

# Agenda Item 6



**Report to: Licensing Sub-Committee.**

**Date of Meeting: 23.04.2018.**

**Report Title: Application for a Premises licence, with a police objection.  
Ebenezer's, 20 Norman Road, St Leonards on Sea.**

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

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## **Purpose of Report**

To consider the application for a new premises licence as a result one representation received.

Responsible Authorities. One.

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## **Recommendation(s)**

- 1. Members consider the content of the report, options available and determine the application.**

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## **Reasons for Recommendations**

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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 that is aggrieved by the decision.

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## 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 26<sup>th</sup> February 2018 Hastings Borough Council received an application for a new premises licence for Ebenezer's, 20 Norman Road, St Leonards on Sea from Norman Road Stores Ltd, The Old Bank House, 1 The High Street, Arundel, West Sussex, BN 18 9AD made under section 17 the Licensing Act 2003. (Attached at Appendix A).
3. This premise is a convenience store that does not currently hold a licence under the Licensing Act 2003 and is now applying for a new premises licence, a map of the location is attached as Appendix C. The premises was licensed and trading from 2005 to January 2018 under another name (Mary's Food Market)
4. The premise is located within Area 3 (Central St Leonards) 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.
6. In addition, at the latest statutory review of the Licensing Policy carried out at the end of 2015 and published in January 2016 a matrix was added to the policy. This matrix was published to help give clearer guidance to applicants for premises licenses as to how the Council would prefer the area to develop from a licensed premises perspective, and what type of application if applied for, would suit this best.
7. This matrix clearly shows that an "off" licence is not the preferred type of premises within a Saturation Area and therefore an applicant will need to clearly demonstrate that the issue of such a licence will not add to the identified problems of the area. This is in accord with the local policy details set out in paragraph 5 above.

### 2.0 Application

8. The application requests the following:

To have supply of alcohol for "Off" sales on Monday to Sunday from 09.00hrs to 20.00hrs.

To have opening hours of the premises, Monday to Sunday from 07.00hrs to 23.00hrs.

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.

In this case, the applicant has made a separate declaration in their application.(See appendix A).

### **3.0 Consultation**

9. 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.
10. 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.
11. As a result of this process a representation has been received from Inspector Lewis, Licensing Inspector for Sussex Police, she comments on the application and the proposed activities, she also comments at length on the applicant's past criminal activity and convictions under the Prevention of Crime and Disorder Objective. Sussex Police invite the sub- committee to refuse the application. I consider this a valid representation under the licensing objectives (Prevention of Crime and Disorder) (Attached appendix B.)
12. A further communication has been received from Mr Roger Cohen, Senior Trading Standards Officer, East Sussex County Council he comments on the application, makes no objection but lists a series of conditions he would ask the sub-committee to consider adding to the licence, if a decision was made to issue the licence. (Attached appendix B.)

### **4.0 Legal Considerations**

13. 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.
14. 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.

15. 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.
16. 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.
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 premises 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:-
- Has its basis in law;
  - Is necessary in a democratic society to fulfil a pressing need or pursue a legitimate aim;
  - Is proportionate to the aims being pursued; and,
  - Is related to the prevention of crime; or, the protection of public order or health.

If members choose 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

18. Grant the application in full
- Grant part of the application
- Grant the application with conditions relevant to the application
- Refuse the application.

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### Wards Affected

Central St Leonards.

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### 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

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### **Additional Information**

Appendix A. Application pack.  
Appendix B. Police Objection and Trading Standards report.  
Appendix C. Map of location.

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### **Officer to Contact**

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