

**Body:** Licensing Sub Committee  
**Date:** 15<sup>th</sup> August 2007  
**Subject:** Application To Vary A Premises Licence For Bolton's, 4 Bolton Road, Eastbourne  
**Report Of:** Karen Plympton, Licensing Manager  
**Ward(s)**  
**Purpose** To determine a variation under the Licensing Act 2003.  
**Contact:** Karen Plympton, Licensing Manager, Telephone 01323 415937 or internally on extension 5937  
E-mail address karen.plympton@Eastbourne.gov.uk

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## **1.0 Introduction & Background**

**1.1** An application has been received by Mr Christopher Islip for the premises known as Bolton's, 4 Bolton Road, Eastbourne.

## **2.0 Current Premises Licence**

**2.1** The premises has traded as a drinking establishment that provides hot food since October 2005. The current premises licence, a copy of which can be found at Appendix A, permits the following:-

### **Open to the Public**

10:00 hours – 02:00 hours Monday – Sunday

### **Provision of Late Night Refreshment (Both indoor and outdoor)**

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

### **Live Music (Both indoor and outdoor)**

10:00 hours – 01:30 hours Monday – Sunday

### **Recorded Music (Both indoor & Outdoor)**

10:00 hours – 01:30 hours Monday – Sunday

### **Sale by Retail of Alcohol (On & Off the premises)**

10:00 hours – 01:30 hours Monday – Sunday

## **3.0 The Variation Application**

**3.1** An application to vary their premises licence has been sought, to extend the following licensable activities on the premises:

The details of the variation are as follows:

### **Section E – Live Music (Both indoor and outdoor)**

10.00 – 0130 hours

**Section F – Recorded Music (Indoor)**

20:00 hours – 00:30 hours Monday - Sunday

**Section H - Anything of a Similar Description to that falling within (E) (F) or (G) (Indoor)**

20:00 hours – 00:30 hours Monday – Sunday

**Section I – Provision of Facilities for Making Music (Indoor)**

20:00 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)**

20:00 hours – 00:30 hours Monday – Sunday

**Section L – Provision of Late Night Refreshment (Indoor)**

2300 hours – 00:30 hours Monday – Sunday

**Sale by Retail of Alcohol (On & Off the premises)**

10:00 hours – 01:30 hours Monday – Sunday

**Non Standard Timings**

St Georges Day, St Patrick’s Day, Maundy Thursday, Christmas Eve, New Years Eve – 2000 hours – 0200 hours for all activities and days outlined above.

**Removal of Conditions**

- 4.1 Within operating schedule – Removal of requirement of ‘table service only’ in rear garden area.

**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](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 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 -**

- Mr John Town makes a representation as someone living in the vicinity on the grounds of the prevention of crime & disorder and the prevention of public nuisance.
- Mr Stephen Henderson-Reid makes a representation as someone living in the vicinity on the grounds of the prevention of crime & disorder and the prevention of public nuisance.
- Mr Andre Winterton makes a representation as someone living in the vicinity on the grounds of the prevention of crime & disorder, public safety and the prevention of public nuisance.
- Mr Wood makes a representation as someone living in the vicinity on the grounds of the prevention of crime & disorder, public safety, the prevention of public nuisance and the protection of children from harm.
- Mr A Simmons makes a representation as someone living in the vicinity on the grounds of the prevention of crime & disorder, public safety, the prevention of public nuisance and the protection of children from harm.
- Mrs M D Ross makes a representation as someone living in the vicinity on the grounds of the prevention of public nuisance and the protection of children from harm.
- Mrs Mary Wilson makes a representation as someone living in the vicinity on the grounds of the prevention of crime & disorder, the prevention of public nuisance and the protection of children from harm.
- "Halliday" makes a representation as someone living in the vicinity on the grounds of the prevention of crime & disorder, public safety and the prevention of public nuisance.

### **Representations from Responsible Authorities**

- **Environmental Health Noise** – Mr Richard Fenton has made representation made under the prevention of public nuisance objective.
- **Police** – Inspector Nicholas Porter of Sussex Police has made a representation under the crime and disorder licence objective.
- **Fire** – No representations

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| <ul style="list-style-type: none"><li>➤ Health and Safety – No representations</li><li>➤ Planning EBC – No representations</li><li>➤ Area Child Protection – No representations</li><li>➤ Trading Standards East Sussex County Council – No representations</li></ul> |
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- 9.2 In response to the representation made by the Police the licensee has agreed in principle to attach 3 conditions A copy of this correspondence is included in Appendix C.
- 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, where considered 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 Cumulative Impact Policy**

- 10.1 The premises in question is situated within the Councils designated Cumulative Impact Policy. The Committee will need to duly consider this Policy in relation to the representations received and the permissions sought. This has been circulated separately and can be found at <http://www.eastbourne.gov.uk/council/meetings/cabinet>
- 10.2 Cumulative Impact relates to the potential impact on the promotion of the licensing objectives of a significant number of licensed premises concentrated in one area.
- 10.3 The effect of adopting a special policy of this nature is to create a rebuttable presumption that applications for new licences or variations that are likely to add to the existing cumulative impact of premises will normally be refused, unless the applicant can demonstrate that there will be no negative cumulative impact on the licensing objectives if granted. A copy of the Cumulative Impact Policy is available at [www.eastbourne.gov.uk/licensing](http://www.eastbourne.gov.uk/licensing).

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

- 11.1 The Panel must have regard to the Eastbourne Licensing Policy Statement, the Licensing Act 2003 and the associated Section 182 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
- Cumulative Impact Policy
- Human Rights Act 1998