

**Agenda Item No: 5**

**Report to:** Licensing Sub-Committee

**Date of Meeting:** 18.05.2012.

**Report Title:** Premises Licence Application. St Leonards PH. London Road, St Leonards on Sea., with representations.

**Report By:** Mike Hepworth  
Head of Environmental Health

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### **Purpose of Report**

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

Responsible Authorities. Two.

Interested Parties. Three. (One letter plus a petition).

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### **Recommendation(s)**

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

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### **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.

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## 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 22nd March 2012 Hastings Borough Council received an application for a new premises licence for a premises called The St Leonard, 16-18 London Road, St Leonards on Sea from Mr Christopher Leech, 16 St Helens Crescent, Hastings, made under section 17 the Licensing Act 2003. (Attached at appendix A).
3. The St Leonard is a new venture but is on the site of the Old Warrior Gate Public House in London Road with closed in 2006. (Map attached at appendix B.)
4. The premises does not currently hold a premises licence under the Licensing Act 2003, the licence for the old premises having been surrendered.

### 2.0 Application

5. The application requests the following:
6. To have performance of recorded music on Monday to Saturday 12.00 hrs to 23.00hrs and Sunday from 12.00hrs to 22.30 hrs.
7. To have supply of alcohol for "On" sales on Monday to Saturday 12.00hrs to 23.00hrs and Sunday from 12.00hrs to 22.30hrs.
8. To have opening hours of the premises as Monday to Saturday 12.00hrs to 23.30hrs and Sunday 12.00hrs 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 full declaration, this is shown on additional pages attached to 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 lot of correspondence was received by the licensing department and separately to the planning office. In total 41 letters of support for the application were received by the licensing department, 40 of those being local residents and one being from the St Leonards Business Association.
14. One representation has been received from Mr Bell, Principal Environmental Health Officer (Pollution), he comments on the existing problems of the area and the fact that the premises is within the saturation area. He comments on the application and suggests 5 conditions which he believes may be appropriate to cover the potential problems in relation to Public Nuisance. I consider this to be valid representation under the licensing objective (Prevention of Public Nuisance). (Attached appendix C).
15. A further representation and secondary letter has been received from Ch Insp Keating, Hastings Police, she comments on the application and suggests a series of conditions that she asks the committee to consider placing on the licence if they are minded to issue. I consider this a valid representation under the licensing objective (Prevention of crime and Disorder) (Attached Appendix C.)
16. A letter of representation signed by 3 local residents with an attached petition of 25 signatures has been received. The letter raises several issues in connection with the application only some of which are matters that can be taken into consideration for a licensing application. In addition, of the 25 persons on the petition, 12 are not considered to be within the "vicinity" of the premises. The letter does comment on the potential for noise problems and it for this reason that I have accepted it as a valid representation under the licensing objective Prevention of Public Nuisance. The comments in relation to persons in the street causing problems and matters connected to the use of communal rubbish bins can not be considered as valid under the Licensing Act 2003.(Attached Appendix D.)
17. Both the Police and Mr Bell make additional comment on the application, in that it is within the Special Saturation Policy Area 3.
18. 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.

19. The licensing manager has spoken to the applicant Mr Leech and informed him of the conditions being requested by both Mr Bell and Sussex Police, he has indicated his acceptance of all those conditions should a licence be issued.

#### **4.0 Legal Considerations**

20. 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.
21. 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.
22. 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.
23. 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.
24. 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:-
  25. Has its basis in law;
  26. Is necessary in a democratic society to fulfil a pressing need or pursue a legitimate aim;
  27. Is proportionate to the aims being pursued; and,
  28. Is related to the prevention of crime; or, the protection of public order or health.
29. 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**

30. Grant the application in full
31. Grant part of the application

32. Grant the application with conditions relevant to the application

33. Refuse the application.

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

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### Wards Affected

Central St. Leonards

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### Area(s) Affected

South St. Leonards

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### 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	No
Organisational Consequences	No
Local People's Views	Yes

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### Background Information

Appendix A. Application and supporting papers.

Appendix B. Map of Location.

Appendix C. Responsible Authorities Representations.

Appendix D. Interested Parties Representation.

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### Officer to Contact

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Appendices A, B, C & D for this agenda 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](mailto:ehorne@hastings.gov.uk)