

Report to: Licensing Sub Committee

Date of Meeting: 16.03.2017.

**Report Title: Review of Premises Licence. The Tub, 57 Cambridge Road,
Hastings. TN34 1BL.**

Report By: Mike Hepworth. Assistant Director Environment and Place.

Purpose of Report

To consider an application to review the Premises Licence as a result of representations received.
Responsible Authorities. Three.

Recommendation(s)

1. Members instructions requested.

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 subcommittee can be subject to appeal at the Magistrates Court by any party to the hearing, who is aggrieved by the decision.

Introduction

1.0 Background

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.

On the 16th January 2017 Hastings Borough Council received an application for the review of an existing premises licence for The TUB Public House, 57 Cambridge Road, Hastings, TN34 1BL from Station Manager Dan Channon, East Sussex Fire and Rescue Service, Bohemia Road, Hastings, made under Section 51 the Licensing Act 2003.

Due to an administrative error, this application was properly resubmitted to the Authority on the 25th January 2017 (Application and supporting documentation, attached Appendix A).

The TUB Public House has operated at 57 Cambridge Road, Hastings for many years under a variety of names including, The Tubman, The Union Bar and since October 2016 as The Tub, it having transferred to the local Authority from the old court system in November 2005. The premises was subject to a review hearing in July 2014 (As the Union Bar) under the licensing objective "Prevention of Public Nuisance" the committee decision on that occasion was to add a further 8 conditions to control the problems identified, which are replicated in the licence referred to in appendix A.

The premises licence has been held throughout that time by the current licence holder Mr Robert Falconer. (Attached map of location. Appendix B).

The premise currently holds a premises licence under the Licensing Act 2003, (Attached within Appendix A), which covers the use of the premises for the ' On Sales ' supply by retail of Alcohol, Live and Recorded Music. The current designated premises supervisor is Mr Harvey Palmer (since 20.10.2016)

It currently operates under the following trading hours;

- Sale of Alcohol and Recorded Music. Monday to Thursday 10.00 - 00.00 hrs, Friday – Saturday 10.00 - 01.00hrs and Sunday 10.00 – 23.30 hrs.
- Live Music. Friday – Saturday 08.00 – 23.30 hrs, Sunday 08.00 – 22.30 hrs.

2.0 Application

The grounds for review made by Mr Dan Channon are under the licensing objective "Public Safety" I have considered the application and consider it valid and in line with the central government guidance issued on such matters.

In his application for review, Mr Shannon comments about the history of the premises, the poor management by the operator in failing to carrying out a fire risk assessment, inadequate maintenance of fire equipment and the continued breach of conditions attached to the licence. As a result he is seeking the revocation of the premises licence as he believes the ongoing non-compliance is placing the public at risk.

When submitting an application for a review under the Licensing Act 2003 the applicant is required to send copies of the review application to the other responsible authorities listed under the Act and a copy to the premises licence holder, this has been done.

In addition, the licensing authority is required to place a copy of the notice on the premises concerned and the public notice board situated at Council Offices this has been done, in addition the review notification has been placed on the Council website. These notices must remain in place for 28 days to allow further representations to be made.

An application for review cannot be considered by the Council's Licensing Sub-Committee until the 28 day representation period has elapsed, in this case that ended at midnight on the 22nd February 2017.

3.0 Consultation

As a result of this consultation, a further representation has been received from Mrs Jean Irving, Head of Licensing and Public Safety, Sussex Police. She comments extensively on the history of the Police involvement with the premises management and the serious crime matters found when visits were conducted. She comments on the fire service request for licence revocation and in addition offers a series of 9 conditions that she wishes to be considered together with a period of licence suspension, if the subcommittee is not minded to revoke the licence. She makes this representation under the licensing objectives of “The Prevention of Crime and Disorder” and “The Protection of Children from Harm”. I consider this representation to be valid and in line with Government guidance. (Attached Appendix C)

A further representation has been received from Mr John Ballam, Environmental Protection Officer, Hastings Borough Council. He also comments on the past involvement of the department with the management of the premises and the ongoing noise issues with the premises. He makes his representation under the licensing objectives “The prevention of Public Nuisance” and “Public Safety” he supports the Fire service request for the Revocation of the licence. I consider this representation to be valid and in line with guidance. (Attached Appendix D)

4.0 Legal Considerations

The Licensing Act 2003 is now the only process to licence and control premises for all forms of entertainment, late night refreshment and the sale of Alcohol.

The review process is laid down in statute and allows for representations to be made by specified groups of people provided they are relevant to one or more of

the licensing objectives listed in the Act and are not considered frivolous, vexatious or repetitive.

If a relevant representation is made by either a responsible authority or other party, a hearing must be held.

The Home Office 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.

Hastings Borough Council has developed, published and reviewed its Statement of Licensing Policy as required by the Licensing Act 2003.

All members of the Licensing Committee have been supplied with copies of the Official Government guidance and the Hastings Borough Council Statement of Licensing Policy.

Human rights considerations must be taken into account fully in balancing licensing issues, in particular, article 1 of the first protocol. Article 1 relates to the protection of property and the peaceful enjoyment of possessions and property. Holding a premises licence would be considered a possession. These are qualified rights and can be deprived of “in the public interest”. Interference is permissible if what is done, has its basis in law, and;

Is necessary in a democratic society to fulfil a pressing need or pursue a legitimate aim;

Is proportionate to the aims being pursued; and,

Is related to the prevention of crime; or, the protection of public order or health.

The licence holder has a right of appeal to the Magistrates Court against any decisions made by the licensing Sub-Committee with respect to this application for review.

5.0 Options

To modify the conditions of the licence.

To exclude a licensable activity from the scope of the licence.

To remove the designated premises supervisor.

To suspend the licence for a period not exceeding three months.

To revoke the licence.

Members are reminded they must give written reasons for their decision.

Wards Affected

Castle

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	Yes
Environmental Issues	Yes
Economic/Financial Implications	No
Human Rights Act	Yes
Organisational Consequences	No
Local People's Views	Yes
Anti-Poverty	No

Additional Information

Appendix A. Review application (with associated papers)
Appendix B. Map of Location.
Appendix C. Police Representation (with associated letter)
Appendix D. Environmental Protection Representation.

Officer to Contact

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