 hours – 0130 hours 2300 hours – 2400 hours
Sunday	0000 hours – 0130 hours 2300 hours – 2400 hours

Plus non standard timings – from 1000 hours – 0130 hours on 02nd January 2005 each year.

SECTION O
Open to the public

Monday	0000 hours – 0200 hours 1000 hours – 2400 hours
Tuesday	0000 hours – 0200 hours 1000 hours – 2400 hours
Wednesday	0000 hours – 0200 hours 1000 hours – 2400 hours
Thursday	0000 hours – 0200 hours 1000 hours – 2400 hours
Friday	0000 hours – 0200 hours 1000 hours – 2400 hours
Saturday	0000 hours – 0200 hours 1000 hours – 2400 hours
Sunday	0000 hours – 0200 hours 1000 hours – 2400 hours

Plus non standard timings – from 1000 hours – 0200 hours on 02nd January 2005 each year.

3.0 Consultation Process

- 3.1 The Licensing Act 2003 requires applicants to advertise variations 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

5.0 The Application

5.1 When submitting an application to vary a licence under the Licensing Act 2003, the applicant is required to describe the additional steps, if any; it intends to take to promote the four Licensing Objectives. The applicants' declaration can be seen on Page 24 of the application form. (Appendix A)

6.0 Eastbourne Borough Councils Statement Of Licensing Policy **(Copies Previously Circulated As Reference Material To** **Committees. Can also be located at** **www.eastbourne.gov.uk/licensing**

6.1 Whilst each application will be considered on its merits, the Licensing Committee will have due regard for the Eastbourne Borough Council Licensing Statement and the promotion of the 4 Licensing Objectives.

(A) The Prevention Of Crime and Disorder

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.

(B) Public Safety

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.

(C) Prevention of Public Nuisance

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.

(D) Protection of children from harm

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.

7.0 Representations (Appendix B)

A full copy of all representations is included in Appendix B, however a summary appears below. All those making representations are entitled to attend the hearing in support of their case.

Interested Parties
<ul style="list-style-type: none"> ➤ Mr David Haxton of Kingsmead, Willingdon makes a representation as a person living in the vicinity of the premises. Representations focus on the public nuisance objective. Correspondence states “the location of a licensed premises near the centre of a very quiet village location makes it wholly inappropriate to grant a licence that extends opening hours into the early hours in the morning. It would cause considerable disturbance to the neighbourhood.” ➤ Mrs Shanson of Wish Hill, Willingdon, makes a representation as person living in the vicinity of the premises. Representations centre on the public nuisance objective. Correspondence states “I would be unhappy about noise from drinkers leaving the pub late at night in such a quiet residential area. There are occasionally noisy persons walking along Wish Hill having left the pub at 11 – 11.30pm.”
Representations from Responsible Authorities
<ul style="list-style-type: none"> ➤ Police <p>Mr Alan Whitehead, Police Licensing Officer makes representations as a responsible authority under the prevention of crime and disorder and prevention of nuisance objective. Correspondence states “Police have concerns</p>

regarding noise and public nuisance due to its village location. Therefore the Police object to a terminal drinking time later than 0030 hours and a premises closure hour later than 0100 hours.”

Further correspondence has been received from the Police following discussions with the applicants. Representations will be withdrawn if the applicants agree to a terminal drinking time of 0030 hours and a premises closure of 0100 hours. It is understood that at the time of the report going to press that this has been agreed.

- Fire – No representations
- Health and Safety – No representations
- Planning EBC – No representations
- Area Child Protection – No representations
- Environmental Health EBC – No representations
- Trading Standards East Sussex County Council – No representations

7.1 Discussions with all parties, including the applicants have failed to resolve matters, hence the case being brought to Committee.

7.2 Conditions may be added to licences or revisions made as considered necessary for the promotion of the Licensing Objectives. Only necessary, proportionate and reasonable licensing conditions should be imposed on licences on a case by case basis.

8.0 Options Open To The Panel

8.1. 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 Councils Licensing Statement have been provided to the Licensing Committee as reference material.

8.2 The Panel must take the steps it considers necessary for the promotion of the Licensing Objectives and may:-

- 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

9.0 Legal Considerations

- 9.1 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.

Human Rights

- 9.2 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.

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