

Body: Licensing Sub Committee
Date: 6th February 2008
Subject: Roselands Mens Club, 559 Seaside, Eastbourne
Designated Premises Supervisor Mr Gerard Breen, c/o Roselands Mens Club, 359 Seaside, Eastbourne
Report Of: Claire Groves, Licensing Officer
Ward(s) Devonshire
Purpose To determine a review of a premise licence under the Licensing Act 2003.
Contact: Claire Groves, Licensing Officer, Telephone 01323 415367 or internally on extension 5367
E-mail address karen.plympton@Eastbourne.gov.uk

1.0 Introduction & Background

- 1.1 Roselands Mens Club, 359 Seaside, Eastbourne, has operated as a licensed premise in Eastbourne for a number of years. It was previously licensed as an On Licence under the Licensing Act 1964 by the Magistrates Court, and operated as an on proprietary private members club, whereby access was restricted to members and bona fide guests only.
- 1.2 The site was issued a premises licence under the Licensing Act 2003 on 5th August 2005, which authorises the site to provide the following licensable activities within the times indicated below. A full copy of the current premises licence and layout plans are included at Appendix A

C. Indoor Sporting Events

1100 hours – 0000 hours	Monday – Thursday
1100 hours – 0200 hours	Friday & Saturday
1100 hours – 0000 hours	Sunday

E. Live Music (Indoors)

2030 hours – 0000 hours	Friday - Sunday
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Non standard timings

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 1000 hours 1st January.

F. Recorded Music (Indoors)

1100 hours – 0000 hours	Monday – Thursday
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2030 hours – 0000 hours Friday & Saturday
1100 hours – 0000 hours Sunday

Non standard timings

Christmas Eve: 2030 hours to 0200 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 1000 hours 1st January.

G. Performances of Dance (Indoors)

2030 hours – 0000 hours Friday - Sunday

Non standard timings

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 1000 hours 1st January.

J. Provision Of facilities For Dancing (Indoors)

2030 hours – 0000 hours Friday - Sunday

Non standard timings

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 1000 hours 1st January

L. Provision of late night refreshment (Indoors)

2300 hours – 2330 hours Monday – Saturday
2300 hours – 2320 hours Sunday

Non standard timings

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 1000 hours 1st January.

M. Sale by Retail of Alcohol (Both on and off the premises)

1000 hours – 0000 hours Monday – Thursday
1000 hours – 0200 hours Friday & Saturday
1000 hours – 0000 hours Sunday

Non standard timings

Sundays before Bank Holidays: 1100 hours to 0130 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 1000 hours 1st January.

0. Open to the public:

1000 hours – 0100 hours	Monday – Thursday
1000 hours – 0230 hours	Friday & Saturday
1100 hours – 0030 hours	Sunday

Non standard timings

Sunday before Bank Holidays: 1100 hours to 0130 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 1000 hours 1st January.

3.0 Consultation Process

- 3.1 In respect of application for Review, the Licensing Act 2003 requires the applicant, in this instance, Mrs J Blaber, to serve a copy of the review application on the Licensing Authority, the person who holds the Premises Licence, and all other Responsible Authorities as specified under the Licensing Act 2003.
- 3.2 Notification of the application to review the premises licence was given by Mrs J Blaber to all Responsible Authorities on the 14th November 2007, and a copy of the application was served upon the premises on the same date.
- 3.3 It was properly advertised in accordance with the Regulations from 15th November 2007. A copy of the notice is attached at Appendix B.

4.0 The Hearing

- 4.1 The Licensing Act 2003 (Hearings) Regulations 2005 state that a hearing must be held by the Licensing Authority within a specified time, reaching a determination on the review no later than 2 months after the day of the original giving of notice by relevant parties of the intention to review the premises licence.

**5.0 The Decision Making Process
The Licensing Objectives**

- 5.1 In their decision making, the Licensing Sub 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 Commentary on Eastbourne Borough Councils Statement Of Licensing Policy

NB. Copies previously circulated as reference material to licensing committees. Can also be located at www.eastbourne.gov.uk/licensing.

6.1 Whilst each application will be considered on its merits, the Licensing Sub Committee will have due regard for the Eastbourne Borough Council Licensing Statement, Section 182 Guidance revised in June 2006, in respect of the Licensing Act 2003, and the promotion of the Licensing Objectives.

6.2 (A) The Prevention Of Crime and Disorder

The Councils' Statement Of Licensing Policy states that a premises 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 of such and imposition of conditions may be considered and applied as appropriate In order to promote the Licensing Objectives.

6.3 (B) Public Safety

The Councils' Statement of Licensing Policy states that the premise Operating Schedule should include steps to ensure the physical safety of patrons and the overall suitability of the premise. This might include the imposition of conditions regarding capacity and mechanisms to promote responsible drinking and safer socialising. The restriction of types of licensable activity, hours of such and imposition of conditions may be considered and applied as appropriate.

6.4 (C) Prevention of Public Nuisance

The Councils' Statement Of Licensing Policy states that within the Operating Schedule, operators will be required to demonstrate how they intend to prevent nuisance arising, disturbance occurring and the steps taken to protect amenities. The restriction of types of licensable activity, hours and imposition of conditions may be considered and applied as appropriate.

6.5 (D) Protection of children from harm

The Councils' Statement Of Licensing Policy requires that operating schedules 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.

6.6 The Eastbourne Licensing Policy goes on to state that:

"Nothing in this policy shall undermine the right of any individual to apply under the terms of the Act for a variety of permissions and to have any such application considered on its individual merits. Similarly, nothing in this policy shall override the right of any person to make representations on an application or seek a review of a licence or certificate where provision has been made for them to do so in the Act."

7.0 The Review Application

- 7.1 Eastbourne Borough Council is the relevant Licensing Authority in determining a way forward where an application is sought for the review of a premises licence under the Licensing Act 2003.
- 7.2 Section 51 provides that “where a premises licence has effect, an interested party or a Responsible Authority may apply to the relevant licensing authority for a review of the premises licence.”
- 7.3 An application for a review in this instance has been applied for by Mrs J Blaber, an interested party who lives in the vicinity of the premises, under the following Licensing Objectives:
- The prevention of public nuisance
 - Prevention of public safety

8.0 Grounds for Review

- 8.1 A full copy of the application submitted by Mr Blaber, and supporting documentation specifying the grounds for a review is included in Appendix C, however a summary of the grounds for the review appears below.
- 8.2 A full copy of the representation lodged by Mr Richard Fenton of the Health and Environment Noise Pollution Team of the Council is included at Appendix D, however a summary appears below.
- 8.3 All those making representations and those responding to representations are entitled to attend the hearing in support of their case.

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| <p>➤ Interested Parties - Mrs J Blaber, Seaside submitted an application to review which relates primarily to two of the Licensing Objectives, namely:</p> <ul style="list-style-type: none">- The prevention of public nuisance- Public safety |
| Representations from Responsible Authorities |
| <p>- Council Health and Environment Pollution Team Richard Fenton submitted a representation under the prevention of public nuisance Licensing Objective.</p> <p>A full transcript of their representations is included within Appendix C of this report.</p> <ul style="list-style-type: none">➤ East Sussex Fire and Rescue Service – No representations➤ Sussex Police – No representations➤ Health and Safety – No representations➤ Planning EBC – No representations➤ Area Child Protection – No representations➤ Trading Standards, East Sussex County Council – No representations. |

9.0 Options Open To The Committee

9.1 When determining the application, the Licensing Sub Committee must have regard to the contents of the review application and any relevant representations therein. At this hearing the Licensing Authority must:

- Consider the request for review
- Consider any relevant representations and associated evidence accordingly.
- Where appropriate, take such steps as considered necessary for the promotion of the Licensing objectives.

9.2 These steps are:

- To modify the conditions of the licence
- To exclude a licensable activity
- To remove the designated premises supervisor from the licence
- To suspend the licence for a period not exceeding 3 months, or
- To revoke the licence.

9.3 Where the Sub Committee decides to adopt a sanction which affects the conditions of a premises licence, and in so doing modify them, either by way of alteration, omission or where a new condition is added, it may provide that the modification or exclusion has effect for a specified period not exceeding 3 months.

9.4 The determination, if not completed at the hearing, shall be provided within 5 working days. Such a determination does not have effect until after the appeal period or, if an appeal is lodged, until after the appeal is disposed of.

10.0 Legal Considerations

10.1 Licensing law is not the primary mechanism for the general control of nuisance and anti-social behaviour by individuals once they are away from the licensed premises and, therefore, beyond the direct control of the individual, club or business to which the licence, certificate or authorisation relates.

10.2 Licensing is about the appropriate management and control of licensed premises, qualifying clubs and temporary events and the associated licensable activities governed by the Licensing Act 2003. Any conditions attached to licences, certificates and permissions will focus on matters which are within the control of the Designated Premises Supervisor and/or their nominated representative, and will centre on the premises themselves and their immediate vicinity.

10.3 When considering these terms and conditions the Sub Committee will primarily focus on the direct impact of the activities taking place at the licensed premise on members of the public living, working or engaged in activity in the area concerned, in addition to the promotion of the Licensing Objectives.

10.4 In June 2006, the Department for Culture, Media and Sport issued revised Guidance under Section 182 of the Licensing Act 2003. This guidance is provided to assist the Sub Committee in carrying out their functions.

Furthermore, the Licensing Sub Committee must have due regard of the Councils' 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
- Human Rights Act 1998