

New Years Eve – New Years Day in accordance with the Regulatory Reform (Special Occasions) Order 2002. From the end of permitted hours, 2300 hours, on 31 December to the start of permitted hours at 11 hours 1st January.

Provision of Late Night Refreshment

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

Non Standard Timings

Good Friday	23:00 hours – 00:00 hours
Christmas Day	23:00 hours – 00:00 hours
New Years Eve (except Sundays)	23:00 hours – 00:30 hours
New Years Eve (on Sundays)	23:00 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, 2300 hours, on 31 December to the start of permitted hours at 11 hours 1st January.

Sale of Retail of Alcohol:

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

Non Standard Timings

Good Friday	12:00 hours – 00:00 hours
Christmas Day	12:00 hours – 00:00 hours
New Years Eve (except Sundays)	10:00 hours – 00:30 hours
New Years Eve (on Sundays)	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, 2300 hours, on 31 December to the start of permitted hours at 11 hours 1st January.

3.0 The Variation Application

- 3.1 An application to vary their premises licence has been sought, extending to the current hours of operation, to include the sale and supply of alcohol and various forms of regulated entertainment.

The details of the variation are as follows:

Section E – Live Music (Indoors)

12:00 hours – 01:00 hours Monday – Sunday

Non-Standard timings

New Years Eve - 12:00 hours – 02:00 hours

Section F – Recorded Music (Indoors)

08:00 hours – 03:00 hours Monday - Sunday

Non-Standard timings

New Years Eve - 12:00 hours – 04:00 hours

Section G – Performances of dance (indoors)

12:00 hours – 01:00 hours Monday – Sunday

Non-Standard timings

New Years Eve - 12:00 hours – 02:00 hours

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

12:00 hours – 01:00 hours Monday – Sunday

Non-Standard timings

New Years Eve - 12:00 hours – 02:00 hours

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

12:00 hours – 01:00 hours Monday – Sunday

Non-Standard timings

New Years Eve - 12:00 hours – 02:00 hours

Section J - Provision of facilities for making dancing (indoor)

12:00 hours – 01:00 hours Monday – Sunday

Non-Standard timings

New Years Eve - 12:00 hours – 02:00 hours

Section K – Provision of facilities for entertainment of a similar description to that falling within (i) or (j) (indoors)

12:00 hours – 01:00 hours Monday – Sunday

Non-Standard timings

New Years Eve - 12:00 hours – 02:00 hours

Section L – Late night refreshment (both)

23:00 hours – 02:30 hours Monday – Sunday

Non-Standard timings

New Years Eve - 12:00 hours – 03:30 hours

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

08:00 hours – 02:30 hours Monday – Sunday

Non-Standard timings

New Years Eve - 12:00 hours – 03:30 hours

Section O - Open to the public

08:00 hours – 03:00 hours Monday – Sunday

Non-Standard timings

New Years Eve - 12:00 hours – 04:00 hours

Removal of Conditions

- 4.1 The applicant is seeking to remove all the embedded restrictions on the current premises licence.

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 B.

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.

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 C)

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

Interested Parties -

- Mr Ford of Grove Road, Eastbourne makes a representation, as a person living in the vicinity. His representation comes under the prevention of public nuisance licensing objectives.

NB – Following the mediation meeting, see point 9.2 & 9.3, Mr Ford’s representations have been withdrawn.

- Ms Clarke & Mr Hobbs of Old Orchard Road, Eastbourne makes a makes a representation, as a person living in the vicinity. Their representation comes under the prevention of public nuisance and crime and disorder licensing objectives.
- Constantia of Isfield makes a representation, as a business working in the vicinity under the prevention of public nuisance and crime and disorder licensing objectives. The business is currently constructing residential flats on the corner of Old Orchard Road.
- Mr Hobbs of Hobbs & Partners Estate Agents and Valuers makes a representation as a person involved in a business in the vicinity under the prevention of public nuisance and crime and disorder licensing objectives.
- Mr & Mrs Ainsworth of Grove Road, Eastbourne makes a representation, as a persons living in the vicinity. Their representation comes under the prevention of public nuisance and crime and disorder licensing objectives.
- Mrs Clarke & Mrs Mazzoli of Orcharddown Residential Care and Convalescent Home, Old Orchard Road makes a representation as persons involved in a business in the vicinity under the prevention of public nuisance licensing objectives.

NB – Following the mediation meeting, see point 9.2 & 9.3, Mrs Clarke & Mrs Mazzoli’s representations have been withdrawn.

Representations from Responsible Authorities

- Environmental Health Noise – No representations
- 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

9.2 The Committee will need to consider whether those making representations live or operate a business in the vicinity of the premises in question. In order

to assist the Committee in determining this, a map identifying where parties reside is included at Appendix C.

- 9.3 Following receipt of the representations, the Proprietor, Mr Naderi sent a letter all those who submitted a representation, inviting them a meeting at the premises in order to discuss their concerns. A copy of this correspondence is included at Appendix D.
- 9.4 This meeting was attended by Mrs L Clarke & Mrs Mazzoli from Orchardown, Mr S Ford of Grove Road and Claire Groves, Council Licensing Officer. This resulted in an agreement by all parties for three extra conditions being attached to the licence in order to address the concerns relating to public nuisance.

The conditions agreed were:

- When live music is to be carried out and/or played, all doors (except for access and egress) and windows will remain closed.
- When all other forms of regulated entertainment are taking place, windows and doors (except for access and egress) will be closed at 23:00 hours and kept closed until the end of trading hours.
- All tables and chairs and associated street furniture, will be removed from the front of the premises by 23:30 hours to 08:00 hours.

- 9.5 For those persons who submitted a representation but did not attend the meeting, a letter was sent, copy attached at Appendix E, enquiring whether the conditions agreed at the meeting would address their concerns.
- 9.6 Those responding indicate that the suggested conditions do not failed to address their concerns, hence the case being brought to Committee.
- 9.7 Regard will be had to any history or likelihood of nuisance at the site. Powers may be exercised to impose conditions as to hours of opening, types of licensed activity and mechanisms to promote the Licensing Objectives in order to avoid unreasonable disturbance to residents in the locality.
- 9.8 In determining what conditions should be attached to licences and certificates, if necessary, these should only be attached in order to promote the licensing objectives.
- 9.9 Only necessary, proportionate and reasonable licensing conditions should be imposed on licence on a case by case basis. The licensing Committee has been provided with a "Pool of Licensing Conditions," which can be attached to licences where it is considered necessary and appropriate.

10.0 Options Open To The Panel

- 10.1 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.
- 10.2 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

11.0 Legal Considerations

11.1 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.

12.0 Human Rights

12.1 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.

13.0 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