

Report to: Licensing Sub-Committee

Date of Meeting: 8th June 2015

Report Title: Application for a Premises licence with representations. Grand Elektra, 53-57 Robertson Street, Hastings.

Report By: Mike Hepworth
Head of Environmental Services

Purpose of Report

To consider the application for a new premises licence as a result of representations received.

Responsible Authorities.Four.

Interested Parties.One.

Recommendation(s)

- 1. Members consider the content of the report, the options available and reach a decision.**

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 who is aggrieved by the decision.

Introduction

1.0 Background History

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 13th April 2015 Hastings Borough Council received an application for a new premises licence for the ground floor and basement of 53 - 57 Robertson Street, Hastings from Woodfines Solicitors on behalf of Invest Nightlife Ltd, GPG House, Walker Avenue, Wolverton Mill, Milton Keynes. MK12 5TW, made under section 17 the Licensing Act 2003. (Attached at Appendix A).
3. This premises is a new venture but is on the site of the old West Exit Club and Electric Stag Bar in Robertson Street, those licences having lapsed, following the operating company going into voluntary liquidation in March 2015. (Map attached at Appendix B.)
4. The premise is located within Area 1 (Town centre) of the Council Special Saturation Policy (Cumulative Impact).

2.0 Application

5. The application requests the following:
6. To have performance of plays, films, live music, recorded music, dance, anything similar to music and dance and supply of Alcohol (on and off sales), Monday to Thursday 11.00 hrs to 03.00hrs, Friday and Saturday 11.00hrs to 04.00hrs and Sunday 11.00hrs to 02.00hrs.
7. To have late night refreshment, Monday to Thursday 23.00hrs to 03.00 hrs, Friday and Saturday 23.00hrs to 04.00hrs and Sunday 23.00hrs to 02.00hrs.
8. To have opening hours of the premises, Monday to Thursday 08.00 hrs to 03.30hrs, Friday and Saturday 08.00hrs to 04.30hrs and Sunday 08.00 to 02.30hrs.
9. In addition, under all licensable activities, to have the hours agreed extended to 08.00hrs to 04.00hrs on Thursday preceding Good Friday and Sundays preceding Bank Holiday Mondays. On New Year's Eve to extend the hours to 08.00hrs to 06.00hrs.
10. .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.

11. In this case the applicant has made a full declaration on the pages in section M of the application.(See appendix A)

3.0 Consultation

12. 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.

13. 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. This process has resulted in 5 (five) representations being received by the Authority.

14. A representation has been received from Ch Insp Phelps, Hastings Police Commander, Sussex Police, he comments on the application and the history of the premises commenting on the new layout which combines two premises that were separately licenced in the past. He also comments on the applicant's failure to demonstrate adequately that there will be no negative cumulative impact, as the premises is within the town centre saturation zone. Sussex police invite the subcommittee to refuse the application. I consider this a valid representation under the licensing objectives (Prevention of crime and Disorder and Prevention of Public Nuisance) (Attached Appendix C.)

15. A further representation has been received from Mr Ballam, Environmental Protection Officer (Pollution), he comments on the past problems of the area and the fact that the town centre has presented an unacceptable noise level to residents late at night. He comments on the application and its potential for considerable noise from customers as a result of its extended opening hours. He comments about the Special Saturation Policy and the fact that the applicant has failed to demonstrate that there will be no negative cumulative impact and as a result recommends refusal. I consider this to be valid representation under the licensing objective (Prevention of Public Nuisance). (Attached Appendix C).

16. A representation form Mr Trevor Scrase, Senior Licensing Officer, Hastings Borough Council comments on the application and the previous history of the premises, he also comments that the applicant has failed to demonstrate that the extended hours of the premises will not undermine the licensing objectives, which is situated in the town centre saturation area. (Attached appendix C).

17. A representation has been received from East Sussex Fire and Rescue Service, they comment on the lack of information supplied to them by the applicant and as a result they are unable to judge as to whether the licensing objective of "Public Safety" has been adequately addressed. (Attached appendix C).

18. A letter of representation has been received from a local resident in Cambridge Road, Hastings, she comments on the past noise problems with the premises and the potential for this to increase with the extended hours. I consider this to be a valid representation. (Attached appendix C).

19. The Special Saturation Policy (Cumulative Impact) 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; there will be a presumption against the grant of such licence or certificate unless the applicant, in the operating schedule, can rebut the presumption that the granting of such a licence or certificate would undermine the licensing objectives." Applicants are advised to seek legal advice if making an application for a licence in a Special Saturation Area.
20. The applicants did meet with officers from Hastings Borough Council Licensing and Sussex Police in March and the situation in respect of the saturation area was explained in greater detail.
21. In addition, the applicant included a letter of support from a local Councillor with their application. Whilst this does not form part of the laid down licensing process it is attached for information. (Appendix D)

4.0 Legal Considerations

22. 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.
23. 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.
24. 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.
25. 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.
26. 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. 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:-
27. Has its basis in law;
28. Is necessary in a democratic society to fulfil a pressing need or pursue a legitimate aim;
29. Is proportionate to the aims being pursued; and,
30. Is related to the prevention of crime; or, the protection of public order or health.

31. If members chose 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

32. Grant the application in full

33. Grant part of the application

34. Grant the application with conditions relevant to the application

35. Refuse the application.

Wards Affected

Castle

Policy Implications

Please identify if this report contains any implications for the following:

Equalities and Community Cohesiveness	No
Crime and Fear of Crime (Section 17)	Yes
Risk Management	No
Environmental Issues	Yes
Economic/Financial Implications	No
Human Rights Act	Yes
Organisational Consequences	No
Local People's Views	No
Anti-Poverty	No

Additional Information

Appendix A. Application for licence.

Appendix B. Map of location.

Appendix C. Representations.

Appendix D. Letter of support.

Officer to Contact

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