

Agenda Item No: 6

Report to: Licensing Sub-Committee

Date of Meeting: 10th December 2012

Report Title: New Premises licence application, Ground Floor & Basement, 53 Robertson 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. 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 24th October 2012 Hastings Borough Council received an application for a new premises licence for the ground floor and basement of 53 - 57 Robertson Street, Hastings from Licence Us, Licensing Consultants on behalf of Aslit Ltd, 36 Cambridge Road, Hastings, made under section 17 the Licensing Act 2003. (Attached at appendix A).
3. This premises is a new venture but is on the site of the Old Crypt Night Club in Robertson Street, that licence having been surrendered in July 2011. (Map attached at appendix B.)
4. The premise is located within Area 1 (Town centre) of the Council Special Saturation Policy (Cumulative Impact).

2.0 Application

5. The application requests the following:
6. To have performance of plays, films, live music, recorded music, dance, karaoke & disco, Monday to Sunday 24hours a day.
7. To have late night refreshment, Monday to Sunday 23.00hrs to 05.00 hrs.
8. To have supply of alcohol for both "On and Off" sales on Monday to Sunday from 12.00hrs to 08.00 hrs.
9. To have opening hours of the premises, Monday to Sunday 24hours a day.
10. In addition, under all licensable activities a request to have the hours agreed extended from the terminal hour on New Years Eve to start of normal opening on New Years Day and on any Sunday preceding a BH Monday the hours to be the same as any Saturday.
11. 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.

12. In this case the applicant has made a full declaration on the pages in section M 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 a representation has been received from Mr Casey, Principal Environmental Health Officer (Pollution), he comments on the past problems of the area and the fact that the town centre has presented an unacceptable noise level to residents late at night. He comments on the application and its potential for considerable noise from customers as a result of the unrestricted opening hours requested. He recommends a restricted closing time of 3am at the latest. I consider this to be valid representation under the licensing objective (Prevention of Public Nuisance). (Attached appendix C).
16. 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 applicants failure to demonstrate adequately that there will be no negative cumulative impact as the premises is within the town centre saturation zone. Sussex police invite the sub committee to refuse the application. I consider this a valid representation under the licensing objectives (Prevention of crime and Disorder and Prevention of Public Nuisance) (Attached appendix C.)
17. 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.
18. The applicants did meet with officers from Hastings Borough Council Licensing, Environmental Health and Sussex Police in October and the situation in respect of the saturation area was explained in greater detail, a tour of the proposed site was also carried out.
19. In addition, the Licensing Authority have received two separate communications in support of the application, the first was letter form the Brighton Students Union and the second in the form of an e mail from Mr Lofts, who states he is a local resident and businessman. Whilst these do not form part of the laid down licensing process they are attached for information. (appendix D)

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.

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

Background Information

Appendix A. Application for Premises licence.

Appendix B. Map of Area.

Appendix C. Letters of representation.

Appendix D. Letters of support.

Officer to Contact

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Appendices A, B, C & D 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