

Agenda Item No: 6

Report to: Licensing Sub-Committee

Date of Meeting: 6th June 2013

Report Title: New Premises licence application with representations.

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. Four.

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 17th April 2013 Hastings Borough Council received an application for a new premises licence for The Printworks, 14 Claremont, Hastings from Lorna Lloyd and Bryan Dyke of the same address, made under section 17 the Licensing Act 2003. (Attached at appendix A).
3. This premises is an existing licensed premises (Called Bliss) that is now applying for a new extended licence, the applicant indicating that they will surrender the existing licence on receipt of the new licence. (Map attached at appendix B.)
4. The existing licence covers the use of part of the building for sale of alcohol, late night refreshment and regulated entertainment, the terminal hour being 01.00 hrs with closing hours of 01.30hrs. Although the licence is in place, currently no DPS is nominated, as a result no alcohol sales can occur under the licence. (Attached existing licence as appendix C)
5. The premise is located within Area 1 (Town centre) of the Council Special Saturation Policy (Cumulative Impact).
6. 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.

2.0 Application

7. The application is for part of the building, the whole of the first floor and the rear of the ground floor, it requests the following:
8. To have performance of plays, films (including outside display onto buildings), indoor sporting events, live music, recorded music, dance, similar entertainment (Burlesque, cabaret and comedy nights), Monday to Sunday 09.00hrs to 04.00hrs.
9. To have late night refreshment, Monday to Sunday 23.00hrs to 04.00 hrs.

10. To have supply of alcohol for On sales on Monday to Sunday from 09.00hrs to 03.30 hrs and for 24hrs for B&B guests in their rooms.
11. To have opening hours of the premises, Monday to Sunday 09.00hrs to 04.00hrs.
12. In addition, under all licensable activities the applicants have indicated Non Standard timings for Summer Solstice (June 21st) but have not indicated the different hours required.
13. .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.
14. In this case the applicant has made a separate full declaration at the end of the application.(See appendix A)

3.0 Consultation

15. 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.
16. 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.
17. 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 town 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 differences with the existing licence and the fact that the applicant has not sufficiently demonstrated that due the wide range of activities and times it does not support the aims of the Saturation policy. I consider this to be valid representation under the licensing objective (Prevention of Public Nuisance). (Attached appendix D).
18. A further representation has been received from Ch Insp Phelps, Hastings Police Commander, he comments on the application and the proposed activities, he also comments on the applicant's 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 D.)
19. A further representation has been received from Mr George O'Reilly, East Sussex Fire and Rescue Service, he comments on the fact that the applicant has not

adequately addressed the Public Safety Objective under the Act and has attached a schedule of works to support the representation. I consider this a valid representation. (Attached appendix D).

20. A further representation, in the form of an e mail, has been received from the commercial section of the Environmental Health Department, they comment on the lack of toilet facilities for the numbers of patrons requested by the applicant. I consider this to be a valid representation under the Public Safety Objective. (Attached appendix D).

4.0 Legal Considerations

21. 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.
22. 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.
23. 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.
24. 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.
25. 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:-
 26. Has its basis in law;
 27. Is necessary in a democratic society to fulfil a pressing need or pursue a legitimate aim;
 28. Is proportionate to the aims being pursued; and,
 29. Is related to the prevention of crime; or, the protection of public order or health.
30. 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

31. Grant the application in full
32. Grant part of the application

33. Grant the application with conditions relevant to the application

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.

Appendix B. Map of Location.

Appendix C. Existing premises licence.

Appendix D. Representations from responsible authorities.

Officer to Contact

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Please Note: Appendices A, B & C are published on the Councils website and can be obtained by the following link:

http://www.hastings.gov.uk/decisions_democracy/how_we_make_decisions/constitution_committees/licensing_committee/