

Agenda Item No:

Report to: Licensing Sub-Committee

Date of Meeting: 8th September 2014

Report Title: Premises licence application. Yella Shop with representations.

Report By: Mike Hepworth
Head of Environmental Services

Purpose of Report

To consider the application for a new premises licence as a result of representations received.

Responsible Authorities. One

Interested Parties. Three.

Recommendation(s)

- 1. Members consider the content of the report, the options available and reach a decision.**

Reasons for Recommendations

The Licensing Act 2003 requires a licensing sub committee to consider such applications when appropriate representations have been made. The decision reached at the sub committee can be subject to appeal by any party to the hearing who is aggrieved by the decision.

Introduction

1.0 Background History

1. On 7th February 2005 the Licensing Act 2003 came into force for all local authorities, marking the practical commencement of the Government's new liquor licensing regime.
2. On the 18th July 2014 Hastings Borough Council received an application for a new premises licence for Yella Shop, 34 Kings Road, St Leonards on Sea from Licensing Services Agency, 16 Bengeo Street, Hereford, SG14 3 ES on behalf of Mr Anantharajah Thirukkumar of 24 Garston Lane, Kenley CR8 5BA, made under section 17 the Licensing Act 2003. (Attached at appendix A).
3. This premises is an existing trading premises that does not hold a licence under the Licensing Act 2003 and is now applying for a new premises licence, (Attached Appendix B.)
4. The premise is located within Area 3 (Central St Leonards) of the Council Special Saturation Policy (Cumulative Impact).
5. The Special Saturation Policy (Cumulative Impact) is contained within the Council's Licensing Policy, it states "Each application will be considered on its own merit. Where no representations are received, any application will be granted in terms consistent with the operating schedule. Where relevant representations are received in relation to applications for the grant of a new premise licence, club premise certificate or provisional statement; there will be a presumption against the grant of such licence or certificate unless the applicant, in the operating schedule, can rebut the presumption that the granting of such a licence or certificate would undermine the licensing objectives." Applicants are advised to seek legal advice if making an application for a licence in a Special Saturation Area.

2.0 Application

6. The application requests the following:
7. To have supply of alcohol for Off sales on Monday to Sunday from 07.00hrs to 23.00 hrs.
8. To have opening hours of the premises, Monday to Sunday 07.00hrs to 23.00hrs.
9. When submitting an application for a licence under the Licensing Act 2003 the applicant is asked to describe what steps they intend to take to promote the four licensing objectives:-
 - the prevention of crime and disorder,
 - public safety,
 - prevention of public nuisance,

- protection of children from harm.

10. In this case the applicant has made a declaration on page 19 of the application.(See appendix A)

3.0 Consultation

11. The Licensing Act 2003 requires an applicant to advertise their application once in a local newspaper and on the premises by way of an approved notice for 28 days to allow for representations to be made, this has been done.
12. Copies of the application are required to be served on a list of responsible authorities at the same time as placing the application before the local authority, this has been done.
13. As a result of this process a representation has been received from Chief Inspector Phelps, Hastings Police Commander, he comments on the application and the proposed activities, he also comments on the applicant's failure to demonstrate adequately that there will be no negative cumulative impact as the premises is within the St Leonards town centre saturation zone. He further comments on the existing problems in the area and as part of his application he includes a statement from a local police sergeant. Sussex police invite the sub committee to refuse the application. I consider this a valid representation under the licensing objectives (Prevention of crime and Disorder) (Attached appendix C.)
14. Three further representations have been received from local interested parties, one from a resident, a second from a nearby business and a third from a representative of the Town Centre team, they comment on the existing problems in the area and how this application will add to those issues. I consider these to be valid representations under the Act. (Attached appendix C).

4.0 Legal Considerations

15. The Licensing Act 2003 is now the only legislation that allows premises to be licensed for either the sale of Alcohol or the supply of regulated entertainment.
16. If a relevant representation to an application is made by either a responsible authority or an interested party and no compromise can be reached between the parties, a hearing must be held.
17. The Department for Culture, Media and Sport has issued guidance under Section 182 of the Licensing Act 2003. This guidance is provided to Licensing Authorities to assist them in carrying out their functions.
18. All members of the Licensing Committee have been supplied with copies of the DCMS Government guidance and the Hastings Borough Council Statement of Licensing Policy.
19. Human rights considerations must be taken into account fully in balancing licensing issues, in particular, Article 1 of the first protocol and article 8. Article 1 relates to the protection of property and the peaceful enjoyment of possessions and property. Holding a justices licence would be considered a possession. Article 8 relates to

the right to respect for private and family life, home and correspondence. These are however qualified rights and can be deprived of “in the public interest”. Interference is permissible if what is done:-

20. Has its basis in law;
21. Is necessary in a democratic society to fulfil a pressing need or pursue a legitimate aim;
22. Is proportionate to the aims being pursued; and,
23. Is related to the prevention of crime; or, the protection of public order or health.
24. If members chose to refuse the application in full or in part, the applicant has a right of appeal to the Magistrates’ Court. There is also a right of appeal to conditions imposed as a result of the hearing by any person affected by the decision.

5.0 Options

25. Grant the application in full
26. Grant part of the application
27. Grant the application with conditions relevant to the application
28. Refuse the application.

Wards Affected

Central St. Leonards

Area(s) Affected

South St. Leonards

Policy Implications

Please identify if this report contains any implications for the following:

Equalities and Community Cohesiveness	No
Crime and Fear of Crime (Section 17)	Yes
Risk Management	No
Environmental Issues	No
Economic/Financial Implications	No
Human Rights Act	Yes
Organisational Consequences	No
Local People’s Views	Yes

Background Information

Appendix A. Copy of the Application.
Appendix B. Map of Site.
Appendix C. Representations.

Officer to Contact

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