

Agenda Item No: 6

Report to: Licensing Sub-Committee

Date of Meeting: 24th April 2014

Report Title: Application for variation of premises licence. Spice Rock, White Rock with representations.

Report By: Mike Hepworth
Head of Environmental Services

Purpose of Report

To consider the application to vary the licence as a result of representations received.
Responsible Authorities: Three.

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 4th March 2014 Hastings Borough Council received an application to vary the premises licence of Spice Rock, 43 White Rock, Hastings from Mr Siddiquor Rahman and Mr Ridwanur Rahman the premises licence holders, made under Section 34 the Licensing Act 2003. (Attached Appendix A).
3. The Spice Rock is a new venture on the site of the old Smugglers PH and had been called Shimla Restaurant, the old Smugglers PH had operated in White Rock, Hastings for many years under different management. (Attached map Appendix B).
4. The premise currently holds a premises licence under the Licensing Act 2003. (Attached appendix C).
5. This existing premises licence was carried over from the old public house premises and covers the use of the ground floor of the premises for;
 - Indoor Sporting Events, Recorded Music, Live Music, Films, and Supply of Alcohol (on and off sales) with different hours for different activities.
 - The premises has opening hours of Monday to Saturday 10.00hrs to 02.30hrs, Sunday 11.00hrs to 02.30hrs.

2.0 Application

The application requests the following variation to the existing licence:

6. To change the layout of the premises following refurbishment to become a licensed restaurant and to extend the operation to include the first floor.
7. To maintain the existing licensable activities with the times being Monday to Saturday 10.00hrs to 02.00hrs and Sunday 11.00hrs to 02.00hrs.
8. To add the facility of late night refreshment for Monday to Sunday 23.00hrs to 02.00hrs with a take away service ending at 01.50hrs.
9. To maintain existing closing hours of Monday to Saturday 10.00hrs to 02.30hrs and Sunday 11.00hrs to 02.30hrs.
10. The application also seeks to remove a raft of the old licence conditions that were attached to the Smugglers PH licence they are detailed in full on pages 17 / 18 of the application.

11. When submitting an application to vary a licence under the Licensing Act 2003 the applicant is asked to describe what additional steps, if any, they intend to take to promote the four licensing objectives:-
12. the prevention of crime and disorder;
13. public safety;
14. prevention of public nuisance;
15. protection of children from harm.
16. In this case the applicant has made no further declaration in the application.

3.0 Consultation

17. The Licensing Act 2003 requires an applicant to advertise their variation 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.
18. Copies of the application to vary 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.
19. As a result of this process three representations have been received from responsible authorities, one from Mrs Sally Nicholls, Principle Environmental health Officer (food), she makes her representation on the grounds of "Public Safety " She comments on the application and the previous history of the applicant at his last premises. She comments further on the risk to health posed by the layout and design of the premises. I consider her application to be valid and in line with government guidance. (Appendix D).
20. A second representation has been received from East Sussex Fire and Rescue Service, they also comment on the application and the design of the premises and the means of escape. They request a capacity limit be placed on the premises until addition works are carried out to the approval of the Service. I consider this to be a valid representation under the licensing objective (Public safety). (Attached Appendix D).
21. A third letter of representation was received from Sussex Police, they are not objecting to the application but do seek to add conditions to the licence as outlined in their letter if the variation is granted. (Attached appendix D).

4.0 Legal Considerations

22. The Licensing Act 2003 is now the only legislation that allows premises to be licensed for supply of Alcohol and regulated entertainment.
23. 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.

24. 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.
25. 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.
26. 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:-
27. Has it's basis in law;
28. Is necessary in a democratic society to fulfil a pressing need or pursue a legitimate aim;
29. Is proportionate to the aims being pursued; and
30. Is related to the prevention of crime; or, the protection of public order or health.
31. If members chose to refuse the variation 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

32. Grant the variation in full.
33. Grant part of the variation.
34. Grant the variation with additional or alternative conditions relevant to the application.
35. Refuse the application.

Wards Affected

Castle

Area(s) Affected

Central Hastings

Policy Implications

\$dmvf3ljf
Report Template v25.0

Please identify if this report contains any implications for the following:

Equalities and Community Cohesiveness	No
Crime and Fear of Crime (Section 17)	No
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 to vary.
Appendix B. Map of venue.
Appendix C. Existing licence.
Appendix D. Representations.

Officer to Contact

Bob Brown Licensing Manager.
bbrown@hastings.gov.uk
01424 783249
