

Report to: Licensing Sub-Committee

Date of Meeting: 7th May 2024

Report Title: Review of premises licence. Balti Hut, 72 Queens Road, Hastings.

Report By: Natasha Tewkesbury. Head of Community and Regulatory Services

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 12th March 2024 Hastings Borough Council received an application for the review of an existing premises licence for Balti Hut, 72 Queens Road, Hastings from Sussex Police, made under Section 51 the Licensing Act 2003. (The application for review and supporting papers is attached Appendix A.)

The premises have been licensed to operate since 2009 initially under Aktikur Rahman. The Premises licence transferred to Kamrul Islam in 2012 (Map of Location included within, Appendix B).

In August 2014 the premises licence for late night refreshment was transferred to Mr Shahanur Rahman, 22 Horntye Road, St Leonards on Sea, East Sussex.

In March 2024 following the police application for review, an application to transfer the Premises licence was received from another family member, Nafisa Rahman 22 Horntye Road, St Leonards on Sea, East Sussex, who is now the current Premises Licence Holder no objections were received.

The premise currently holds a premises licence under the Licensing Act 2003, which covers the use of the premises for Late Night refreshment. (Attached Appendix B)

It currently operates Monday to Sunday under the same hours;

The opening hours of the premises are;

Monday to Sunday 17.30 to 00.00hrs

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

2.0 Application

The grounds for review made by Sussex Police 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 their application for review, inspector Burrows comments about the history of the premises and Serious assault that took place on an innocent member of staff from the Balti Hut by Mr Shahanur Rahman and three other members of his family on 5th January 2022.

This incident was caught on CCTV and all four members of the family have attended court in relation to the matter and sentenced. Mr Shahanur Rahman the Premises Licence holder at the time of the offence was found guilty of causing an offence under Section 18 of the Offences Against the Person Act 1861 (GBH) and

is current imprisoned for 4 years as are his two brothers also connected with the business, Ridwanur Rahman and Mominur Rahman and his father Siddiqur Rahman the owner of Ocean Spice who received an 18 month suspended sentence for Affray. 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 9th April 2024.

3.0 Consultation

One further representation has been received during the consultation period, this representation is from Bob Brown the Snr Licensing Officer at Hastings Borough Council. The representation outlines a timeline of events at the premises and other associated matters. They complete their representation stating that the Licensing Authority have no hesitation in supporting the review brought by Sussex Police. (Appendix C).

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 take no action

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		7 th May 2024	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. Sussex Police Application for review and supporting papers

Appendix B. Existing premises licence and location plan.

Appendix C. Supporting memo from Kirstie Rolfe Snr Licensing officer

Contact

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