

Report to: Licensing Sub Committee

Date of Meeting: 21st September 2016

Report Title: Application for a premises licence. SEED, 50 George Street, Hastings, with representations.

Report By: Mike Hepworth. Assistant Director Environment and Place.

Purpose of Report

To consider the application for a new premises licence as a result of representations received.

Responsible Authorities. Three
Interested Parties. 1

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 27th July 2016 Hastings Borough Council received an application for a new premises licence for Seed, 50 George Street, Hastings, TN34 3EA from Joanna Stephens, T/A Seed Ltd, 50 George Street, Hastings, made under section 17 Licensing Act 2003. (Attached at appendix A).
3. This premise was previously trading as Pomegranate and held a full premises licence under the Licensing Act 2003 in the company name Pomegranate Food and Drink House Ltd. This company was dissolved on the 26th April 2016 and no interim authority or notification was made to the Licensing Department within the statutory 28 days and therefore the premises licence became lapsed, this was due to an administrative oversight by the company directors. The application is now for a new premises licence, the old licence for Pomegranate and a map of the location is attached. (Appendix B.)
4. The premise is located within Area 2 (George Street/High Street, Old Hastings) of the Council Special Saturation Policy (Cumulative Impact).
5. 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

6. The application requests the following:
7. To have supply of alcohol for On and Off sales, Monday to Sunday from 10.00hrs to 01.30hrs. New Year's Eve from the end of permitted hours to the start of permitted hours on New Year's Day.
8. To have Plays, Films, Live Music, performance of Dance and similar events, Monday to Sunday from 12.00hrs to 00.00hrs.

9. To have Recorded Music, Monday to Sunday 10.00hrs to Sunday 00.00hrs.
10. Hours open to the public, Monday to Sunday, 10.00hrs to 02.00hrs.
11. These hours and licensable activities are the same as the ones that were licensed under the old premises licence.
12. 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.
13. In this case the applicant has made a declaration under section M of their application .(See appendix A)

3.0 Consultation

14. 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.
15. 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.
16. As a result of this process a representation has been received from Jean Irving, Head of Licensing, Sussex Police, she comments on the application and the proposed activities, she also comments on the applicant's past licensing history and the reasons for the application. She highlights the Council Licensing Policy and the newly formed Matrix. She comments on the police involvement in the premises and ongoing conversations with the applicant. Sussex police invite the sub- committee to either refuse the application or consider attaching conditions. I consider this a valid representation under the licensing objectives (Prevention of crime and Disorder and Prevention of Public Nuisance) (Attached appendix C.)
17. A further representation has been received from Mr Trevor Scrase, Snr Licensing Officer, Hastings Borough Council he comments on the application and the operation of the premises. He highlights the Council Saturation Policy Area and the new Matrix and how it impinges on the application. (Attached appendix C.)
18. A further representation has been received from Mr Stewart Bryant, Snr Environmental Health Officer, Environmental Protection. He comments on the application and the history of the area and recommends a series of conditions be attached to the licence if the sub-committee consider it appropriate to issue a licence. (Attached appendix C.)

19. One other representation has been received from a local interested party, it comments on the past history of the premises and the problems it has caused them. I consider this to be a valid representation under the Act. (Attached appendix C).

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

None

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)	No
Risk Management	No
Environmental Issues	No
Economic/Financial Implications	No
Human Rights Act	No
Organisational Consequences	No
Local People's Views	No
Anti-Poverty	No

Additional Information

Appendix A. Application for licence.
Appendix B. Old licence and map of location.
Appendix C. Representations.

Officer to Contact

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