

Agenda Item No: 5

Report to: Licensing Sub-Committee

Date of Meeting: 3rd October 2012

Report Title: London Trader PH. Temporary Event Notice. Objection received.

Report By: Mike Hepworth
Head of Environmental Services

Purpose of Report

To consider the application for a temporary event notice as a result of an objection notice received from relevant persons. (Sussex Police).

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 an appropriate notice has been served by either the police or environmental health. The decision reached at the sub committee can be subject to the appeal process at the Magistrates Court.

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 20th September 2012 Hastings Borough Council received a notification to hold a temporary event at the London Trader PH, 4-7 East Beach Street, Hastings, TN34 3AR, from Ms Sarah Jo-Anne Reynolds, 374 Old London Road, Hastings the designated premises supervisor (DPS) of the London Trader PH made under Section 100 of the Licensing Act 2003. (Attached Appendix A).
3. Members may recall that a similar application was made on the 6th August 2012 when Hastings Borough Council received a notification to hold a temporary event at The London Trader PH, in relation to Friday 24th August 2012 and Saturday 25th August 2012, 20.00 hrs to 00.30hrs for Disco, Dancing and Supply of Alcohol, and Sunday 26th August 2012, 20.30hrs to 00.30hrs for Disco, Dancing and Supply of Alcohol. On that occasion the Designated Premises Supervisor withdrew the Notice on the day of the hearing.
4. The premise has operated in East Beach Street, Hastings for many years, a map showing the location of the venue is attached. (Attached Appendix B).
5. The premise currently holds a premises licence under the Licensing Act 2003. That licence was amended at an appeal hearing at Hastings Magistrates Court on the 10th April 2012 and authorises the use of the premises for different types of licensable activity at different times, the opening hours of the premises being Monday to Saturday 09.00hrs to 23.30hrs and Sunday 09.00hrs to 22.30hrs.(Attached Appendix C).

2.0 Application

6. The application for consideration today requests the following temporary event:-
 - a. Saturday 13th October 2012 into Sunday 14th October 2012, 09.00hrs to 00.30hrs for recorded music, dancing and supply of alcohol.
7. A temporary event notice under the Licensing Act 2003 is the method that allows licensable activities to be carried on at premises that does not have a premises licence. In addition, it allows premises that do hold a full premises licence to extend their licensable activities beyond their existing licence or to allow additional licensable activities that are not covered by their existing premises licence.
8. A licensing authority may impose one or more conditions on a standard temporary event notice if;
 - (a). The authority considers it appropriate for the promotion of the licensing objectives to do so,

- (b).The conditions are also imposed on a premises licence that has effect in respect of the same premises as the temporary event notice and
- (c). The conditions would not be inconsistent with the carrying out of the licensable activities under the temporary event notice.

9. In this case the premises licence for the London trader PH was amended following an appeal hearing at Hastings Magistrates Court on the 10th April 2012, as part of that process nine(9) conditions were added to the licence, conditions 5 to 9 would appear to be consistent with the temporary event notice and could be added to the notice if the sub committee were so minded.

3.0 Consultation

10. The Licensing Act 2003 requires an applicant to serve copies of the application on relevant persons (the Police and Environmental Health) at the same time as they served two copies on the Licensing Authority, this has been done.

11. The relevant persons can object to such an application on any of the four licensing objectives. The relevant person making the objection must serve an 'Objection notice' on the Licensing Authority, the applicant and the other relevant person within 3 working days of receiving the notice, this has been done. In this case the relevant persons are the Police. (Attached Appendix D).

12. The Local Authority must in addition serve a counter notice on the relevant person making the objection and the applicant and arrange a hearing, this has been done (see Appendix E). The hearing must be held within 7 working days beginning with the day after the end of the period within which the relevant person may give an objection notice, but in any case the determination must be given at least 24 hours before the event is due to begin.

13. The relevant person may modify the notice with the agreement of the applicant before the committee hearing and in those circumstances the objection is treated as withdrawn. This does not apply in this case.

4.0 Legal Considerations

14. 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.

15. If a proper objection to a temporary event notice is made by a relevant person and no compromise can be reached between the parties, a hearing must be held.

16. 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.

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:-

- a. Has its basis in law;
 - b. Is necessary in a democratic society to fulfil a pressing need or pursue a legitimate aim;
 - c. Is proportionate to the aims being pursued; and,
 - d. Is related to the prevention of crime; or, the protection of public order or health.
19. If members chose to refuse the application for a temporary event notice, the applicant has a right of appeal to the Magistrates’ Court.

5.0 Options

20. Grant the temporary event.
21. Grant the event with conditions attached.
22. Refuse the temporary event.

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	No
Organisational Consequences	No
Local People’s Views	No

Background Information

- Appendix A. Temporary Event Notice.
 - Appendix B. Map Of Site.
-

Appendix C. Existing Premises Licence.
Appendix D. Objection Notices.
Appendix E. Counter Notice.

Officer to Contact

Mike Hepworth - Head of Environmental Services.
mhepworth@hastings.gov.uk
01424 783332
