

Report to: Licensing Sub-committee.

Date of Meeting: 12.02.2020.

Report Title: Review of Premises Licence. Flames Grill, Havelock Road, Hastings.

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

Purpose of Report

Purpose of Report

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

Responsible Authorities. One.

Recommendation(s)

1. Members' 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. 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 December 2019 Hastings Borough Council received an application for the review of an existing premises licence for Flames Grill, 19 Havelock Road, Hastings, TN34 1BP from Chief Inspector Sarah Godley, Hastings Police Commander on behalf of the Chief Constable of Sussex Police, made under Section 51 the Licensing Act 2003. (The application for review and supporting papers is attached Appendix A.)
3. The premise was transferred from the Magistrates Court system to the local Authority in 2005, and has operated as a Late Night takeaway ever since. The operator of the premises has always been Mr Caglar Kanik, the premises sits within Area 1 of the Council's Special Saturation Policy. (Map of Location included within, Appendix B).
4. The premise currently holds a premises licence under the Licensing Act 2003, which covers the use of the premises for Late Night Refreshment. (Which is defined as the sale/supply of hot food and/or drink between 23.00hrs and 05.00hrs).
5. It currently operates under the below trading hours ;
6. The opening hours of the premises are;
7. Sunday to Wednesday 17.00 to 02.00hrs, Thursday to Saturday 17.00 to 04.00hrs, Sunday preceding a BH Monday 17.00 to 03.00hrs.
8. Late Night Refreshment hours are;
9. Sunday to Wednesday 23.00 to 02.00hrs, Thursday to Saturday 23.00 to 04.00hrs, Sunday preceding a BH Monday 23.00 to 03.00hrs.
10. The existing premises licence is attached. (Produced Appendix B).

Application

11. The grounds for review made by Sussex Police is under the licensing objectives "Prevention of crime and disorder" and "Public safety" I have considered the application and consider it valid and in line with the central government guidance issued on such matters. In her application for review, the Commander comments about the history of the premises and lists a series of events that have occurred throughout 2019 and the lack of control/support from the licence holder. She also refers to a breach of licence conditions over the use of CCTV on the premises. As a result she is asking the licensing sub-committee to consider revocation of the premises licence.

12. In addition, the Commander has included a set of conditions that she would ask the sub-committee to consider attaching to the licence, if a decision to revoke the licence is not taken.
13. 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.
14. 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.
15. 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 16th January 2020.

Consultation

16. No other representations have been received in respect of this review. However, the planning officer Mr Simon Richard has submitted a report on the planning status of the premises, it states that no planning permission has been granted for A5 use (hot food takeaway), he continues by stating that as a result of its past use, the premises may benefit from deemed consent. (Report attached within Appendix A.)

Legal Considerations

17. 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.
18. 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.
19. Hastings Borough Council has developed, published and reviewed its Statement of Licensing Policy as required by the Licensing Act 2003.
20. 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.
21. 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;

22. 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.
23. 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.

Options

24. To modify the conditions of the licence.
25. To exclude a licensable activity from the scope of the licence.
26. To remove the designated premises supervisor.(Not applicable in this case)
27. To suspend the licence for a period not exceeding three months.
28. To revoke the licence.
29. Members are reminded they must give written reasons for their decision.

Timetable of Next Steps

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

Action	Key milestone	Due date (provisional)	Responsible
Licensing Sub-committee		12.02.20.	Committee admin

Wards Affected

Castle ward

Implications

Relevant project tools applied? Yes

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 associated papers.
Appendix B. Current licence.

Officer to Contact

Bob Brown Licensing Manager
bbrown@hastings.gov.uk
01424 783249
