

Report to: Licensing Sub-Committee

Date of Meeting: 24.01.2020.

Report Title: Review of premises licence. Ocean Spice, 43 White Rock, Hastings.

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

Purpose of Report

To consider an application to review the Premises Licence as a result of representations received.

Responsible Authorities. Two.

Recommendation(s)

1. Member's instructions requested.

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 at the Magistrates Court by any party to the hearing, who is aggrieved by the decision.

Introduction

1.0 Background

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.

On the 26th November 2019 Hastings Borough Council received an application for the review of an existing premises licence for Ocean Spice, 43 White Rock, Hastings, TN34 1JL from HM Inspector of Immigration, Home Office, made under Section 51 the Licensing Act 2003. (The application for review and supporting papers is attached Appendix A.)

The premise was initially operating as The Smugglers PH when it transferred from the Magistrates Court system to the local authority in 2005. It was closed for a period of time and was then renamed initially as Spice Rock and since 10th December 2015 has become the Ocean Spice Restaurant. (Map of Location included within, Appendix B).

In February 2019 it was transferred to the current operator Mr Siddiquir Rahman, 22 Horntye Road, St Leonards on Sea, East Sussex who is also the designated premises supervisor (DPS) of the premise and has been so since 5.02.2010.

The premise currently holds a premises licence under the Licensing Act 2003, (Attached Appendix B), which covers the use of the premises for the ' On and Off Sales of the supply by retail of Alcohol, Live and Recorded Music, Late Night refreshment and other licensable activities.

It currently operates under different trading hours depending on the licensable activity and the day and time of the operation;

The opening hours of the premises are;

Monday to Saturday 10.00 to 02.30hrs and Sunday 11.00 to 02.30 hrs.

The existing premises licence is attached. (Produced Appendix B).

2.0 Application

The grounds for review made by HM Immigration service is under the licensing objective "Prevention of crime and disorder" I have considered the application and consider it valid and in line with the central government guidance issued on such matters. In his application for review, he comments about the history of the premises and breaches of immigration rules on employment of staff and highlights the Guidance issued under sec 182 of the Licensing Act 2003. This states that "for employing a person who is disqualified from that work by reason of their

immigration status in the UK” the matter should be treated particularly seriously. As a result he is asking the licensing sub-committee to consider revocation of the premises licence.

When submitting an application for a review under the Licensing Act 2003 the applicant is required to send copies of the review application to the other responsible authorities listed under the Act and a copy to the premises licence holder, this has been done.

In addition, the licensing authority is required to place a copy of the notice on or close by the premises concerned and the public notice board situated at Council Offices, this has been done, in addition the review notification has been placed on the Council website. These notices must remain in place for 28 days to allow further representations to be made.

An application for review cannot be considered by the Council's Licensing Sub-Committee until the 28 day representation period has elapsed, in this case that ended at midnight on the 24th December 2019.

3.0 Consultation

One further representation has been received during the consultation period, this representation is from Insp Lovell, Sussex Police and is made under the licensing objectives, Prevention of Crime and Disorder and Public Safety. The representation outlines a timeline of events at the premises and other associated matters. He completes his representation stating that Sussex Police have no hesitation in supporting the review brought by HM Immigration. (Included within bundle produced Appendix A).

4.0 Legal Considerations

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.

The review process is laid down in statute and allows for representations to be made by specified groups of people provided they are relevant to one or more of the licensing objectives listed in the Act and are not considered frivolous, vexatious or repetitive.

If a relevant representation is made by either a responsible authority or other party, a hearing must be held.

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.

Hastings Borough Council has developed, published and reviewed its Statement of Licensing Policy as required by the Licensing Act 2003.

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.

Human rights considerations must be taken into account fully in balancing licensing issues, in particular, article 1 of the first protocol. 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. These are qualified rights and can be deprived of “in the public interest”. Interference is permissible if what is done, has its basis in law, and;

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.

The licence holder has a right of appeal to the Magistrates Court against any decisions made by the licensing Sub-Committee with respect to this application for review.

5.0 Options

To modify the conditions of the licence.

To exclude a licensable activity from the scope of the licence.

To remove the designated premises supervisor.

To suspend the licence for a period not exceeding three months.

To revoke the licence.

Members are reminded they must give written reasons for their decision.

Timetable of Next Steps

1. Please include a list of key actions and the scheduled dates for these:

Action	Key milestone	Due date (provisional)	Responsible
Licensing sub-committee		24.01.19.	Committee administration

Wards Affected

Castle Ward

Implications

Relevant project tools applied? No

Have you checked this report for plain English and readability? Yes

Climate change implications considered? No

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

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

Additional Information

Appendix A. Application for review and supporting papers inc Police representation.
Appendix B. Existing premises licence and location plan.

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