

Agenda Item No: 6

Report to: Licensing Sub-Committee

Date of Meeting: 31.03.2014.

Report Title: Application for (1) Transfer of licence and (2) Variation of DPS for Premises Licence. Ideal Mini Market.

Report By: Mike Hepworth
Head of Environmental Services

Purpose of Report

To consider an application to (1) transfer a licence and (2) vary a Designated Premises Supervisor for a Premises Licence as a result of a representation received from the 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 representation has been made. The decision reached at the sub committee can be subject to appeal at the Magistrates Court by any party to the hearing who is aggrieved by the decision.

Introduction

1.0 Background

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 February 2014 Hastings Borough Council received an application for (1) the transfer of an existing premises licence and (2) a variation to specify a new Designated Premises Supervisor (DPS) for Ideal Mini Market, 61 Queens Road, Hastings, TN34 1RG from Mr MOHAMMED HASSAN, 61 Queens Road, Hastings made under Sections 42 and 37 of the Licensing Act 2003. (Attached at Appendix A).
3. Ideal Mini Market has operated at 61 Queens Road, Hastings since 2009 until the licence was revoked at a licensing sub committee on 1st August 2012, the premises licence holder changed several times over this period. A new licence was granted again under new management on the 11th September 2013, the licence operator and DPS being Mr Yasin Ahmed, 61 Queens Road, Hastings, TN34 1RE, he has consented to the transfer. (See Appendix A).
4. The existing premises licence covers the use of the premises for the ' Off Sales ' supply by retail of Alcohol. It currently operates under the following trading hours;
 - Sale of alcohol. Monday to Sunday 09.00 - 23.00 hrs

2.0 Application

5. The applications for a transfer of an existing premises licence and to vary a DPS are normally a straightforward licensing procedure and are dealt with as an administrative matter. The applicant is required to serve a copy of the applications on the Police, this has been done.
6. To object to the applications, the police must be satisfied that there are exceptional circumstances in the case, that the granting of the application would undermine the crime prevention objective. In such circumstances they must serve a notice on the licensing authority within 14 days of receiving the applications, which has been done in this case. (See appendix B)
7. In their notice of objection the police have commented upon the history of the premises, the past review of the premises by Trading Standards and the history of the parties involved in the management of the premises. The issues covered by their representation are all matters connected to the licensing objective "Prevention of Crime and Disorder", I consider this to be a valid objection notice under the Act.
8. A challenged application for both a transfer and variation of DPS must be considered by the Council's Licensing Sub-Committee within 20 working days

following the end of the representation period of the police, in this case that period ends at midnight on the 31st March 2014.

4.0 Legal Considerations

9. The Licensing Act 2003 is now the only process to licence and control premises for all forms of entertainment, late night refreshment and the sale of Alcohol.
10. The transfer/variation process is laid down in statute and allows for a police objection notice in exceptional circumstances, it should be made under the Crime prevention objective. If a relevant objection notice is served by the police on the licensing authority, a hearing must be held.
11. The Home Office 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.
12. Hastings Borough Council has developed, published and reviewed its Statement of Licensing Policy as required by the Licensing Act 2003.
13. All members of the Licensing Committee have been supplied with copies of the Official Government guidance and the Hastings Borough Council Statement of Licensing Policy.
14. Human rights considerations must be taken into account fully in balancing licensing issues, in particular, Article 1 of the first protocol. Article 1 relates to the protection of property and the peaceful enjoyment of possessions and property. Holding a premises licence would be considered a possession. These however are qualified rights and can be deprived of "in the public interest". Interference is permissible if what is done:-
15. Has its basis in law;
16. Is necessary in a democratic society to fulfil a pressing need or pursue a legitimate aim;
17. Is proportionate to the aims being pursued; and,
18. Is related to the prevention of crime; or, the protection of public order or health.
19. Both the applicant and the Police have a right of appeal to the Magistrates Court against any decisions made by the licensing Sub-Committee with respect to this application for transfer and variation of DPS.

5.0 Options

20. To allow the application to transfer the licence and vary the DPS.
21. To refuse the application to transfer the licence and vary the DPS.

Members are reminded they must give written reasons for their decision, to ensure that the appeal procedure can be progressed.

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 to (1) transfer a licence and (2) vary a DPS.
Appendix B. Police representation.

Officer to Contact

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