

Report to: Licensing Sub- committee.

Date of Meeting: 30.10.2017.

Report Title: Temporary event notice. Police Objection. Royal Victoria Hotel.

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

Purpose of Report

To consider the application for a temporary event notice as a result of an objection notice received from the police.

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 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 18th October 2017 Hastings Borough Council received notification of a temporary event to be held at The Royal Victoria Hotel, Marina, St Leonards on Sea, from Dr Woo Seung Shin, of that address. This notification is made under Sec 100 of the Licensing Act 2003. (Attached Appendix A).
3. The Royal Victoria Hotel, has operated at Marina, St Leonards on Sea, for many years. The premise does not currently hold a premises license under the Licensing Act 2003. The licence having lapsed when the licence holder and his wife, entered into both a Partnership and Individual Voluntary Arrangements with Purnells Insolvency practitioners on the 22nd December 2016, no notification of that fact was passed to the licensing Authority by the licence holder or the directors of the company.
4. In such circumstances a period of 28days then runs to allow persons connected to the premises or the freehold of the premises to lodge an Interim Authority. Once done this preserves the premises licence and allows it to continue in its existing form for a period of up to 3 months, by which time new arrangements for the running of the premises must be finalised.
5. In this case no notification of the Insolvency was notified to the licensing authority by the licence holders or directors, the matter being identified to the Authority by another organisation on the 10th October 2017. No application for an interim authority was received in the time frame laid down in the Act, which expired on the 19th January 2017.
6. The licensing authority prepared a letter notifying Dr Shin that as a result of his insolvency, no licensable activities can occur at the premises with immediate effect.
7. This letter was hand delivered to the hotel reception at 1700hrs 10th October 2017. Staff were informed that the matter was urgent and must be passed to the operator Dr Shin as soon as possible, which they agreed to do. (Copy letter attached Appendix B)
8. A copy e mail from Purnell's Insolvency Practitioners to Sussex Police and copied to licensing at Hastings Borough Council is attached explaining the situation.(Copy Attached Appendix B)
9. In addition, a copy of the bankruptcy Order relating to Dr Shin from Croydon County court on 21st June 2011is attached. (Appendix B)

2.0 Application

10. The application requests the following temporary event;
11. For Thursday 2nd November 2017, 11.00hrs to Monday 6th November 2017 23.00hrs for the supply of alcohol.
12. 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.

3.0 Consultation

13. 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.
14. 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 person is the Police. (Attached Appendix C).
15. 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.
16. 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

17. 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.
18. 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.
19. 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.
20. 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.
21. 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 :-

22. Has its basis in law;
23. Is necessary in a democratic society to fulfil a pressing need or pursue a legitimate aim;
24. Is proportionate to the aims being pursued; and it is related to the prevention of crime; or, the protection of public order or health.
25. 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

26. Grant the temporary event.
27. Refuse the temporary event.
28. Members are reminded they must give written reasons for their decision.

Wards Affected

Central st Leonards.

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 for a temporary event.
Appendix B. Letter/E mail/ report detailing Insolvency and Bankruptcy Order.
Appendix C. Counter notice of objection. Sussex Police.

Officer to Contact

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