

Report to: Licensing Sub-Committee.

Date of Meeting: 30th June 2021

**Report Title: Application for a Premises licence, with an objection.
South Star, 20 Robertson Street, Hastings.**

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

Purpose of Report

To consider the application for a new premises licence as a result 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 6th May 2021 Hastings Borough Council received an application for a new premises licence for South Star, 20 Robertson Street, Hastings from '**Lodgeistics Limited**' made under section 17 the Licensing Act 2003. (Attached at Appendix A).
3. A Map of the Area is attached at Appendix B.
4. This premise originally held a licence under the Licensing Act 2003, The premises previously held a licence under the name 'Beyond the Sound' and operated as a nightclub. This licence was revoked following a Summary review of the premises licence in 2018. The premise is located within Area 2 (Hastings Town Ctr) of the Council Special Saturation Policy (Cumulative Impact).
5. The Special Saturation Policy (Cumulative Impact Policy) 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. As a result of the revised Sec 182 Guidance issued by Central Government in April 2018, where representations are received in relation to an application, there will **no longer** be a presumption against the grant of such a licence or certificate. However, the Authority will expect applicants to consider their proposals carefully and supply information to support their view that the application will not add to the existing problems of the area, experienced by the high concentration of licensed venues.

Applicants are advised to seek legal advice if making an application for a licence in a Special Saturation Area. It is for the applicant to address the Cumulative Impact Policy and produce evidence to demonstrate that the matter:

- (a) Will not add to the cumulative impact caused by licensed premises and challenges already experienced in the area;
 - (b) Will not undermine the promotion of the Licensing Objectives.
6. In addition, at the 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.

7. This matrix contained within the Statement of Licensing policy clearly shows that a Late opening “**Night Club type**” premises within a Saturation Area would only be acceptable with a closing time of **2 am** or a **Bar/Pub 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

8. The application requests the following:

To have Plays and Films, Monday to Sunday, 11.00hrs to 03.00hrs.

To have Live Music, Recorded Music, Sunday to Monday 23.00hrs to 03:00hrs,

To have Late night refreshment Monday to Sunday 23.00hrs to 02.30hrs.

To have supply of Alcohol for “On” sales on Monday to Sunday from 11.00hrs to 02.30hrs.

To have opening hours of the premises, Monday to Sunday from 11.00hrs to 03.00hrs

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.

(See appendix A).

3.0 Consultation

9. 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.

10. 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.

11. As a result of this process a representation has been received from Inspector Aidan Cornwall CC018 from Hastings Police, he comments on the application, a series of 5 conditions requested by the police, and the proposed activities. He comments on the acceptance of 4 of the conditions relating to CCTV, Training, Challenge 25 policy and incidents and refusals register, however he continues by stating that the applicant has refused to reduce the operating hours by 1 hour and in line with the HBC Matrix and that the applicant suggests that he can use bar staff trained as SIA

door staff to address the condition relating to SIA approved door staff. I consider this a valid representation under the licensing objective (Prevention of Crime and Disorder) (Attached Appendix C.)

12. In addition, a letter has been received from Mr John Ballam an Environmental Health Officer from Hastings Borough Council. He comments on the application and the suggests a further 3 Noise condition under the prevention of public nuisance. I consider this also a valid representation under the licensing objectives in line with the Section 182 guidance. (Attached Appendix D).

4.0 Legal Considerations

13. 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.
14. 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.
15. 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.
16. 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.
17. 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

18. Grant the application in full

Grant part of the application

Grant the application with conditions relevant to the application

Refuse the application.

Wards Affected

Castle Ward.

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. Map
Appendix C. Sussex Police Objection,
Appendix D. Env H Letter.

Officer to Contact

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