

Body: Licensing Sub Committee
Date: 15th August 2007
Subject: Application For A New Premises Licence For Shelter B, Lower Promenade, Eastbourne
Report Of: Karen Plympton, Licensing Manager
Ward(s)
Purpose To determine a new premises licence under the Licensing Act 2003.
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1.0 Introduction & Background

1.1 An application has been received by Miss Dariana Galli for the premises known as Shelter B, Eastbourne Promenade, Eastbourne.

2.0 The Application

2.1 A new application has been received to authorise the following licensable activities on the premises. A hard copy of the application form and plans of the premises is included at Appendix A.

The details of the application are as follows:

Section A – Plays

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

Section B – Films

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

Section E – Live Music

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

Section F – Recorded Music

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

Christmas Eve 08:00 – 02:30 hours

New Years Eve 08:00 – 02:30 hours

Thursday, Friday, Saturday,
Sunday Eastbourne Airbourne 08:00 – 01:30 hours

Section G – Performances of Dance

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

Christmas Eve 08:00 – 02:30 hours

New Years Eve 08:00 – 02:30 hours
Thursday, Friday, Saturday,
Sunday Eastbourne Airbourne 08:00 – 01:30 hours

Section I – Provision of Facilities for Making Music

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

Christmas Eve 08:00 – 02:30 hours

New Years Eve 08:00 – 02:30 hours
Thursday, Friday, Saturday,
Sunday Eastbourne Airbourne 08:00 – 01:30 hours

Section J – Provision of Facilities for Dancing

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

Christmas Eve 08:00 – 02:30 hours

New Years Eve 08:00 – 02:30 hours
Thursday, Friday, Saturday,
Sunday Eastbourne Airbourne 08:00 – 01:30 hours

Section L – Late Night Refreshment

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

Christmas Eve 08:00 – 02:30 hours

New Years Eve 08:00 – 02:30 hours
Thursday, Friday, Saturday,
Sunday Eastbourne Airbourne 08:00 – 01:30 hours

Section M – Supply of Alcohol

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

Christmas Eve 08:00 – 02:30 hours

New Years Eve 08:00 – 02:30 hours
Thursday, Friday, Saturday,
Sunday Eastbourne Airbourne 08:00 – 01:30 hours

Section O – Hours Premises are Open to the Public

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

Christmas Eve 08:00 – 02:30 hours

New Years Eve 08:00 – 02:30 hours
Thursday, Friday, Saturday,
Sunday Eastbourne Airbourne 08:00 – 01:30 hours

3.0 Licensing Objectives

3.1 When submitting an application for a new 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.

4.0 Consultation Process

4.1 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.

5.0 The Decision Making Process The Licensing Objectives

5.1 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

6.0 Eastbourne Borough Councils Statement Of Licensing Policy

6.1 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.

6.2 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.

6.3 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.

6.4 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.

6.5 **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.

6.6 **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.

7.0 **Representations**

- 7.1 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. A map has also been provided at Appendix C to indicate the location of 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 Martin Betts makes a representation as a business in the vicinity of the premises on the grounds of the prevention of crime & disorder and the prevention of public nuisance.
- Mr & Mrs Morley make a representation as individuals living in the vicinity of the premises on the grounds of the prevention of crime & disorder, public safety, the prevention of public nuisance and the prevention of children from harm.
- Mr & Mrs Killman make a representation as individuals living in the vicinity of the premises on the grounds of the prevention of public nuisance.
- Mr Ray Williams makes a representation as an individual living in the vicinity of the premises on the grounds of the prevention of public nuisance.
- Mrs J Lamb makes a representation as an individual living in the vicinity of the premises on the grounds of the prevention of public nuisance.
- Ms Jane Tilling makes a representation as an individual living in the vicinity of the premises on the grounds of the prevention of public nuisance.
- Mr L Davies makes a representation as an individual living in the vicinity of the premises on the grounds of the prevention of crime & disorder and the prevention of public nuisance.
- Mr Alan Butler makes a representation as an individual living in the vicinity of the premises on the grounds of the prevention of public nuisance.
- Mr Robert Hillan makes a representation as an individual living in the vicinity of the premises on the grounds of the prevention of crime &

<p>disorder and the prevention of public nuisance.</p> <ul style="list-style-type: none"> ➤ Mr A Palmer makes a representation as an individual living in the vicinity of the premises on the grounds of the prevention of crime & disorder and the prevention of public nuisance.
<p>Representations from Responsible Authorities</p>
<ul style="list-style-type: none"> ➤ 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

7.2 In response to a representation lodged by Mr Graham (now withdrawn) Miss Galli has agreed in writing that *no entertainment be authorised before 12:00 noon each day, excluding background music*. A copy of this correspondence is included at Appendix D.

7.3 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.

7.4 Only necessary, proportionate and reasonable licensing conditions should be imposed on a 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.

8.0 Seafront Strategy

8.1 The premises in question falls within the area subject to the Councils Seafront Strategy which was approved by Council in 2001. A précis of the plan is included in Appendix E.

9.0 Options Open To The Committee

9.1 The Committee 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.

9.2 The Committee 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

10.0 Legal Considerations

10.1 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.

11.0 Human Rights

11.1 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.

12.0 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