

Agenda Item No: 6

Report to: Licensing Sub-Committee

Date of Meeting: 28 November 2013

Report Title: Temporary Event Notices (2) with representations. Funky Budda Nightclub.

Report By: Mike Hepworth
Head of Environmental Services

Purpose of Report

To consider the applications for two temporary event notices as a result of objection notices received from the police and environmental protection.

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 15th November 2013 Hastings Borough Council received notification to hold two temporary events at Funky Budda Nightclub, 20 Robertson Street, Hastings. TN34 1HL, from Mrs Louise Jeffery, 21 Sugarloaf Walk London E2 0JQ representing Parkers Brasserie, the licence holder of Funky Budda, made under Section 100 of the Licensing Act 2003. (Attached Appendix A).
3. The premises has operated in Robertson Street Road, Hastings for many years under several different names and operators, a map showing the location of the venue is attached. (Attached Appendix B).
4. The premises currently hold a premises license under the Licensing Act 2003. The current licence authorises the use of the premises for Recorded Music, Dancing and Supply of Alcohol, Wednesday to Saturday 20.00hrs to 03.30hrs, Late Night Refreshment, Wednesday to Saturday 23.00hrs to 03.30hrs, All these hours are extended to 04.00 hrs on Sundays preceding a bank holiday Monday. The premises have opening hours of Wednesday to Saturday 20.00hrs to 04.00hrs. (Attached Appendix C).

2.0 Application

5. The applications requests the following temporary events;
6. (1) Saturday 30th November 2013, 03.30hrs to 05.00hrs for supply of Alcohol and until 06.00hrs for the provision of regulated entertainment (music/dancing). And (2) Saturday 7th December 2013 for the exact same hours.
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 license. In addition, it allows premises that do hold a full premises license to extend their licensable activities beyond their existing license or to allow additional licensable activities that are not covered by their existing premises license.
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 license that has effect in respect of the same premises as the temporary event notice and
 - (c). The condtions would not be inconsistant with the carrying out of the licensable activities under the temporary event notice.

9. In this case the premises license for Funky Budda has conditions attached to promote all four licensing objectives and these 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 and Environmental Protection. (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. 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 license 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 :-

19. Has its basis in law;
20. Is necessary in a democratic society to fulfil a pressing need or pursue a legitimate aim;
21. Is proportionate to the aims being pursued; and,
22. Is related to the prevention of crime; or, the protection of public order or health.
23. 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

24. Grant the temporary events.
25. Grant the events with conditions attached.
26. Refuse the temporary events.
27. Members are reminded they must give written reasons for their decision.

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 Applications for TENs.
 Appendix B. Map of site.
 Appendix C. Existing Licence.
 Appendix D. Representations.

Officer to Contact

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 Report Template v25.0

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