

**Agenda Item No:** 6

**Report to:** Licensing Sub-Committee

**Date of Meeting:** 16th July 2012

**Report Title:** Application for a new Premises licence. Electric Stag, Robertson Street, Hastings.

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

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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.

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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 9th May 2012 Hastings Borough Council received an application for a new premises licence for a premises called Electric Stag, Ground floor, 53 Robertson Street, Hastings from Licence Us, Licensing Consultants working on behalf of Aslit Ltd, 36 Cambridge Road, Hastings, made under section 17 the Licensing Act 2003. (Attached at appendix A).
3. The Electric Stag is a new venture but is on the site of the Old Street Bar in Robertson Street, Hastings which closed in July 2011. (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 films, live music, performance of dance, events of a similar nature and facilities for both dance and music on Monday to Sunday from 08.00hrs to 04.00 hrs.
7. To have performance of recorded music on Monday to Sunday 06.00hrs to 04.00hrs.
8. To have late night refreshment on Monday to Sunday 23.00hrs to 04.00hrs.
9. To have supply of alcohol for both "On" and "Off" sales on Monday to Saturday 11.00hrs to 03.30hrs and Sunday from 12.00hrs to 03.30hrs.
10. To have opening hours of the premises as Monday to Sunday 06.00hrs to 04.30hrs.
11. In addition to extend hours for all activities on New Years Eve to run continually through from the end of normal hours to the normal opening time on New Years Day.
12. 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.

13. In this case the applicant has made a full declaration on page 19 of their application.(See appendix A)

### 3.0 Consultation

14. 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 was extended due to an administrative error which delayed the publication of the newspaper advertisement, this has now been done.

15. 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.

16. As a result of this process 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 town centre saturation area. He comments on the application and the lack of any consideration for the premises being in the saturation area and as a result he seeks refusal of the application. I consider this to be valid representation under the licensing objective (Prevention of Public Nuisance). (Attached appendix C).

17. A further representation has been received from Ch Insp Keating, Hastings Police, she comments on the application and the lack of information to show that the applicant has considered the Special Saturation Policy and therefore invites the committee to refuse the application. I consider this a valid representation under the licensing objective (Prevention of Crime and Disorder) (Attached Appendix C.)

18. In addition, a letter of support for the application has been received from the managing director of a local insurance agents based in St Leonards on Sea.

19. As stated above both the Police and Mr Bell make comment on the application, in that it is within the Special Saturation Policy Area 1. 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.

## 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, with or without relevant conditions attached.
31. Grant the application in part, with or without relevant conditions attached.
32. Refuse the application.

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### Wards Affected

Castle

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### Area(s) Affected

## 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

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## Background Information

Appendix A. Licence application.

Appendix B. Map of area.

Appendix C. representation form responsible authorities.

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## Officer to Contact

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Please note:

The appendices to this report could not be published on the Council's website because of the complex images that they contain. Copies may be obtained from Emily Horne, Committee Administrator, email [ehorne@hastings.gov.uk](mailto:ehorne@hastings.gov.uk) or telephone 01424 451719.