

Agenda Item No:

Report to: Licensing Sub-Committee

Date of Meeting: 20th March 2012

Report Title: Review of Premises licence. Pleasant Off licence.

Report By: Mike Hepworth
Head of Environmental Health

Purpose of Report

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

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 at the Magistrates Court by any party to the hearing who is aggrieved by the decision.

Introduction

1.0 Background

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 3rd February 2012 Hastings Borough Council received an application for the review of an existing premises licence for Pleasant Off Licence, 72 Mount Pleasant Road, Hastings, TN34 3SN from Louise Baxter, Team Manager, East Sussex County Council Trading Standards Service, Eastbourne, made under Section 51 the Licensing Act 2003. (Attached at Appendix A).
3. Pleasant Off Licence has operated at 72 Mount Pleasant Road for a number of years, the premises being transferred from the Justices licence in August 2005, the premises licence holder is currently Mr Cumar Yalcin, Top Flat, 125 Mount Pleasant Road, Hastings, TN34 3SL, he became the premises licence holder on the 3rd November 2008. (Attached map Appendix B).
4. The premise currently holds a premises licence under the Licensing Act 2003. (Attached Appendix C).
5. The existing premises licence covers the use of the premises for the ' Off Sales ' supply by retail of Alcohol.
6. It currently operates under the following trading hours, the opening hours and the hours for the supply of alcohol being Monday to Saturday 12.00 to 23.00hrs and Sunday 12.00 to 22.30hrs.

2.0 Application

7. The grounds for review made by Louise Baxter are under the licensing objective "The Prevention of Crime and Disorder", I have considered the application and consider it valid and in line with the central government guidance issued on such matters.
8. 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.
9. 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 the Town Hall 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.

10. 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 2nd March 2012.

3.0 Consultation

11. As a result of this consultation period, the Authority has received no further representations.

4.0 Legal Considerations

12. 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.

13. 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.

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

15. 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.

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

17. 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.

18. 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:-

19. Has its basis in law;

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

21. Is proportionate to the aims being pursued; and,

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

23. 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

24. To modify the conditions of the licence.
25. To exclude a licensable activity from the scope of the licence.
26. To remove the designated premises supervisor.
27. To suspend the licence for a period not exceeding three months.
28. To revoke the licence.

Members are reminded they must give written reasons for their decision, to ensure that the appeal procedure can be progressed.

Wards Affected

Braybrooke

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)	No
Risk Management	No
Environmental Issues	No
Economic/Financial Implications	No
Human Rights Act	No
Organisational Consequences	No
Local People's Views	No

Background Information

Application for review.	Appendix A.
Location Map of Premises.	Appendix B.
Existing Premises Licence.	Appendix C.

Officer to Contact

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