

Body: Licensing Sub Committee
Date: 27 November 2007
Subject: Application for a New Premises Licence for Ocklynge Junior School, Victoria Drive, Eastbourne, BN20 8XN
Report Of: Karen Plympton, Licensing Manager
Ward(s) Old Town
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 Mr Mark Trott for the premises known as Ocklynge Junior School, Victoria Drive, Eastbourne.
- 1.2 The premises is an East Sussex County Council Junior School, caters for children between the ages of 7 and 11. Mr Trott is the head teacher for the school.

2.0 The Application

- 2.1 A premises licence is required to cover activities held at the school, largely which fall outside the school curriculum and to which the public are invited, or where a fee is charged. These are undertaken with a view to profit. Premises licence which do not include alcohol and which are educational establishments are not required to pay a premises licence fee.
- 2.2 An application for a new premises licence has been sought for the following activities:

Section A – Plays (Both indoor and outdoor)

08:00 hours – 23:00 hours Monday - Sunday

Section B – Films (Both indoor and outdoor)

08:00 hours – 23:00 hours Monday - Sunday

Section C – Indoor Sporting Events

08:00 hours – 23:00 hours Monday – Sunday

Section E – Live Music (Both indoor and outdoor)

08:00 hours – 23:00 hours Monday – Sunday

Section F – Recorded Music (Both indoor and outdoor)

08:00 hours – 23:00 hours Monday – Sunday

Section G – Performances of Dance (Both indoor and outdoor)

08:00 hours – 23:00 hours Monday – Sunday

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

08:00 hours – 23:00 hours Monday – Sunday

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

08:00 hours – 23:00 hours Monday – Sunday

Section J – Provision of facilities for dancing (Both indoor and outdoor)

08:00 hours – 23:00 hours Monday – Sunday

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

08:00 hours – 23:00 hours Monday – Sunday

Section O - Open to the public

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

2.3 Licensing Objectives

When submitting an application for a new licence under the Licensing Act 2003, the applicant is required to describe the steps, they intend to take to promote the four Licensing Objectives. The applicants' declaration can be seen on page 21 of the application form. (Appendix A)

3.0 Consultation Process

3.1 The Licensing Act 2003 requires applicants to advertise both on the premises and in a local newspaper to inform the public of the application. A number of "Responsible Authorities" are also consulted, allowing a consultation period of 28 days for representations to be made. As a result of the consultation process, representations have been received.

**4.0 The Decision Making Process
The Licensing Objectives**

4.1 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

5.0 Eastbourne Borough Councils Statement of Licensing Policy (Copies previously circulated as reference material to committees. Can also be located at www.eastbourne.gov.uk/licensing.)

- 5.1 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 as revised, issued in respect of the Licensing Act 2003, and the promotion of the 4 Licensing Objectives.

(A) 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, noise, nuisance and other matters that may impact on the premises, and in its vicinity. The restriction of types of licensable activity, hours and imposition of conditions may be considered and applied as appropriate.

(B) Public Safety

EBC 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.

(C) Prevention of Public Nuisance

EBC 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.

(D) Protection of children from harm

EBC 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.

6.0 Representations (Appendix B)

- 6.1 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 as 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.

N.B Issues highlighted in representation concerning alcohol should be disregarded by the Committee as the applicant has not applied for alcohol sales. When the application was initially inserted on to the public register, an error was made.

Interested Parties -

- Mr & Mrs Donoghue of Farlaine Road, Eastbourne make a representation, as persons living in the vicinity, under the prevention of crime and disorder and the prevention of public nuisance licensing objectives.

N.B. - Representation now withdrawn after receiving letter from the school

- Mrs Carol of Stuart Avenue makes a representation, as a person living in the vicinity under the prevention of crime and disorder and the prevention of public nuisance licensing objectives.
- Mr & Mrs D'Ancey of Farlaine Road, Eastbourne make a representation, as persons living in the vicinity under the prevention of public nuisance licensing objective.
- Mr Price of Stuart Avenue, Eastbourne makes a representation, as a person living in the vicinity under the prevention of public nuisance and public safety licensing objectives.

N.B. - Representation now withdrawn after receiving letter from the school

- Mr & Mrs Cobby of Farlaine Road, Eastbourne make a representation as persons living in the vicinity under the prevention of crime and disorder and the prevention of public nuisance licensing objectives.
- Mr & Mrs Caladine of Farlaine Road, Eastbourne make a representation as persons living in the vicinity under the prevention of public nuisance licensing objective.

NB - Representation now withdrawn after receiving letter from the school.

- Mrs Maley of Stuart Avenue, Eastbourne makes a representation as a person living in the vicinity under the prevention of crime and disorder and the prevention of public nuisance licensing objectives.
- Mr Parker of Stuart Avenue, Eastbourne makes a representation as a person living in the vicinity under the prevention of crime and disorder and the prevention of public nuisance licensing objectives.
- Mr & Mrs Fell of Victoria Drive, Eastbourne make a representation as persons living in the vicinity under the prevention of public nuisance licensing objective.
- Mr Davey of Stuart Avenue, Eastbourne makes a representation as a person living in the vicinity under the prevention of public nuisance and public safety licensing objectives.
- Mr Watson of Farlaine Road, Eastbourne makes a representation as a person living in the vicinity under the prevention of public nuisance licensing objective.
- Mrs Neal of Farlaine Road, Eastbourne makes a representation as a person living in the vicinity under the prevention of public nuisance and public safety licensing objectives.
- Mr & Mrs Pleydell of Farlaine Road, Eastbourne make a representation as persons living in the vicinity under the prevention of public nuisance

<p>licensing objective.</p> <ul style="list-style-type: none"> ➤ Mr Moyes of Farlaine Road, Eastbourne makes a representation as a person living in the vicinity under the prevention of public nuisance licensing objective. ➤ Mr Adde of Farlaine Road, Eastbourne makes a representation as a person living in the vicinity under the prevention of public nuisance licensing objective. ➤ Mr Norrell of Farlaine Road, Eastbourne makes a representation as a person living in the vicinity under the prevention of public nuisance licensing objectives <p>NB – Representation now withdrawn after receiving letter from the school.</p> <ul style="list-style-type: none"> ➤ Mr & Mrs Twine of Farlaine Road, Eastbourne make a representation as persons living in the vicinity under the prevention of public nuisance licensing objective. ➤ Mr & Mrs Griffith of Stuart Avenue, Eastbourne makes a representation as persons living in the vicinity under all four of the licensing objectives.
<p>Representations from Responsible Authorities</p>
<ul style="list-style-type: none"> ➤ Police – No representations ➤ Fire – Fire Safety Officer Mr G Davey of East Sussex Fire & Rescue Service makes a representation under the public safety licensing objective. This has now been withdrawn. ➤ Health and Safety – No representations ➤ Planning EBC – No representations ➤ Area Child Protection – No representations ➤ Environmental Health EBC – No representations ➤ Trading Standards East Sussex County Council – No representations

6.2 The Applicant sent correspondence to all those who submitted a representation, a copy of which is attached in Appendix D. This resulted in the representation from Mr & Mrs Caladine, Mr Price, Mr Norrell and Mr & Mrs Donoghue being withdrawn (Appendix E). East Sussex Fire & Rescue Service have also withdrawn their representation as the fire safety matters outstanding are now considered to be satisfactory. For the other parties however, this has failed to resolve the matter, hence the case being brought to Committee.

6.3 Regard will be had to any history or likelihood of noise, nuisance, crime, and disorder to other matters relating to the Licensing Objectives at the site or in the vicinity of the site. The Committee may exercise their powers to impose conditions in or take action as they see fit in order to promote the Licensing Objectives.

6.4 In determining what, if any, conditions should be attached to a licence, these should only be attached where it is considered appropriate, to support and 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.

7.0 Options open to the Committee

7.1 The Committee must have regard for the Local Authority Licensing Statement and statutory guidance in the Licensing Act 2003. Copies of Guidance under Section 182 of the Licensing Act 2003 and Eastbourne Borough Councils Licensing Statement have been provided to the Licensing Committee as reference material.

7.2 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

8.0 Legal Considerations

8.1 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 Committee must have due regard for the Eastbourne Licensing Statement.

9.0 Human Rights

9.1 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.

10.0 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