

Report to: Licensing Sub-Committee.

Date of Meeting: 28th April 2021.

**Report Title: Review of Premise Licence. Crowley's 55-56 Havelock Road,
Hastings TN34 1BE.**

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

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 10th March 2021 Hastings Borough Council received an application for the review of an existing premises licence for the Crowley's, 55-56 Havelock Road, Hastings TN34 1BE East Sussex, from Chief Inspector Sarah Godley Hastings and Rother District Commander Sussex Police, made under Section 51 the Licensing Act 2003. (The application for review and supporting papers is attached as Appendix A.)
3. The premise was initially operating as Hero's when it transferred from the Magistrates Court system to the local authority in 2005. From 2008 it traded as 'Laila's' until 2016 and then as 'Flairz' from 2016-2018. The premise was renamed when it became Crowley's in 2018. (Map of Location included within, Appendix B).
4. From 2005 to the present date, the licence holder is Abbas Bostanabad c/o the Clarence @ Silverhill, 391 London Rd, St Leonards on Sea. A copy of the current premises licence is attached (Appendix B)
5. The designated premises supervisor for the premises since 2018 is Mr Alan Naylor, however Mr Naylor recently relinquished this position as DPS on the 10th February 2021. A copy of this notification is attached (Appendix D)
6. The premise currently holds a premises licence under the Licensing Act 2003, (Attached Appendix B), which covers the use of the premises for the sale by retail of alcohol for consumption on or off the premises, live and Recorded Music, Late Night refreshment and other licensable activities.
7. It currently operates under the following trading hours;
 - All activities. Monday to Wednesday 11:00-23:00 hrs
 - Thursday to Saturday 11:00-02:00 hrs
 - Sunday 12:00-23:30 hrs.
8. TENS. In the period from the 27th May 2018, a total of ten Standard TEN's, with a further 6 Late Ten's, up until the 1st February 2020, a total of sixteen TENS submitted. One Late TEN for the 1st June was refused as submission less than five clear working days before the date of the event, with fifteen authorised.
9. These have all been submitted by Alan Naylor, who was the designated premises supervisor on the premises licence since 23rd January 2018.

2.0 Application

10. The grounds for review made by CI Godley are under all four licensing objectives, being the Prevention of Crime and Disorder, Public Safety, Prevention of public nuisance and Protection of children from harm, by the lack of control while carrying on the licensable activities at Crowley's. 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, she comments about incidents of drunkenness, disorder, high drug swab test readings and assaults including a stabbing and the ongoing state of affairs regarding the non-compliance with the conditions of the premises licence. As a result, CI Godley is seeking a series of 9 conditions (attached Appendix A) that she wishes to be considered together with a period of licence suspension of no less than six week to make the necessary adjustments and send a clear message to the Premises licence holder. In addition, CI Godley also requests the removal of the DPS, Mr Alan Naylor and that his replacement is appointed with Sussex Police approval. They also request a reduction in hours for all licensable activities by 2 hours, thus reducing the hours from 02:00hrs to 00:00hrs Thursday through Saturday. (Appendix A).
11. 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.
12. 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.
13. 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 7th April 2021.

3.0 Consultation

A further representation has been received from Mr John Ballam, Environmental Protection Officer, Hastings Borough Council in support of the review. In his submission he also comments on the past involvement of the department with the management of the premises and the ongoing noise issues with the premises including the service of a noise abatement notice on the DPS and Premises Licence Holder. He makes his representation under the licensing objectives "The prevention of Public Nuisance and Public Safety". I consider this representation to be valid and in line with guidance. Mr Ballam requests in addition to the existing conditions and those recommended by Sussex Police, Environmental Health ask that the committee considers that the following conditions be added to the licence:

1. No noise generated on the premises from music, patrons or any mechanical equipment, shall emanate from the premises, nor vibration be transmitted through the structure of the premises, that may give rise to a nuisance at any noise sensitive premises from 11:00 until closing time.
2. Notices shall be prominently displayed at all exits requesting patrons to respect the needs of local residents and businesses and leave the area quickly and quietly.
3. The Designated Premises Supervisor or nominated person will monitor the impact on neighbouring premises throughout any regulated entertainment and therein take action to reduce noise levels if they can be heard at the nearest residential property.
4. The Licence holder shall ensure that any queue to enter the premises which forms outside the premises is orderly and supervised by door staff so as to ensure that there is no public nuisance or obstruction to the public highway. (Attached Appendix C).

Senior Licensing Officer Mr Trevor Scrase, whilst not making representation has supplied a memorandum detailing a timeline of Temporary Event Notices (TENS) granted since Mr Naylor became DPS in 2018, his submission also details enquiries made into complaints about drumming and the potential source being a neighbouring building. (Appendix E)

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

Castle.

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.

Appendix C. Addition representation and supporting papers from EH.

Appendix D. Letter from Alan Naylor, relinquishing role as DPS

Appendix E. Letter from Snr Licensing Officer

Appendix F Letter of Representation from JG&P Solicitors

Officer to Contact

Report Template v29.0



Trevor Scrase
tscrase@hastings.gov.uk

Stewart Bryant
stewart.bryant@hastings.gov.uk
01424 783232

