

Agenda Item No: 6

Report to: Licensing Sub-Committee

Date of Meeting: 14th August 2012

Report Title: Variation of Premises Licence. The General Havelock PH

Report By: Mike Hepworth
Head of Environmental Services

Purpose of Report

To consider the application for a variation of a 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. On the 19th June 2012 Hastings Borough Council received an application for a variation to an existing premises licence for The General Havelock PH, 27 Havelock Road, Hastings from Mr Jamie Butler, North Star PH, St Leonards on Sea, the licence holder, made under section 34 the Licensing Act 2003. (Attached at appendix A).
3. The General Havelock PH is an existing venue which reopened in April 2012 on the site of the Old Havelock PH which was reviewed in 2011. (Map attached at appendix B.)
4. The premises does currently hold a premises licence under the Licensing Act 2003, the licence currently authorises the supply of alcohol only, the times being Monday to Saturday 10.00hrs to 23.30hrs and Sunday 11.00hrs to 23.00hrs. This having been agreed with the last licence holder by way of a consent order following the appeal to the review held in 2011. (Licence and consent order attached appendix C)

2.0 Application

5. The application requests the following:
6. To have performance of plays on Monday to Saturday 11.00 hrs to 23.00 hrs and Sunday from 12.00hrs to 23.00 hrs.
7. To have the performance of films on Monday to Saturday 10.00 hrs to 23.00 hrs and Sunday 11.00 hrs to 23.00hrs.
8. To have performance of live music on Monday to Thursday 11.00hrs to 23.00hrs, Friday and Saturday 11.00hrs to 01.00hrs and Sunday 12.00hrs to 23.00hrs.
9. To have performance of recorded music and entertainment of a similar kind (Karaoke) on Monday to Thursday 11.00 hrs to 24.00 hrs, Friday and Saturday 11.00 hrs to 02.30 hrs and Sunday 12.00 hrs to 24.00 hrs.
10. To have performance of dance, facilities of a similar kind (Disco) Sunday to Thursday 11.00hrs to 24.00hrs, Friday and Saturday 11.00hrs to 02.30hrs.
11. To have late night refreshment on Friday and Saturday 23.00hrs to 02.30hrs.

12. To have supply of alcohol for "On" sales on Monday to Thursday 11.00hrs to 24.00hrs, Friday and Saturday 11.00hrs to 02.30 hrs and Sunday from 12.00hrs to 24.00hrs. In addition, seasonal variation for supply of alcohol on New Years Eve, Christmas Eve and Bank Holidays until 02.30hrs.
13. To have opening hours of the premises as Monday to Thursday 11.00hrs to 24.00hrs, Friday and Saturday 11.00hrs to 02.30hrs and Sunday 12.00hrs to 24.00hrs. Again with seasonal variation on New Years Eve, Christmas Eve and Bank Holidays until 02.30hrs.
14. On page 17 of the application, the applicant is also seeking to remove Condition 4 on the court consent order and replace it with 2 door security staff from 10pm till 2.30hrs. It does not stipulate on which days, but in the operating schedule on page 19 of the application it states they are available for Friday and Saturday, Christmas and New Years Eve and Bank Holidays if open after 11pm.
15. 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.
16. In this case the applicant has made a declaration on page 19 of their application and a separate supporting statement. In addition, the applicant has sent a revision sheet to the application indicating that all Alcohol sales will stop at 02.00hrs, it does not indicate whether or not this includes the seasonal variations requested.(See appendix A)

3.0 Consultation

17. 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 now been done.
18. 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.
19. As a result of this process one representation has been received from Mr Bell, Principal Environmental Health Officer (Pollution), he comments on the history of the premises and 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 D).

20. 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 D.)
21. 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

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

31. If members chose to refuse the application in full or in part, the applicant and any person affected by the decision, 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

32. Grant the application in full, with or without relevant conditions attached.

33. Grant the application in part, with or without relevant conditions attached.

34. Refuse the application.

Wards Affected

Castle

Area(s) Affected

Central 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 & supporting papers.
Appendix B.	Location map of premises.
Appendix C.	Existing licence and consent order.
Appendix D.	Representations from responsible authorities.

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 or telephone 01424 451719.