

Report to: Licensing Sub Committee

Date of Meeting: 24th April 2017

Report Title: Transfer of Premises Licence with police objection.

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

Purpose of Report

To consider an application to transfer a premises licence as a result of a subsequent police objection.

Recommendation(s)

- 1. Member's Instructions requested.**

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 that is aggrieved by the decision.

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 16th March 2017 Hastings Borough Council received an application for the transfer of an existing premises licence for Franks Front Room, 32 Station Road, Hastings, TN34 1NJ (to be called The Royal George PH) from Mr Nigel Lewis, Managing Director of Bar Hastings Ltd of 46c Bohemia Road, Hastings, TN37 6RQ. made under Section 42 the Licensing Act 2003. (Attached at Appendix A).
3. Franks Front Room has operated at 32 Station Road, Hastings for a number of years, the premises having been transferred to the Authority from the Magistrate's Court system in 2005 when it was known as The Priory PH. The premises have recently been closed, having ceased trading and as a result the licence suspended for non-payment of its annual licence fee. The premises licence holder has throughout that time been Priory Sussex Ltd, they have consented to the transfer and paid the outstanding licence fees. (See Appendix A).
 - The existing premises licence covers the use of the premises for the ' On & Off Sales ' supply by Retail of Alcohol, Late Night Refreshment, Live Music, Recorded Music, Dancing and Indoor Sport.
4. It currently operates different hours for each licensable activity, however the overall following trading hours are;
 - Premise Opening Hours. Monday to Thursday 07.00 – 00.30hrs, Friday and Saturday 07.00 – 01.30hrs and Sunday 07.00 – 23.30 hrs. (Produced Appendix B)
5. The designated premise supervisor for the premises since the transfer on the 16th March 17 is Hayley Heritage, who holds a personal licence from Wealden District Council.

2.0 Application

6. The application for a transfer of an existing premises licence is normally a straightforward licensing procedure and is dealt with as an administrative matter. The applicant is required to serve a copy of the application to transfer on the Police, this has been done.
7. To object to the application, 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 application, which has been done in this case. (See Appendix C)
8. In their notice of objection the police have commented upon the past criminal record of Mr Lewis and the history of his commercial activities when operating a

Bar in Queens Road, Hastings between 2012 and 2015. They further comment on his application for a personal licence in 2013 which they contested and was refused at a licensing hearing. I consider this to be a valid objection notice under the Act.

9. A challenged application for transfer 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 ended at midnight on the 30th March 2017.
10. In this case the request to transfer and vary the DPS was to have immediate effect and was administered by the Authority accordingly and the premise opened and has been trading legally.
11. In such cases, if a subsequent objection against the transfer is received within the legal timeframe (14 days) from the police, the matter must be placed before a licensing sub-committee to determine the application under Sec 44(5) of the Licensing Act.

4.0 Legal Considerations

12. 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.
13. The transfer 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.
14. 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.
15. Hastings Borough Council has developed, published and reviewed its Statement of Licensing Policy as required by the Licensing Act 2003.
16. 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.
17. 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:-
 18. Has its basis in law;
 19. Is necessary in a democratic society to fulfil a pressing need or pursue a legitimate aim;
 20. Is proportionate to the aims being pursued; and,

21. Is related to the prevention of crime; or, the protection of public order or health.
22. 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.

5.0 Options

23. To allow the application to transfer to continue.
24. To refuse the application to transfer. In this case, the vesting of the licence will come to an end, the licence will then remain in the hands of the original licence holder (Priory Sussex Ltd).

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

Wards Affected

Castle ward

Policy Implications

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

Equalities and Community Cohesiveness
Crime and Fear of Crime (Section 17)
Risk Management
Environmental Issues
Economic/Financial Implications
Human Rights Act
Organisational Consequences
Local People's Views
Anti-Poverty

Additional Information

Appendix A. Application to transfer.
Appendix B. Current Licence.
Appendix C. Police Objection

Officer to Contact

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