

Agenda Item No: 6

Report to: Licensing Sub-Committee

Date of Meeting: 4th December 2012

Report Title: Premises licence Application. 72 Mount Pleasant Road, with Representations.

Report By: Mike Hepworth
Head of Environmental Services

Purpose of Report

To consider the application for a licence as a result of representations received.
Responsible Authority (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, which includes licensing of regulated entertainment and late night refreshment.
2. On the 11th October 2012 Hastings Borough Council received an application for a new premises licence for 72, Mount Pleasant Road, Hastings, TN34 3SN from Funnell & Perring Solicitors, 192/3 Queens Road, Hastings acting for Miss Nejla Yalcin, made under Section 17 the Licensing Act 2003. (Attached at Appendix A).
3. The premises at 72 Mount Pleasant Road, Hastings has operated as an Off licence for several years trading as Pleasant Off licence with a different licence holder. (Attached map Appendix B).
4. The premise does not currently hold a premises licence under the Licensing Act 2003. The licence for the old business being revoked by licensing sub committee on 20th March 2012 and an appeal against the sub committee decision was dismissed by the appeal court on the 2nd August 2012.

2.0 Application

The application requests the following:

5. To licence hours for the supply of alcohol from 07.00 to 23.00hrs, Monday to Sunday.
6. To have opening hours of 07.00 to 23.00 hrs, Monday to Sunday.
7. When submitting an application for a licence under the Licensing Act 2003 the applicant is asked to describe what steps, if any, they intend to take to promote the four licensing objectives:-
8. the prevention of crime and disorder,
9. public safety,
10. prevention of public nuisance,
11. protection of children from harm.
12. In this case the applicant has made a declaration on page 19 of the application.(See appendix A)

3.0 Consultation

13. 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.
14. 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.
15. As a result of this process two representations have been received, one from the Police who comment on the application and the past problems with crime (sale of illicit products) from the premises concerned. They also refer to problems in trying to communicate with the applicant Miss Yalcin and the fact that she does not hold a personal licence as stated in the application. They invite the committee to refuse the application. I consider this to be a valid representation under the licensing objective (Prevention of Crime and Disorder). (Attached Appendix C).
16. A second representation has been received from Lucy Corrie, Head of Trading Standards, East Sussex County Council, she comments on the past history of the premises and her concerns that such an application undermines the revocation process resolved at a recent sub committee and upheld by the appeal court. I consider this to be a valid representation under the licensing objective (Prevention of Crime and Disorder). (Attached Appendix C).

4.0 Legal Considerations

17. The Licensing Act 2003 is now the only legislation that allows premises to be licensed for late night refreshment.
18. 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.
19. 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.
20. 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.
21. 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. 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:-
22. Has its basis in law;

23. Is necessary in a democratic society to fulfil a pressing need or pursue a legitimate aim;
24. Is proportionate to the aims being pursued; and,
25. Is related to the prevention of crime; or, the protection of public order or health.
26. 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

27. Grant the application in full.
28. Grant part of the application.
29. Grant the application with additional conditions relevant to the application.
30. Refuse the application.

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

Wards Affected

Braybrooke, Tressell

Area(s) Affected

None

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	No
Economic/Financial Implications	No
Human Rights Act	Yes
Organisational Consequences	No
Local People's Views	No

Background Information

Appendix A. Application for licence.

Appendix B. Map of venue.

Appendix C. Representations from Responsible Authorities.

Officer to Contact

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Appendices A, B & C could not be published on the Council's website because of the complex information that they contain. Copies may be obtained from Emily Horne, Tel: 01424 451719 or emailing: ehorne@hastings.gov.uk