

Report to: Licensing Sub Committee

Date of Meeting: 14.06.2018.

Report Title: Application for a new premises licence.

Cactus Hound, 33 Western Road, St Leonards on Sea.

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 one representation received.

Responsible Authorities. One.

Recommendation(s)

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

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 that is aggrieved by the decision.

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 20th April 2018 Hastings Borough Council received an application for a new premises licence for Cactus Hound, 33-35 Western Road, St Leonards on Sea from Cactus Hound Ltd, 33 Western Road, St Leonards on Sea, TN37 6DJ made under section 17 the Licensing Act 2003. (Attached at Appendix A).
3. This premise already holds a licence under the Licensing Act 2003, and is currently called Roomz, it has now been transferred to new operators. Roomz has been operating on site for a number of years with a reduced operating schedule, a map of the location is attached as is a copy of the existing licence for Roomz. (Attached as Appendix B). The premise is located within Area 3 (Central St Leonards) of the Council Special Saturation Policy (Cumulative Impact).
4. 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.
5. 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.
6. This matrix clearly shows that a "Night Club type" premises within a Saturation Area would be acceptable with a closing time of 2am or a Bar/Pub until midnight. Any applicant will need to demonstrate that the issue of such a licence will not cause problems to the area or add to any existing problems identified. This is in accord with the local policy details set out in paragraph 5 above.

2.0 Application

7. The application requests the following:

To have Plays and Films, Monday to Sunday, 12.00hrs to 23.59hrs.

To have Live Music, Recorded Music and Dance, Sunday to Wednesday 12.00hrs to 23.30hrs, Thursday to Saturday 12.00hrs to 02.30hrs.

To have Late night refreshment Thursday to Saturday, 23.00hrs to 02.00hrs.

To have supply of Alcohol for "On" sales on Monday to Wednesday from 12.00hrs to 23.00hrs, Thursday to Saturday 12.00hrsto 02.00hrs, Sunday 12.00hrs to 22.00hrs.

To have opening hours of the premises, Monday to Wednesday from 09.00hrs to 23.59hrs, Friday and Saturday 09.00hrs to 03.00hrs, Sunday 09.00hrs to 11.00hrs.(This is believed to be an error and should read 23.00hrs).

In addition, extra hours are requested on specific dates, as follows; To play recorded and live music to 02.30hrs and have late night refreshment and Alcohol to 02.00hrs on;

Sunday and Monday of Easter Bank Holidays, Sunday and Monday of May Bank Holidays, Sunday and Monday of Spring Bank Holiday, Sunday and Monday of Summer Bank Holiday, Christmas Eve, Boxing Day, New Year's Eve, All Hallows Eve and Summer and Winter Solstices.

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 together with the Business Plan.(See Appendix A).

3.0 Consultation

8. 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.
9. 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.
10. As a result of this process a representation has been received from Mr Stewart Bryant, Senior Environmental Health Officer, Hastings Borough Council, he comments on the application and the proposed activities, he comments on the potential for noise nuisance and suggests a series of 10 (ten) conditions should the sub-committee decide to recommend grant of a licence. Suggested condition 9 is a

recommendation to reduce the operating hours. I consider this a valid representation under the licensing objectives (Prevention of Public Nuisance) (Attached appendix C.)

11. In addition, a letter has been received from Mrs Botting, a Development Control Officer from Hastings Borough Council. She comments on the application and the current planning restrictions on the premises. She also comments that to operate in line with the application would require a full new planning application. (Attached Appendix C).

4.0 Legal Considerations

12. 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.
13. 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.
14. 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.
15. 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.
16. 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

17. Grant the application in full

Grant part of the application

Grant the application with conditions relevant to the application

Refuse the application.

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 Pack.

Appendix B. Old Roomz licence and location plan.

Appendix c. Representation from Environmental Protection and letter from planning.

Officer to Contact

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