Body:	**Licensing Sub Committee**
Date:	**24th September 2008**
Subject:	**Application For A New Premises Licence For the Trident Fish Restaurant, 23 Albert Parade, Green Street, Eastbourne BN21 1SD**
Report Of:	**Kareen 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 by Mr. Demetrios Photiou, for the premises known as Trident Fish Restaurant, 23 Albert Parade, Green Street, Eastbourne BN21 1SD

1.2 The premises is a long established fish restaurant and currently holds a premises licence for Recorded Music and Supply of Alcohol from 11:00 to 23:00 hours on Monday to Saturday and 12:00 to 22:30 hours on Sunday and Late Night refreshment from 23:00 to 23:30 hours on Monday to Saturday. It is intended that the site will be extended to enlarge the premises. The proposed extension is exhibited in the plan submitted with the application.

2.0 The Application

2.1 An application for a new premises licence has been sought for the following activities:

Section F – Recorded Music

11:00 to 23:00 hours on Monday to Saturday and 12:00 to 22:30 hours on Sunday

Section L – Late Night Refreshment

11:00 to 23:30 hours on Monday to Saturday

Section M – Supply of Alcohol (for consumption ON or OFF the premises)

11:00 to 23:00 hours on Monday to Saturday and 12:00 to 22:30 hours on Sunday

Section O - Open to the public

11:00 to 23:30 hours on Monday to Saturday and 12:00 to 23:00 hours on 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 issued in respect of the Licensing Act 2003, as revised, 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 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.

(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 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 ➢ 3 local residents of area surrounding the premises have made representations, as a person living in the vicinity, under all four of the licensing objectives.
Representations from Responsible Authorities
➢ Police - No representation ➢ Fire – Fire Safety Officer of East Sussex Fire & Rescue Services submitted a representation under Public Safety licensing objective. ➢ 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 Regard will be had to any history or likelihood of noise, nuisance, crime and disorder at the site or in the vicinity of the site. Further, the Committee may consider other matters that may negatively impact upon the Licensing Objectives. The Committee may exercise their powers to impose conditions, or take the appropriate action as they see fit in order to promote the Licensing Objectives.

6.3 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 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 Panel

7.1 The Panel 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 Panel 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