

Body: Licensing Sub Committee
Date: 05 September 2005
Subject: Application For Conversion & Variation of A Premises Licence For The Lamb Public House, 36 High Street, Eastbourne
Report Of: Karen 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 The Lamb, 36 High Street, Eastbourne, East Sussex.
- 1.2 The premises have traded as a public house for many years 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 to a premises licence for the sale of 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
1000 hours – 10000 hours New Years Eve – New Years Day
as per 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.
- 1.4 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:

Live Music – Both amplified and non amplified live music

In first floor function room at the managements discretion without 14 days prior notice to the Police

Monday – Thursday	1000 hours – 0000 hours.
Friday – Saturday	1000 hours – 0100 hours
Sunday	1000 hours – 0000 hours

Save: All Bank Holidays; (except Christmas) to include the preceding day; (at Easter to also include the preceding Thursday); for Christmas (to include Christmas Eve); up to the terminal hour set for the sale of alcohol on Saturdays at the latest.

Recorded Music – Amplified pre-recorded music

In first floor function room at the management’s discretion without 14 days prior notice to the Police

Plus: Hours and non standard timings as detailed above.

Provision of facilities for dancing. Customers to be permitted to dance to amplified and unamplified music and live pre recorded music

In first floor function room at the management’s discretion without 14 days prior notice to the Police

Plus: Hours and non standard timings as detailed above.

Late Night Refreshment – hot and cold food, snacks and beverages

Monday – Thursday	2300 hours – 0000 hours
Friday – Saturday	2300 hours – 0100 hours
Sunday	2300 hours – 0000 hours

Service of prepared hot and cold food, snacks and beverages at the management’s discretion without 14 days prior notice to the Police

Plus: Hours and non standard timings as detailed above.

2.0 Supply of alcohol

Monday – Thursday	1000 hours – 0000 hours
Friday – Saturday	1000 hours – 0100 hours
Sunday	1000 hours – 0000 hours

Plus: Hours and non standard timings as detailed above.

2.1 Open to the public

Monday – Thursday	1000 hours – 0030 hours
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Friday – Saturday	1000 hours – 0130 hours
Sunday	1000 hours – 0030 hours

Plus: Hours and non standard timings as detailed above.

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 23 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	
➤	Mr & Mrs Bowering of New Upperton Road, Eastbourne make representations as persons living in the vicinity of premises. Representations centre on the prevention of public nuisance objective. The premises "closes at 11pm and the noise continues unabated until the last customers mercifully leave the area around midnight." If the licence is granted the "noise and nuisance particularly on Friday, Saturday and Sunday will continue until two and three in the morning."
➤	Ms ME Taylor of New Upperton Road, Eastbourne makes representations as a person living in the vicinity of the premises claims that "young people, worse for drink cause noise late at night, especially weekends." Ms Taylor cites several incidents which she "is sure alcohol is a factor." Ms Taylor mentions to the

"low key/invisible police presence" and refers to a byelaw "stipulating no noise between 11pm – 7am," which if the application is granted, "will be flouted." The correspondence ends "If permission for extended night-time opening is granted, how many nights of misery will the residents have to suffer before complaints are heeded and action taken?"

- Mr & Mrs Edgerton of Crown Street, Eastbourne, make representations as interested parties living in the vicinity. Representations centre on prevention of public nuisance objective. They state that the "premises is located in a primarily residential location, which is densely populated. Any additional disturbance from extending licensing hours will occur when presumably most local inhabitants will be asleep." A large number of public houses (5) are concentrated in a small area, therefore the potential for disturbance is magnified quite considerably."
- Ms Parry, of Ocklynge Road, Eastbourne makes representations as a local resident living in the vicinity. Representations address all four licensing objectives. Correspondence cites "...noise from pubs will cause a disturbance to nearby residents in the early hours," "encouragement to drink longer could have an adverse effect on families and be a danger to children," people could be in danger where alcohol consumption has increased, resulting in drunken behaviour."
- Mrs Leadley of Bodie Place, Eastbourne makes Representations as a person living in the vicinity of the Premises. Representations centre around the prevention She cites "Noise late at night will be created by people leaving the Lamb."
- M E Robertson of Ocklynge Road, Eastbourne makes a representation as a person living in the vicinity of the premises and states all 4 Licensing Objectives are affected.

Representations from Responsible Authorities

- Police – No representations
- 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 Regard will be had to any history or likelihood of nuisance. Powers may be exercised to impose conditions as to hours of opening in order to avoid unreasonable disturbance to residents of the neighbourhood.

- 7.3 In determining what conditions should be attached to licences and certificates as a matter of necessity for the promotion of the licensing objectives. Only necessary, proportionate and reasonable licensing conditions should be imposed on licence on a case by case basis. Appendix D provides the Licensing Committee with a "Pool of Licensing Conditions," which can be attached to licences where it is considered necessary and appropriate.

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 following steps as it considers necessary for the promotion of the Licensing Objectives:-
- 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

*** Included as reference material for the Committee**

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

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