

Agenda Item No:

Report to: Licensing Sub-Committee

Date of Meeting: 2nd June 2011

Report Title: Application for a Premises Licence with Representations. Stade Open Space.

Report By: Mike Hepworth
Head of Environmental Health

Purpose of Report

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

Responsible Authorities. Two.

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. The Act also changed the definition of a premise to its widest possible meaning, in other words, anywhere. Therefore any place that wishes to hold an event that incorporates all or some of the following activities will require a premise licence. The activities being the sale by retail of alcohol, the provision of regulated entertainment and the provision of late night refreshment.
3. On the 4th April 2011 Hastings Borough Council Licensing Authority received an application for a new premises licence at the new Stade Open Space, Rock A Nore Road, Hastings from Hastings Borough Council Communications and Marketing Department, made under section 17 the Licensing Act 2003. (Attached at appendix A).
4. The Stade open space is the area contained within the new Stade hall and the site of the Jerwood Art Gallery, Hastings. (Map attached at appendix B.)
5. The premises does not currently hold a premises licence under the Licensing Act 2003, but a premises licence was held for the old Fishmarket Car Park & Stade Coach & Lorry Park (Similar Area), this is referred to in the representation from Mr Bell and as a result is attached (Appendix C).

2.0 Application

6. The application requests the following:
7. To have performance of plays, films, live music, recorded music, performance of dance, entertainment of a similar description on Monday to Sunday from 09.00hrs to 23.00 hrs.
8. To have the provision of facilities for making music, dancing and entertainment of a similar description on Monday to Sunday from 09.00 hrs to 23.00 hrs.
9. To have supply of alcohol for both "On and Off" sales on Monday to Sunday from 09.00hrs to 23.00hrs.
10. 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.

11. In this case the applicant has made a full declaration, this is shown on Pages 19 to 21 of the application.(See appendix A)

3.0 Consultation

12. 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.

13. 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.

14. As a result of this process one representation has been received from Mr Bell, Principal Environmental Health Officer (Pollution), he comments on existing problems with noise from other licensed premises in the vicinity. He has recommended that this application be subject to the same noise conditions that were imposed on the old Fishmarket Car Park licence by a licensing sub committee in August 2007. I consider this to be valid representation under the licensing objective (Prevention of Public Nuisance). (Attached appendix D).

15. A further representation has been received from Ch Insp Ling, Hastings Police, he has no intrinsic objection to the application, but comments under the licensing objectives, prevention of crime and disorder and protection of children from harm. He seeks consideration by the committee in placing the five recommendations contained in his letter, on the new licence as conditions. The applicant and the police have discussed these matters and have already reached a verbal agreement. (Attached appendix D)

4.0 Legal Considerations

16. 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.

17. 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.

18. 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.

19. 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.

20. 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:-
21. Has its basis in law;
22. Is necessary in a democratic society to fulfil a pressing need or pursue a legitimate aim;
23. Is proportionate to the aims being pursued; and,
24. Is related to the prevention of crime; or, the protection of public order or health.
25. 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.

5.0 Options

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

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

Wards Affected

Old Hastings

Area(s) Affected

East Hastings

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	Yes
Economic/Financial Implications	No
Human Rights Act	Yes

Background Information

Licence application.	Appendix A
Map of location	Appendix B
Fishmarket car park licence	Appendix C
Representations	Appendix D

Officer to Contact

Bob Brown. Licensing Manager
bbrown@hastings.gov.uk
01424 783249

Appendices A, B, C & D for this report cannot be published because of the complex images that they contain. If required a copy can be obtained by contacting Emily Horne, Committee Administrator Tel: 01424 451719, or by emailing ehorne@hastings.gov.uk