

Agenda Item No: 6

Report to: Licensing Sub-Committee

Date of Meeting: 20.06.12.

Report Title: Application for new premises licence. 39 - 41 George Street, Hastings.

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. Three.

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 23rd April 2012 Hastings Borough Council received an application for a new premises licence for a premise currently called Georgies Night Club, 39-41 George Street, Hastings from joint applicants Mr William Leech and Peter Harper, made under section 17 the Licensing Act 2003. (Attached at appendix A).
3. Georgies Night Club (Name to be changed) is a new venture but is on the site of the Old Night Club in George Street which closed in 2009. (Map attached at appendix B.)
4. The premise does not currently hold a premises licence under the Licensing Act 2003, the licence for the old premises having been surrendered in 2009.

2.0 Application

5. The application requests the following:
 6. To have performance of live music, recorded music, dance, karaoke & disco, facilities for dancing and other similar entertainment, Monday to Sunday from 12.00hrs to 04.00 hrs.
 7. To have late night refreshment, Monday to Sunday 23.00hrs to 03.30 hrs.
 8. To have supply of alcohol for "On" sales on Monday to Sunday from 12.00hrs to 03.30 hrs.
 9. To have opening hours of the premises, Monday to Sunday 12.00hrs to 04.00 hrs.
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 on additional pages attached to 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 a representation has been received from Mr Bell, Principal Environmental Health Officer (Pollution), he comments on the past problems of the area and the fact that the premises is within a saturation area. He comments on the application and its potential for negative cumulative impact. He includes several maps to indicate the level of residency in the area. He recommends refusal of the application for a licence. I consider this to be a valid representation under the licensing objective (Prevention of Public Nuisance). (Attached appendix C).
15. A further representation has been received from Ch Insp Keating, Hastings Police, she comments on the application and the size of the proposed premises, she also comments on the applicant's failure to demonstrate that there will be no negative cumulative impact as the premises is within the saturation zone. Sussex police invite the sub-committee to refuse the application. I consider this a valid representation under the licensing objective (Prevention of crime and Disorder) (Attached appendix C.)
16. A further representation has been received from Richard Hurst, East Sussex Fire and Rescue Service, he comments on the lack of information supplied to the service and his general concerns for the safety of the proposed occupants of the building. I consider this to be a valid representation under the licensing objective (Public safety). (Attached appendix C).
17. 3 further representations have been received, two from local residents and one from the Hastings Old Town Residents Association. They all comment on the potential for noise problems and a rise in crime and disorder, in addition they comment on the problems already existing in the area with late night revellers. I have accepted these letters as valid representations under the licensing objective Prevention of Public Nuisance. (Attached Appendix D.)
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 applicants did meet with officers from Hastings Borough Council licensing in April and the situation in respect of the saturation area was explained in greater detail. A further meeting on site was conducted with Mr Bell to consider noise issues.

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 by any person affected by the decision.

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.

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
Organisational Consequences	No
Local People's Views	No

Background Information

Appendix A. Application and supporting papers.
Appendix B. Map of Location.
Appendix C. Responsible Authorities Representations.
Appendix D. Interested Parties Representation.

Officer to Contact

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