Report to: Licensing Sub-Committee

Date of Meeting: 6 August 2015

Report Title: Four temporary event notices with police objection. Funky Buddha.

Report By: Mike Hepworth
Head of Environmental Services

Purpose of Report
To consider the applications for four temporary event notices as a result of objection notices received from the police.

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 an appropriate notice has been served by either the police or environmental health. The decision reached at the sub committee can be subject to the appeal process at the Magistrates Court.
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 29th July 2015 Hastings Borough Council received notification to hold four temporary events at Funky Buddha Nightclub, 20 Robertson Street, Hastings. TN34 1HL, from Mrs Louise Jeffery, Flat 15, Solle Mews, School Road, Hastings TN35 5FD and an additional notification was received on the 30th July 2015 for a further event. These notifications are made under Sec 100 of the Licensing Act 2003. (Attached Appendix A).

3. One of the applications notified on the 29th was for a late temporary event notice (9th August 2015), the notification being only 7 working days before the proposed event, as a result of the police objection this notice fails automatically and is not therefore part of this report.

4. The premises, now called Funky Buddha, has operated in Robertson Street Road, Hastings for many years under several different names and operators, a map showing the location of the venue is attached. (Attached Appendix B).

5. The premise does not currently hold a premises license under the Licensing Act 2003. The licence having lapsed when the licence holder, Parkers Brasserie Ltd was dissolved on the 19th May 2015, no notification of that fact was passed to the licensing Authority by the licence holder or the directors of the company.

6. In such circumstances a period of 28 days then runs to allow persons connected to the premises or the freehold of the premises to lodge an Interim Authority. Once done this preserves the premises licence and allows it to continue in its existing form for a period of up to 3 months, by which time new arrangements for the running of the premises must be finalised.

7. In this case no notification of the company being dissolved was notified to the licensing authority by the licence holders or directors, the matter being identified to the authority by another organisation. No application for an interim authority was received in the time frame laid down in the Act, which expired on the 16th June 2015.

8. An official check with Companies House has confirmed that Parkers Brasserie Ltd, 20 Robertson Street, Hastings, East Sussex, Company No. 08392726 was dissolved on the 19th May 2015. (Copy Attached Appendix C)

2.0 Application

9. The applications requests the following temporary events;
10. (1) Sunday 16th August 2015, 0000hrs to 04.00hrs for supply of Alcohol and regulated entertainment, (2) Sunday 23rd August 2015 for the exact same hours and licensable activities, (3) Sunday 30th and Monday 31st August 2015, 22.00 hrs to 06.00hrs for supply of alcohol and regulated entertainment and (4) Sunday 6th September 2015, 0000hrs to 04.00hrs for supply of Alcohol and regulated entertainment.

11. A temporary event notice under the Licensing Act 2003 is the method that allows licensable activities to be carried on at premises that does not have a premises license.

3.0 Consultation

12. The Licensing Act 2003 requires an applicant to serve copies of the application on relevant persons (the Police and Environmental Health) at the same time as they served two copies on the Licensing Authority, this has been done.

13. The relevant persons can object to such an application on any of the four licensing objectives. The relevant person making the objection must serve an 'Objection notice' on the Licensing Authority, the applicant and the other relevant person within 3 working days of receiving the notice, this has been done. In this case the relevant person is the Police. (Attached Appendix D).

14. The Local Authority must in addition serve a counter notice on the relevant person making the objection and the applicant and arrange a hearing, this has been done. The hearing must be held within 7 working days beginning with the day after the end of the period within which the relevant person may give an objection notice, but in any case the determination must be given at least 24 hours before the event is due to begin.

15. The relevant person may modify the notice with the agreement of the applicant before the committee hearing and in those circumstances the objection is treated as withdrawn. This does not apply in this case.

4.0 Legal Considerations

16. 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.

17. If a proper objection to a temporary event notice is made by a relevant person and no compromise can be reached between the parties, a hearing must be held.

18. 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.

19. 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.

20. 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 justices license 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:

21. Has its basis in law;
22. Is necessary in a democratic society to fulfil a pressing need or pursue a legitimate aim;
23. Is proportionate to the aims being pursued; and,
24. Is related to the prevention of crime; or, the protection of public order or health.
25. If members chose to refuse the application for a temporary event notice, the applicant has a right of appeal to the Magistrates Court.

5.0 Options
26. Grant the temporary events.
27. Refuse the temporary events.
28. 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: No
- Crime and Fear of Crime (Section 17): Yes
- Risk Management: No
- Environmental Issues: No
- Economic/Financial Implications: No
- Human Rights Act: Yes
- Organisational Consequences: No
- Local People’s Views: No
- Anti-Poverty: No

Additional Information
Appendix A. Copies of TENs.
Appendix B. Map of venue.
Appendix C. Companies House record.
Appendix D. Police objection.
Officer to Contact

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