

Report to: Licensing Sub-Committee

Date of Meeting: 6th August 2015

Report Title: Application for Premises licence. Grand Electra, with representation.

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. One.

Recommendation(s)

1. Members 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 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 23rd June 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 Mr Oliver Ibrahim, a Director 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. This is the second application for these premises, the first was heard at licensing sub-committee on the 8th June 2015 and refused. The applicant did not appeal this decision.
5. Subsequently there has been a site meeting at the premises attended by the applicants, environmental health and the Police. The meeting included detailed practical and constructive discussions about the potential operational management of the club premises in relation to the 4 licensing objectives. As a result the application for consideration at this hearing is substantially different to the one considered on 8th June.
6. The hours of operation have been reduced and there is far more detail in relation to how the applicant proposes to address the 4 licensing objectives.
7. The premise is located within Area 1 (Town centre) of the Council Special Saturation Policy (Cumulative Impact).

2.0 Application

8. The application requests the following:
9. To have performance of plays, films, live music, recorded music, dance, anything similar to music and dance and supply of Alcohol, Sunday to Thursday 11.00 hrs to 02.00hrs, Friday and Saturday 11.00hrs to 03.00hrs.
10. To have late night refreshment, Sunday to Thursday 23.00hrs to 02.00 hrs, Friday and Saturday 23.00hrs to 03.00hrs.
11. To have opening hours of the premises, Sunday to Thursday 08.00 hrs to 02.30hrs, Friday and Saturday 08.00hrs to 03.30hrs.

12. In addition, under all licensable activities, to have the hours for Sunday's preceding bank holiday Mondays extended, the terminal hour of activities increased to 03.00hrs and venue closing extended to 03.30hrs.
13. 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.
14. In this case the applicant has made a full amended declaration on the pages in section M of the application.(See appendix A)

3.0 Consultation

15. 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.
16. 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 one representation being received by the Authority.
17. A representation has been received from Chief Inspector Phelps, Hastings Police Commander. He comments on the application and the history of the premises including on the new layout which combines two premises that were separately licenced in the past. He also comments on the meeting held on the site meeting held on 18th June 2015.
18. He acknowledges the commitment by the applicant to address the concerns raised at that meeting and the changes made to facilitate this application. He comments that the application has been well thought through but feels that it is inevitable that premises of this nature will have some impact on the cumulative impact on the town centre saturation zone and therefore they invite the subcommittee to refuse the application. I consider this a valid representation under the licensing objective (Prevention of Crime and Disorder) (Attached Appendix C.)
19. A report has been received from Mr Bryant, 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 this new application and the engagement with the applicants since the last hearing, he considers the amendments to the application to be positive and does not therefore make a formal representation. (Attached Appendix C).

20. Local residents made a representation against the previous application as they were concerned about potential nuisance. However, they have been consulted in relation to the fresh application, and have not made a representation against it.
21. 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.
22. In addition, the applicants have included several letters/ emails of support with their application. Whilst this does not form part of the laid down licensing process they are attached for information. (Appendix D)

4.0 Legal Considerations

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

32. 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

33. Grant the application in full
34. Grant part of the application
35. Grant the application with conditions relevant to the application
36. 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 area.

Appendix C. Police representation and Environmental Report.

Appendix D. Letters of Support.

Officer to Contact

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