

**Body:** Licensing Sub Committee  
**Date:** 27 September 2005  
**Subject:** Application For Conversion & Variation of A Premises Licence For Slaters Bar, 8 Bolton Road, Eastbourne  
**Report Of:** Kareen Plympton, Licensing Manager  
**Ward(s)**  
**Purpose** To determine a variation application under the Licensing Act 2003 for an existing licensed premises  
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## **1.0 Introduction & Background**

1.1 An application has been received by Slaters, 8 Bolton Road, Eastbourne, East Sussex. The premises is a bar/restaurant house with an outside drinking area adjoining the premises.

1.2 The site have traded as a licensed premises without conditions and have applied to convert their Justices On Licence and Supper Hours Certificate under the "grandfather rights" system established by the Licensing Act 2003. Subject to the following condition, this allows them to supply alcohol within the previous permitted hours and restrictions as set by the Licensing Act 1964.

- "The sale of alcohol is ancillary to the provision of substantial refreshment after 2300 hours."

1000 hours – 0000 hours Monday – Saturday

1200 hours – 2330 hours Sunday

1000 hours – 1500 hours Christmas Day

1900 hours – 2330 hours

1200 hours - 2230 hours Good Friday

- **To include 30 minutes drinking up**

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.

2.0 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 E**

**Live Music – by performers, amplified and unamplified**

Sunday 1900 hours – 2300 hours

**SECTION I**

**Provision of facilities for making music – for musicians to play live**

As above

**SECTION J**

**Provision of facilities for dancing – no designated dance floor, but patrons may wish to dance**

As above

**SECTION M**

**Supply Of Alcohol**

Monday – Sunday 1100 hours – 0130 hours

On New Years Eve the hours for the supply of alcohol will be from 1100 hours on New Years Eve until 1100 hours on New Years Day

**SECTION O**

**Open to the public**

Monday – Sunday 1100 hours – 0200 hours

On New Years Eve the hours for the supply of alcohol will be from 1100 hours on New Years Eve until 1100 hours on New Years Day

The applicant also seeks to allow accompanied children access to the premises until 1900 hours.

**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 is contained in Section Q 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](http://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"> <li>➤ Mrs Dorothy Mathews of Lismore Road, Eastbourne makes a representation as a person who resides in the vicinity of the premises. Representations centre on the public nuisance objective. A full copy of her correspondence is appended to the report.</li> </ul>
Representations from Responsible Authorities
<ul style="list-style-type: none"> <li>➤ Police – No representations.</li> <li>➤ Fire – No representations</li> <li>➤ Health and Safety – No representations</li> <li>➤ Planning EBC – No representations</li> <li>➤ Area Child Protection – No representations</li> <li>➤ Environmental Health EBC – No representations</li> <li>➤ Trading Standards East Sussex County Council – No representations</li> </ul>

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