

**Body:** Licensing Sub Committee  
**Date:** 22<sup>nd</sup> January 2007  
**Subject:** Application to Vary a Premises Licence for Chalk Farm Hotel, Coopers Hill, Willingdon, Eastbourne, BN20 9JD  
**Report Of:** Karen Plympton, Licensing Manager  
**Ward(s)** Ratton  
**Purpose** To determine a variation under the Licensing Act 2003.  
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## **1.0 Introduction & Background**

- 1.1 An application has been received by Annie Bernadette Smith for the premises known as the Chalk Farm Hotel, which is a 17<sup>th</sup> Century building with gardens situated in the Willingdon area on the outskirts of Eastbourne.

## **2.0 Current Premises Licence**

- 2.1 The premises have traded as a hotel and restaurant for many years and has a current premises licence with permits the following:-

### **Open to the Public**

10:00 hours – 00:30 hours      Monday – Saturday  
12:00 hours – 00:00 hours      Sundays

The premises is open twenty four hours a day, seven days a week for residents and their bona fide guests only.

### **Non Standard Timings**

Good Friday – 12:00 hours – 00:00 hours  
Christmas Day – 12:00 hours – 00:00 hours

New Years Eve – New Years Day in accordance with the Regulatory Reform (Special Occasions) Order 2002. From the end of permitted hours, 23:00 hours, on 31<sup>st</sup> December to the start of permitted hours at 10:00 hours on 1<sup>st</sup> January.

### **Recorded Music**

10:00 hours – 00:00 hours      Monday – Saturday  
12:00 hours – 23:30 hours      Sunday

The licence allows recorded music twenty four hours a day, seven days a week for residents and their bona fide guests only.

### **Non Standard Timings**

Good Friday – 12:00 hours – 23:30 hours

Christmas Day – 12:00 hours – 23:30 hours

New Years Eve – New Years Day in accordance with the Regulatory Reform (Special Occasions) Order 2002. From the end of permitted hours, 23:00 hours, on 31<sup>st</sup> December to the start of permitted hours at 10:00 hours on 1<sup>st</sup> January.

### **Provision of Late Night Refreshment**

23:00 hours – 00:00 hours      Monday – Saturday

23:00 hours – 23:30 hours      Sunday

The licence allows provision of late night refreshment for hotel residents and their bona fide guests only between the hours of 23:00 and 05:00 hours.

### **Non Standard Timings**

Good Friday – 23:00 hours – 23:30 hours

Christmas Day – 23:00 hours – 23:30 hours

New Years Eve – New Years Day in accordance with the Regulatory Reform (Special Occasions) Order 2002. From the end of permitted hours, 23:00 hours, on 31<sup>st</sup> December to the start of permitted hours at 05:00 hours on 1<sup>st</sup> January.

### **Sale of Retail of Alcohol**

10:00 hours – 00:00 hours      Monday – Saturday

12:00 hours – 23:30 hours      Sunday

The licence allows alcohol sale twenty four hours a day, seven days a week for residents and their bona fide guests only.

### **Non Standard Timings**

Good Friday – 12:00 hours – 23:30 hours

Christmas Day – 12:00 hours – 23:30 hours

New Years Eve – New Years Day in accordance with the Regulatory Reform (Special Occasions) Order 2002. From the end of permitted hours, 23:00 hours, on 31<sup>st</sup> December to the start of permitted hours at 10:00 hours on 1<sup>st</sup> January

By virtue of the converted Justices Licence, the sale of alcohol is subject to the following conditions:

1. Intoxicating liquor shall not be sold or supplied on the premises otherwise than to (a) persons taking table meals there and for consumption by such a person as an ancillary to his meal (b) persons residing there or their private friends bona fide entertained by them at their own expense and for consumption by such a person or his private

friend so entertained by him either on the premises or with a meal supplied at but to be consumed off the premises.

2. Suitable beverages other than intoxicating liquor (including drinking water) shall be equally available for consumption with or otherwise as an ancillary to meals served in the premises.
3. There shall be afforded in the premises for the persons provided with board and lodging for reward adequate sitting accommodation in a room not used or to be used for sleeping accommodation, for the service of substantial refreshment or for the supply or consumption of intoxicating liquor.

The premises also provide facilities to cater for functions such as wedding, permission for these events are currently permitted under the authorisation of a Temporary Ten Notice, of which the premises is allowed to have 12 in any calendar year.

### **3.0 The Variation Application**

- 3.1 An application to vary their premises licence has been sought to include regulated entertainment and the removal of three conditions as outlined above. The details of the variation are as follows:

#### **Section A – Plays (indoors)**

11:00 hours – 00:00 hours      Monday – Sunday

#### **Section B – Films (indoors)**

11:00 hours – 00:00 hours      Monday – Sunday

#### **Section E – Live Music (indoors)**

11:00 hours – 23:00 hours      Monday – Sunday

#### **Section F – Recorded Music (Indoors)**

11:00 hours – 00:00 hours      Monday – Sunday

The licence allows recorded music twenty four hours a day, seven days a week for residents and their bona fide guests only.

#### **Section G – Performances of Dance (indoor & Outdoor)**

11:00 hours – 00:00 hours      Monday – Saturday  
12:00 hours – 23:30 hours      Sunday

#### **Section H – Anything of a similar description to E,F or G (indoor & outdoor)**

11:00 hours – 00:00 hours      Monday – Sunday

#### **Section I – Provision of facilities for making music (indoor)**

11:00 hours – 00:00 hours Monday - Sunday

**Section J – Provision of facilities for dancing (indoor)**

11:00 hours – 00:00 hours Monday – Sunday

**Section K – Provision of facilities for entertainment of a similar description to that falling with (I) or (J) (indoor)**

11:00 hours – 00:00 hours Monday – Sunday

**Section M - Supply of alcohol (on & off the premises)**

11:00 hours – 23:00 hours Monday – Sunday

The licence allows alcohol sale twenty four hours a day, seven days a week for residents and their bona fide guest only.

**Section O - Open to the public**

1100 hours – 00:00 hours Monday – Sunday

The premises is open twenty four hours a day, seven days a week for residents and their bona fide guests only.

**Non Standard Timings**

In respect of all forms of regulated entertainment, alcohol and opening times:

On New Year’s Eve from the end of permitted hours until their commencement on the morning following.

**4.0 Removal of Conditions**

4.1 The premises is also seeking the removal of conditions relating to the sale and supply of alcohol which restrict its operation to that of a restaurant/hotel. A full version of the conditions the premises are seeking to remove is included in Section 2 of the report.

**5.0 Licensing Objectives**

5.1 When submitting an application for a variation to a premises licence under the Licensing Act 2003, the applicant is required to describe the additional steps, if any, they intend to take to promote the four Licensing Objectives. The applicants’ declaration can be seen on page 21 of the application form, included at Appendix A.

**6.0 Consultation Process**

6.1 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” are also consulted as part of the process, allowing a consultation period of 28 days for representations to be made. As a result of the consultation process, a number of representations have been received.

## **7.0 The Decision Making Process** **The Licensing Objectives**

7.1 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

## **8.0 Eastbourne Borough Councils Statement Of Licensing Policy**

8.1 Copies of the Council Licensing Policy Statement have been circulated to the Licensing Committee previously. Further copies can also be found at [www.eastbourne.gov.uk/licensing](http://www.eastbourne.gov.uk/licensing).

8.2 Whilst each application will be considered on its merits, the Licensing Committee will have due regard for the Eastbourne Borough Council Licensing Statement, Section 182 Guidance issued in respect of the Licensing Act 2003, and the promotion of the 4 Licensing Objectives.

### **8.3 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.

### **8.4 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.

### **8.5 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.

## 8.6 **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.

## 9.0 **Representations (Appendix B)**

9.1 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 -

- Ms Riach of Coopers Hill, Eastbourne makes a representation, as a person living in the vicinity, under all four of the licensing objectives.
- Mr & Mrs Bryant of Coopers Hill, Eastbourne makes a representation as a person living in the vicinity, under the prevention of public nuisance licensing objective.
- Mr & Mrs Holland of Coopers Hill, Eastbourne makes a representation as a person living in the vicinity, under the prevention of public nuisance licensing objective.
- Mr Brown of Chalk Farm, Coopers Hill, Eastbourne makes a representation as a person involved in a business in the vicinity, under the prevention of public nuisance and public safety licensing objectives.
- Mr & Mrs Togut of Tas Combe Way, Eastbourne makes a representation as a person living in the vicinity, under the prevention of public nuisance licensing objective.
- Mr & Mrs Yates of Coopers Hill, Eastbourne makes a representation as a person living in the vicinity, under the prevention of crime and disorder and prevention of public nuisance licensing objectives.
- Mr & Mrs Webb of Coopers Hill, Eastbourne makes a representation as a person living in the vicinity, under the prevention of public nuisance licensing objective.
- Ms Griffiths of Tas Combe Way, Eastbourne makes a representation as a person living in the vicinity, under the prevention of public nuisance licensing objective.
- Mrs Baxter of Gorrings Valley Road, Willingdon makes a representation as a person living in the vicinity, under the prevention of public nuisance licensing objective.
- Mrs Fletcher of Coopers Hill, Eastbourne makes a representation as a person living in the vicinity, under the prevention of public nuisance licensing objective.
- Mr & Mrs Keen of Coopers Hill, Eastbourne makes a representation as a person living in the vicinity, under the prevention of public nuisance licensing objective.
- Mrs Wilson of Coopers Hill, Eastbourne makes a representation as a person living in the vicinity, under the prevention of public nuisance,

crime and disorder and public safety licensing objectives.

**NB: - Some of the representations raise concerns over parking issues and their impact on the residents in the vicinity. Representations also highlight the fact that there are already a number of other licensed premises in the vicinity. The Committee are reminded that any issues of this nature, or ones which do not directly relate to the Licensing Objectives are generally not regarded as relevant considerations under the Licensing Act 2003.**

#### **Representations from Responsible Authorities**

- Police – No representations
  - Fire – No representations
  - Health and Safety – No representations
  - Planning EBC – No representations
  - Area Child Protection – No representations
  - Trading Standards East Sussex County Council – No representations
  - Environmental Health – Noise
- Mr Adrian Albon of Environmental Health has submitted a representation under the prevention of public nuisance Licensing Objective.

### **10.0 Conduct of the Premises**

- 10.1 Regard will be had to any history or likelihood of issues at the site or in the vicinity of the site which may result in the Licensing Objectives or Licensing Act 2003 being undermined.
- 10.2 In this regard, in June 2006, the premises were issued with a Formal Written Warning for providing regulated entertainment without a licence, contrary to the Licensing Act 2003. Ms Smith, the named Designated Premises Supervisor attended the offices of 1 Grove Road, where the warning was issued and advice given regard the provision of regulated entertainment.
- 10.3 The Committee may exercise their powers to impose conditions in or take action as they see fit in order to promote the Licensing Objectives
- 10.4 In determining what, if any, conditions should be attached to a licence, these should only be attached where it is considered appropriate as a mechanism to promote the licensing objectives. Only necessary, proportionate and reasonable licensing conditions should be imposed on a case by case basis. The Licensing Committee has previously been provided with a "Pool of Licensing Conditions," which can be attached accordingly.

### **11.0 Options Open To The Panel**

- 11.1 The Panel must have regard for the Eastbourne Licensing Policy Statement, the Licensing Act 2003 and the associated Section 182 Guidance. statutory guidance in the Licensing Act 2003. Copies of both have been provided to the Licensing Committee as reference material.

11.2 The Panel must take the following steps 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

## **12.0 Legal Considerations**

12.1 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.

## **13.0 Human Rights**

13.1 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.

## **14.0 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