Body:	**Licensing Sub Committee**
Date:	**26th June 2007**
Subject:	**Application To Vary A Premises Licence For Sheldon Hotel, 9-11 Burlington Place Eastbourne**
Report Of:	**Kareen Plympton, Licensing Manager**
Ward(s)	**Meads**
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 Burley Sheldon Hotel Limited, CMDB, Railways Lofts, 19c Commercial Road, Eastbourne for the premises known as The Sheldon Hotel, 9-11 Burlington Place, Eastbourne.

2.0 Current Premises Licence

2.1 The premises has traded as a hotel for a number of years and has a current premises licence, a copy of which can be found at Appendix A, which permits the following:-

Open to the Public

The premises is only open to residents and their bona fide guests 24 hours a day, 7 days a week.

Recorded Music

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

Provision of Late Night Refreshment

23:00 hours – 05:00 hours Monday – Sunday

Sale of Retail of Alcohol:

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

3.0 The Variation Application

3.1 An application to vary their premises licence has been sought, to allow the premises to be open to the public, supply alcohol to the public and provide regulated entertainment to the public, hotel residents and their guests.

The details of the variation are as follows:

Section E – Live Music (Indoor)

10:00 hours – 00:30 hours Monday - Sunday

Section F – Recorded Music (Indoor)

10:00 hours – 00:30 hours Monday - Sunday

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

10:00 hours – 00:30 hours Monday - Sunday

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

10:00 hours – 00:30 hours Monday – Sunday

Section J – Provision of facilities for dancing (Indoor)

10:00 hours – 00:30 hours Monday – Sunday

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

10:00 hours – 00:30 hours Monday – Sunday

Section M - Supply of alcohol (on the premises)

10:O0 hours – 01:00 hours Monday – Sunday

Section O - Open to the public

09:00 hours – 01:30 hours Monday – Sunday

Removal of Conditions

4.1 The applicant is seeking to remove numbers 1-3 of the transferred Conditions from the 1964 Licensing Act and Annex2a – Embedded restrictions residential licence conditions a, b and c attached to 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 19 & 20 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. A map has also been provided at Appendix C to indicate the location those making representations to assist the Committee in determining whether they are "interested parties" within the terms of the Licensing Act 2003.

Interested Parties -

- Ms Waywell of Devonshire Place makes a representation as a person living in the vicinity and as Chairman and Director of The Garden Court (Eastbourne) Management Co Ltd, a body representing 15 other residents and leaseholders of the residential flats at 15 Devonshire Place. The representation comes under all four of the licensing objectives.

- Mr & Mrs Wigfield of Devonshire Place, Eastbourne makes a representation as persons living in the vicinity. Their representation falls under the prevention of public nuisance, crime and disorder and protection of children from harm licensing objectives.

- Mr Smart of Devonshire Place, Eastbourne makes a representation as a person living in the vicinity under the prevention of public nuisance licensing objective.

- Mrs Foyle of Burlington Place makes a representation as a person living in the vicinity under the prevention of public nuisance licensing objective.

- Mrs Skardhamar of Burlington Place makes a representation as a person living in the vicinity under the prevention of public nuisance licensing objective.

- Miss Leagas makes a representation as a person representing 5 persons living in the vicinity. Her representation comes under the prevention of public nuisance licensing objective.

- Mrs Sewell of Devonshire Place makes a representation as a person living in the vicinity. Her representation falls under the prevention of public nuisance licensing objective.

- Mrs Glover of Chiswick Place makes a representation as a person living in the vicinity. Her representation comes under the prevention of public nuisance licensing objective.

- Mrs Pipe of Devonshire Place makes a representation as a person living in the vicinity, under the prevention of public nuisance licensing objective.

- Ms Samuels and Mr Cramer of Dev Devonshire Place makes representations as persons living in the vicinity. Their representation

comes under the prevention of public nuisance licensing objective.

- Mrs Miller of Burlington Place makes a representation as a person living in the vicinity, under the prevention of public nuisance licensing objective.

- Mr Dickenson of Burlington Place makes a representation as a person living in the vicinity and as a person representing 5 other persons living in the vicinity. The representations falls under the prevention of public nuisance licensing objective.

- Mr Braidley of Devonshire Place makes a representation as a person living in the vicinity, under the prevention of public nuisance licensing objective.

- Mr & Mrs Back of Devonshire Place makes a representation as persons living in the vicinity. Their representation comes under the prevention of public nuisance licensing objective.

- Merlynn (Management) Eastbourne Ltd makes a representation as body representing 24 persons living in the vicinity. The representation comes under the prevention of public nuisance licensing objective.

- Mr Waywell of Devonshire Place makes a representation as a person living in the vicinity under the prevention of public nuisance licensing objective.

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 Further correspondence, supporting their representations, have been received from two parties unable to attend the hearing. These correspondence are attached as Appendix D for the Committee to consider.

9.3 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.

9.4 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.

9.5 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