

Report to: Licensing Sub-Committee.

Date of Meeting: January 2021.

**Report Title: Review of Premise Licence. The Four Seasons Hastings Ltd, 68-70
Bohemia Road, St Leonards on Sea, TN376RQ.**

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. One.

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

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 8th December 2020 Hastings Borough Council received an application for the review of an existing premises licence for the Four Seasons Convenience Store, 68-70 Bohemia Road, TN376RQ, St Leonards on Sea, East Sussex from Paul Davison, Enforcement and Investigations Manager at ESCC Trading Standards, made under Section 51 the Licensing Act 2003. (The application for review and supporting papers is attached Appendix A.)
3. Four Seasons Hastings Limited has operated at 68-70 Bohemia Road since June 2016, initially under a different name. The premises have changed operators several times, the most recent and current licence holder being the Four Seasons Hastings Ltd, 68-70 Bohemia Road, St Leonards on Sea. (Attached map Appendix A).
4. The premise currently holds a premises licence under the Licensing Act 2003. (Attached in Appendix B).
5. The existing premises licence covers the use of the premises for the ' Off Sales ' supply by retail of Alcohol.
6. It currently operates under the following trading hours;
 - Sale of alcohol. Monday to Saturday 08:00-22:00 hrs
Sunday 10:00-22:00 hrs

The designated premise supervisor for the premises since 2016 is Mr PARAMAGURU INTHIAKUMAR

2.0 Application

7. The grounds for review made by Mr Paul Davison are 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 visit to the premises prior to the seizure of eight bottles of wine suspected of being counterfeit, the subsequent formal interview under caution and the test results of the Public Analyst on the suspected counterfeit alcohol. As a result, he is seeking a revocation of the existing premises licence.
8. 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.

9. In addition, the licensing authority is required to place a copy of the notice on 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.
10. 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 6th January 2021.

3.0 Consultation

11. No further representations were received during the consultation period.

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.

Wards Affected

Gensing.

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. Review application and supporting papers.

Appendix B. Copy of existing licence.

Officer to Contact

Stewart Bryant

stewart.bryant@hastings.gov.uk

01424 783232