

Body: Licensing Sub Committee
Date: 8th June 2010
Subject: Application For a Premises Licence - King Kebabs and Pizza House, 335 Seaside, Eastbourne
Report Of: Karen Plympton, Licensing Manager
Ward(s) Devonshire
Purpose To determine an application for a new premises licence 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

1.0 Introduction & Background

- 1.1 An application has been received by Eastbourne Borough Council's, Licensing Team, for the premises to be known as King Kebabs and Pizza House, 335 Seaside, Eastbourne.
- 1.2 The premises is currently a fast food takeaway restaurant serving kebabs and pizzas until 23:00 hours.
- 1.3 Hot food will continue to be served until 01:00 hours if the licence is granted.

2.0 The Application

- 2.1 An application for grant of a new premises licence under the Licensing Act 2003 has been sought for the following activities:

Section L – Late night refreshment

23:00 – 01:00 Monday – Sunday

Section O – Open to the Public

12:00 – 01:00 hours Monday – Sunday

3.0 Licensing Objectives

- 3.1 When submitting an application for a premises licence under the Licensing Act 2003, the applicant is required to describe any steps they intend to take to promote the four Licensing Objectives as defined by the Licensing Act 2003. The applicants' declaration can be seen within Section P of the application form, the proposed Operating Schedule. The full application form is included at Appendix 1.
- 3.2 A layout plan of the premises and map indicating the position of "interested parties" is included at Appendix 2.

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. In this instance, as a result of the consultation process, representations have been received.

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:

- The prevention of crime and disorder
- Public safety
- The prevention of public nuisance
- The protection of children from harm

6.0 Eastbourne Borough Council's Statement of Licensing Policy

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

6.1 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.

The Prevention Of Crime and Disorder

Eastbourne Borough Council's 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.

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.

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.

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 at Appendix 3, however a summary appears below. All those making representations are entitled to attend the hearing in support of their case.

Interested Parties
<ul style="list-style-type: none">➤ Two residents living in the vicinity of the premises have made a representation under the prevention of public nuisance licensing objective.
Representations from Responsible Authorities
<ul style="list-style-type: none">➤ Sussex Police – Representations have been made under the prevention of crime and disorder Licensing Objective. A mediation meeting was held with applicant and representatives of Sussex Police and relevant conditions were agreed. These conditions can be seen at Appendix 4. These will form part of the operating conditions, should a licence be granted.➤ Planning Department, Eastbourne Borough Council – No representations➤ Health and Environment Noise Team, Eastbourne Borough Council - No representations➤ East Sussex Fire and Rescue Service – No representations➤ Council Health and Safety Department – No representations➤ Area Child Protection Team, East Sussex– No representations➤ Trading Standards, East Sussex County Council – No representations

- 7.2 Regard will be had to any likelihood of noise, nuisance, crime and disorder at the site or in the vicinity of the site. In addition, issues impacting upon public safety and strategies to protect children from harm need to be considered
- 7.3 The Sub Committee may consider other matters that may negatively impact upon the Licensing Objectives. The Sub Committee may exercise powers to impose conditions, or take appropriate action; as they see fit in order to promote the Licensing Objectives.
- 7.4 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 conditions should be imposed on a case by case basis.

- 7.5 The Licensing Committee has previously been provided with a "Pool of Licensing Conditions," which can be attached accordingly. The Applicant, Licensing Manager and/or Responsible Authorities may also suggest conditions to address concerns, and promote the Licensing Objectives.

8.0 Options open to the Sub Committee

- 8.1 The Sub Committee must have regard to the following:

- The application form and the intended Operating Schedule
- Statutory guidance as amended under Section 182 of the Licensing Act 2003.
- Eastbourne Borough Councils Licensing Statement has been provided to the Licensing Committee as reference material.
- Representations from the Premises Licence Holder and/or the Designated Premises Supervisor
- Representations from any "Responsible Authority."
- Representations from "Interested Parties."

- 8.2 The Licensing Sub Committee must take the steps it considers necessary for the promotion of the Licensing Objectives and may:

- Grant the application in full as requested
- Grant the application but modify it:
 - by altering hours or activities
 - Adding conditions, or
 - Omit parts as necessary for the promotion of the licensing objectives.
- Reject the whole or part of the application

9.0 Legal Considerations

- 9.1 The framework for the issue, variation and/or modification to applications made under the Licensing Act 2003. The Department for Culture, Media and Sport has issued Guidance under Section 182 of the Act 2003, as revised. This guidance is provided to assist the Authority in carrying out their functions. Furthermore, the Licensing Sub Committee must have due regard for the Eastbourne Licensing Policy Statement.

- 9.2 An applicant, Responsibility Authority, or "interested party," as defined by the Licensing Act 2003 has a 21 day right of appeal against the decision of a Sub Committee.

10.0 Human Rights

- 10.1 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.

Background Material

- Licensing Act 2003
- LACORS Guidance – Committee Hearings
- As revised, Section 182 Statutory Guidance to the Licensing Act 2003
- Licensing Act 2003 Hearing and Regulations
- Eastbourne Borough Council Licensing Statement 2009 - ` 2011
- Human Rights Act 1998